

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
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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/>

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

Division of Administrative Rules, Salt Lake City 84114

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## NOTICES OF PROPOSED RULES

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A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between February 2, 2006, 12:00 a.m., and February 15, 2006, 11:59 p.m. are included in this, the March 1, 2006, 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 Rules being repealed are completely struck out.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, 2006. 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, 2006, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than 31 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

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

PROPOSED RULES are governed by *Utah Code* Section 63-46a-4 (2001); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

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

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

**NOTICE OF PROPOSED RULE**  
 (Amendment)

DAR FILE No.: 28506  
 FILED: 02/10/2006, 12:30

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for the change is to adopt 9 CFR, January 1, 2006 edition, including Parts 430, 441; removing Sub Chapter I, Egg Products Inspection Act, Part 590.

SUMMARY OF THE RULE OR CHANGE: Title 9, Chapter III, Part 590 has been deleted. This reference does not apply to the Meat and Poultry Inspection Program. Reference to Title 9, Chapter III, Parts 430 and 441 have been added as they have been added to Chapter III since the rule was last changed and do apply to the Meat and Poultry Inspection Program. Part 430 governs *Listeria monocytogenes* and Part 441 governs retained water in meat products.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-32-7

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Adopt 9 CFR, Part 300 through 500, January 1, 2006; additions to be included in this reference are Parts 430 and 441, and remove Sub Chapter I, Egg Products Inspection Act, Part 590

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There is no anticipated cost or savings to state budget. These are mandatory inspections required by the federal government. Agriculture receives grants from the federal government to cover the cost of the service being provided.
- ❖ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government. These are mandatory inspections required by the federal government. Agriculture receives grants from the federal government to cover the cost of the service being provided.
- ❖ OTHER PERSONS: There are no costs or savings associated with this rule. These are mandatory inspections required by the federal government.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with this rule. The inspections are mandatory requirements requested by the federal government. Agriculture receives grants from the federal government to cover the cost of the service being provided.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on businesses. The inspections are required by the federal government and performed by the state government. Leonard M. Blackham, Commissioner

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 84116-3034, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Marolyn Leetham or Mike Marshall at the above address, by phone at 801-538-7114 or 801-538-7160, by FAX at 801-538-7126 or 801-538-7169, or by Internet E-mail at mleetham@utah.gov or mmarshall@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 03/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2006

AUTHORIZED BY: Leonard M. Blackham, Commissioner

**R58. Agriculture and Food, Animal Industry.**

**R58-10. Meat and Poultry Inspection.**

**R58-10-1. Authority.**

Promulgated under authority of Section 4-32-7.

**R58-10-2. Purpose.**

The purpose of this rule is to establish standards and procedures for the meat and poultry product inspection programs, which shall at least equal ~~or exceed~~ those imposed by the Federal Meat Inspection Act and Poultry Inspection Act.

**R58-10-3. Federal Regulations Adopted by Reference.**

Accordingly, the Division adopts the meat and poultry inspection standards and procedures as specified in Title 9, Chapter III, Sub-Chapter A, Agency Organization and Terminology; Mandatory Meat and Poultry Products Inspection and Voluntary Inspection and Certification, Part 300 through 381; Sub-Chapter D, Food Safety and Inspection Service Administrative Provisions. Part 390 and 391, Sub Chapter E, Regulatory Requirements Under the Federal Meat Inspection Act and the Poultry Products Inspection Act, Part 416, 417, 424, 430, 441, and 500; ~~and Sub Chapter I, Egg Products Inspection Act, Part 590~~. Code of Federal Regulations, Animal and Animal Products, 9 CFR 300 through ~~590~~500, January 1, 200~~0~~6 edition, which is incorporated by reference within this rule.

**KEY: food inspection**

**Date of Enactment or Last Substantive Amendment:** ~~January 3, 2004~~2006

**Notice of Continuation:** February 3, 2005

**Authorizing, and Implemented or Interpreted Law:** 4-32-7

**Agriculture and Food, Regulatory  
Services  
R70-101  
Bedding, Upholstered Furniture and  
Quilted Clothing**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 28503

FILED: 02/10/2006, 11:35

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule is to designate the license fees, labeling, terms, definitions, nomenclature, and conditions as commonly used and recognized in the manufacture, sale and distribution of bedding, upholstered furniture, quilted clothing products, and filling materials.

**SUMMARY OF THE RULE OR CHANGE:** This amendment includes a definition for a Uniform Registry Number (URN), or "state-issued registry number" and the purpose of this number. Some of the information has been changed to clarify the requirements for tags.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 4-10-3

**ANTICIPATED COST OR SAVINGS TO:**

- ❖ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. The cost is a fee charged for a license to any person who advertises, solicits, or contracts to manufacture bedding, upholstered furniture, quilted clothing, or filling materials.
- ❖ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. The cost is a fee charged for a license to any person who advertises, solicits, or contracts to manufacture bedding, upholstered furniture, quilted clothing, or filling materials.
- ❖ **OTHER PERSONS:** The fee imposed for each license granted under these rules shall be approved by the Legislature. When the appropriate fee is not paid on or before January 1, the license shall become delinquent, and there shall be added to the fee a penalty of \$25.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** In addition to other remedies provided in these rules, the department shall have the authority to suspend or revoke any registration or license required by these rules for any violation of their provisions.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The impact on businesses would be the fee charged for the license. Leonard M. Blackham, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Marolyn Leetham, Claudia Gale, or Kyle Stephens at the above address, by phone at 801-538-7114, 801-538-7156, or 801-538-7102, by FAX at 801-538-7126, 801-538-7126, or 801-538-7126, or by Internet E-mail at mleetham@utah.gov, claudiagale@utah.gov, or kylestephens@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 03/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2006

AUTHORIZED BY: Leonard M. Blackham, Commissioner

**R70. Agriculture and Food, Regulatory Services.  
R70-101. Bedding, Upholstered Furniture and Quilted Clothing.  
R70-101-3. Definitions.**

A. "Manufacture" means to make, process, or prepare from new or secondhand material, in whole or in part, any bedding, upholstered furniture, quilted clothing, or filling material for sale; but does not include isolated sales of such articles by persons who are not primarily engaged in the making, processing, or preparation of these articles. For the purpose of the enforcement of this rule, the term "manufacturer" shall mean a person who either by himself or through employees or agents makes for the purpose of sale any bedding, upholstered furniture, quilted clothing, filling material, or any unit thereof, or a retailer who sells bedding, upholstered furniture, quilted clothing, and filling material privately labeled under his name.

B. "Non-resident" means a person licensed under these rules who does not have premises in the State of Utah.

C. "Old" means filling material or portion thereof which shows characteristics of aging through deterioration or changing from its original qualities.

D. "Person" means an individual, partnership, association, firm, auctioneer, trust, or corporation, and agents, servants and employees of them.

E. "Premises" means all places where bedding, upholstered furniture, quilted clothing, or filling material is sold, offered for sale, exposed for sale, stored, renovated or manufactured, and the delivery vehicles used in their transportation.

F. "Supply dealer" means a person who manufactures, processes or sells at wholesale any felt, batting, pads or other filling, loose in bags, in bales or in containers, concealed or not concealed, intended for use in bedding, upholstered furniture, or quilted clothing.

G. "Sell" or any of its variants include any combination of the following: sale, offer, or expose for sale, barter, trade, deliver, rent, consign, lease, possess with the intent to sell or dispose of in any other

commercial manner; but does not include any judicial, executor, administrator or guardian sale. The possession of any article of bedding, upholstered furniture, quilted clothing, or filling material defined in these rules, by any maker, dealer, or his agents or servants in the course of business, shall be presumptive evidence of intent to sell.

H. "Uniform Registry Number", "URN", or "state-issued registry number" means the number issued by a state to be used on the law tag of bedding, furniture, or filling materials to identify the manufacturing facility, person, or company accepting responsibility for such products.

#### **R70-101-4. License.**

Except as otherwise provided in these rules, any person who advertises, solicits or contracts to manufacture, repair or wholesale any bedding, upholstered furniture, quilted clothing, or filling materials who either does the work himself or has others do it for him, shall secure the particular license for the particular type of work that he solicits or advertises that he does, regardless of whether he has a shop or factory. This license shall be obtained before such products are offered for sale in Utah.

A. Annual license fee. The fee imposed for each license granted under these rules shall be approved by the Legislature.

When the appropriate fee is not paid on or before January 1, the license shall become delinquent, and there shall be added to the fee a penalty of \$25.

B. Suspension or revocation of license, procedure, review, record. In addition to other remedies provided in these rules, the Department shall have the authority to suspend or revoke any registration or license required by these rules for any violation of their provisions. A suspension or revocation shall be handled as outlined in Section 4-1-5.

#### **R70-101-7. Manufacturer Identification and Tag Requirements.**

A. The identification of a manufacturer, wholesaler, or supply dealer of quilted clothing or filling material which is to appear on the label or tag shall be the same as required in rule 19-20 of the Federal Textile Fiber Products Identification Act and Wool Products Labeling Act, and the Federal Trade Commission Rules and Regulations.

The form of identification used on labels or tags shall be the same supplied to the Department on the application for registration.

B. For articles of bedding and upholstered furniture, the law tag shall use the format adopted by the Association of Bedding and Furniture Law Officials (ABFLO), as listed in the "Tagging Law Manual" of the International Sleep Products Association (ISPA). A copy of the current edition of the "Tagging Law Manual" is available for public inspection at the Utah Department of Agriculture and Food, 350 North Redwood Road, Salt Lake City, Utah.

1. Tags on articles manufactured wholly of new material shall be white in color.

2. Tags on articles manufactured in whole or in part of secondhand materials and tags for "Owners Own Material" shall be yellow.

3. Color of ink on tags shall be black.

4. Tags shall be made of material that cannot be torn or easily abraded, and shall be the required color on both surfaces.

5. All required information shall be clearly and legibly printed in English and printed on one side of the tag only.

6. Tags shall be firmly attached to the article(s) in a position easily visible for examination. Regulated products which are offered for sale in boxes or in some other packaging which makes the law tags attached to the products themselves inaccessible, shall reproduce a fully legible facsimile of the law tag on the outer container or covering.

7. No mark, label, printed matter, illustration, sticker or any other device shall be placed upon the tags in such a way as to cover the required information.

8. A single registry number, issued by the state in which the firm is first registered, shall be used on the law tag.

~~[9.—Every firm doing business under a separate registry number other than the one listed on their application for license will be required to procure a license for each number used. (A change in suffix shall constitute a new number and require an additional license.)]~~C. Every firm doing business under more than one state-issued uniform registry number (URN) shall obtain a license for each number used on products that are offered for sale in Utah. (A change of suffix on a URN shall constitute a new number and require an additional license.)

**KEY: quality controls**

**Date of Enactment or Last Substantive Amendment:** ~~[May 2, 2004]~~**2006**

**Notice of Continuation:** September 6, 2005

**Authorizing, and Implemented or Interpreted Law:** 4-10-3

## Commerce, Real Estate **R162-2-2** Licensing Procedure

### NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 28520

FILED: 02/15/2006, 13:27

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose for this rule change is to set forth the qualifications for real estate licensure related to past criminal conduct by applicants and to turn a policy of the Utah Real Estate Commission and the Utah Real Estate Division into rule. This will give notice to potential applicants of the types of recent criminal convictions that will prevent them from receiving approval from the Utah Real Estate Commission to license or to renew an existing license.

**SUMMARY OF THE RULE OR CHANGE:** The rule change provides that applicants for a new license may not have had a felony conviction or plea in the five years preceding application, and may not have had a misdemeanor conviction or plea in a case involving theft or dishonesty in the three years preceding application. Those same types of convictions will also disqualify an applicant for renewal if the offenses have occurred since the person's last license renewal. A past criminal conviction at any time in the person's history is added to the list of factors that the Commission and the Utah Real Estate Division will consider in determining fitness for licensure, although older criminal convictions will not necessarily preclude licensure if the applicant is able to demonstrate that he or she currently meets the standards of honesty, integrity, truthfulness, reputation, and competency.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 61-2-5.5(1)(a)(i) and 61-2-6(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This rule change will eliminate an unknown number of the license application hearings before the Utah Real Estate Commission since it will deter applications from applicants who will be only be turned down after a hearing because of the Commission's and the Division's policy concerning licensing applicants with recent criminal convictions. Fewer applications will result in fewer license application hearings before the Commission, and therefore, the Utah Real Estate Commission will not have to hold extra meetings in order to review applications that will only be turned down anyway. This will result in a savings to the State budget of the per diem payments for extra Commission meetings. It is difficult to calculate how many extra meetings will be avoided, and therefore, the anticipated cost savings cannot be calculated.

❖ LOCAL GOVERNMENTS: None--Local governments do not act as licensed real estate agents nor do they license real estate agents. Therefore, local governments are not affected by the qualification requirements to obtain real estate licenses.

❖ OTHER PERSONS: The only persons who are affected by the qualification requirements for real estate licensure are the applicants for those licenses. By explicitly stating the types of crimes and the time periods that will disqualify an applicant from receiving a license, this rule will give notice to potential applicants if their criminal history will disqualify them and therefore will save them from spending money on prelicensing education and examinations for a license that they will not receive.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The only persons affected by this rule are license applicants with recent criminal convictions that will disqualify them from licensure if they apply for a license. It will not cost these persons money to comply with this rule, and it will actually save them from spending money since the rule will give them clear notice that they will not receive a license if they apply for a license too soon after their convictions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing codifies the Division's and the Commission's standards for determining the fitness of an applicant. Because it is a clarification of existing procedures, no fiscal impact to businesses is anticipated as a result of this filing. Francine A. Giani, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Shelley Wismer at the above address, by phone at 801-530-6761, by FAX at 801-530-6749, or by Internet E-mail at swismer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/31/2006

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 3/15/2006 at 9:30 AM, Heber Wells Bldg, 160 E 300 S, Room 210, Second Floor, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2006

AUTHORIZED BY: Derek Miller, Director

**R162. Commerce, Real Estate.**

**R162-2. Exam and License Application Requirements.**

**R162-2-2. Licensing Procedure.**

2.2. Within 90 days after successful completion of the exam, the applicant shall return to the Division each of the following:

2.2.1. A report of the examination indicating that both portions of the exam have been passed within a six-month period of time.

2.2.2. The license application form required by the Division. The application form shall include the licensee's business and home address. A post office box without a street address is unacceptable as a business or home address. The licensee may designate any address to be used as a mailing address.

2.2.3. The non-refundable fees which will include the appropriate license fee as authorized by Section 61-2-9(5) and the Recovery Fund fee as authorized by Section 61-2a-4.

2.2.4. Documentation indicating successful completion of the required education taken within the year prior to licensing. If the applicant has been previously licensed in another state which has substantially equivalent licensing requirements, he may apply to the Division for a waiver of all or part of the educational requirement.

2.2.4.1. Candidates for the license of sales agent will successfully complete 90 classroom hours of approved study in principles and practices of real estate. Experience will not satisfy the education requirement. Membership in the Utah State Bar will waive this requirement. The Division may waive all or part of the educational requirement by virtue of equivalent education taken while completing a college undergraduate or postgraduate degree program, regardless of the date of the degree, or by virtue of other equivalent real estate education if the other real estate education was taken within 12 months prior to application.

2.2.4.2. Candidates for the license of associate broker or principal broker will successfully complete 120 classroom hours of approved study consisting of at least 24 classroom hours in brokerage management, 24 classroom hours in advanced appraisal, 24 classroom hours in advanced finance, 24 hours in advanced property management and 24 classroom hours in advanced real estate law. Experience will not satisfy the education requirement. The Division may waive all or part of the educational requirement by virtue of equivalent education taken while completing a college undergraduate or postgraduate degree program, regardless of the date of the degree, or by virtue of other equivalent real estate education if the other real estate education was taken within 12 months prior to application.

2.2.5. The principal broker and associate broker applicant will submit the forms required by the Division documenting a minimum of three years licensed real estate experience and a total of at least 60 points accumulated within the five years prior to licensing. A minimum of two years (24 months) and at least 45 points will be accumulated from Tables I and/or II. The remaining 15 points may be accumulated from Tables I, II or III.

TABLE I - REAL ESTATE TRANSACTIONS

RESIDENTIAL - points can be accumulated from either the selling or the listing side of a real estate closing:	
(a) One unit dwelling	2.5 points
(b) Two- to four-unit dwellings	5 points
(c) Apartments, 5 units or over	10 points
(d) Improved lot	2 points
(e) Vacant land/subdivision	10 points
COMMERCIAL	
(f) Hotel or motel	10 points
(g) Industrial or warehouse	10 points
(h) Office building	10 points
(i) Retail building	10 points
(j) Leasing of commercial space	5 points

TABLE II - PROPERTY MANAGEMENT

RESIDENTIAL	
(a) Each unit managed	.25 pt/month
COMMERCIAL - hotel/motel, industrial/warehouse, office, or retail building	
(b) Each contract OR each separate property address or location for which licensee has direct responsibility	1 pt/month

2.2.6. The Principal Broker may accumulate additional experience points by having participated in real estate related activities such as the following:

TABLE III - OPTIONAL

Real Estate Attorney	1 pt/month
CPA-Certified Public Accountant	1 pt/month
Mortgage Loan Officer	1 pt/month
Licensed Escrow Officer	1 pt/month
Licensed Title Agent	1 pt/month
Designated Appraiser	1 pt/month
Licensed General Contractor	1 pt/month
Bank Officer in Real Estate Loans	1 pt/month
Certified Real Estate Prelicensing Instructor	.5 pt/month

2.2.7. If the review of an application has been performed by the Division and the Division has denied the application based on insufficient experience, and if the applicant believes that the Experience Points Tables do not adequately reflect the amount of the applicant's experience, the applicant may petition the Real Estate Commission for reevaluation by making a written request within 30 days after the denial stating specific grounds upon which relief is requested. The Commission shall thereafter consider the request and issue a written decision.

2.2.8. An applicant previously licensed in another state will provide a written record of his license history from that state and documentation of disciplinary action, if any, against his license.

2.2.9. Qualifications of License Applicants. An applicant for a new license may not:

(a) have been convicted of, entered a plea in abeyance to, or completed any sentence of confinement on account of, any felony within five years preceding the application; or

(b) have been convicted of, entered a plea in abeyance to, or completed any sentence of confinement on account of, any misdemeanor involving fraud, misrepresentation, theft, or dishonesty within three years preceding the application.

2.2.10 Qualifications for Renewal. An applicant for license renewal, or for reinstatement of an expired license, may not have, during the term of the applicant's last license or during the period between license expiration and application to reinstate an expired license, been convicted of, or entered a plea in abeyance to, a felony, and may not have been convicted of, or entered a plea in abeyance to, a misdemeanor involving fraud, misrepresentation, theft, or dishonesty.

2.2.11 Determining fitness for licensure. In determining whether an applicant who has not been disqualified by Subsections 2.2.9 or 2.2.10 meet the requirements of honesty, integrity, truthfulness, reputation and competency required for a new or a renewed license, [T]he Commission and the Division will consider information they consider necessary to make this determination, [determine whether an applicant meets the requirements of honesty, integrity, truthfulness, reputation and competency, which shall include] including the following:

2.2.[9]11.1. Whether an applicant has been denied a license to practice real estate, property management, or any regulated profession, business, or vocation, or whether any license has been suspended or revoked or subjected to any other disciplinary sanction by this or another jurisdiction;

2.2.[9]11.2. Whether an applicant has been guilty of conduct or practices which would have been grounds for revocation or suspension of license under Utah law had the applicant then been licensed;

2.2.[9]11.3. Whether a civil judgment has been entered against the applicant based on a real estate transaction, and whether the judgment has been fully satisfied;

2.2.[9]11.4. Whether a civil judgment has been entered against the applicant based on fraud, misrepresentation or deceit, and whether the judgment has been fully satisfied.

2.2.11.5 Whether an applicant has ever been convicted of, or entered a plea in abeyance to, any criminal offense, or whether any criminal charges against the applicant have ever been resolved by a diversion agreement or similar disposition;

2.2.[9-5]11.6. Whether restitution ordered by a court in a criminal [conviction]case has been fully satisfied;

2.2.[9-6]11.7. Whether the parole or probation in a criminal [conviction]case or the probation in a licensing action has been completed and fully served; and

2.2.[9-7]11.8. Whether there has been subsequent good conduct on the part of the applicant. If, because of lapse of time and subsequent good conduct and reputation or other reason deemed sufficient, it shall appear to the Commission and the Division that the interest of the public will not likely be in danger by the granting of a license, the Commission and the Division may approve the applicant relating to honesty, integrity, truthfulness, reputation and competency.

**KEY: real estate business**

**Date of Enactment or Last Substantive Amendment: ~~October 24, 2005~~2006**

**Notice of Continuation: June 12, 2002**

**Authorizing, and Implemented or Interpreted Law: 61-2-5.5**



Commerce, Real Estate  
**R162-10-1**  
 Formal Adjudicative Proceedings

**NOTICE OF PROPOSED RULE**  
 (Amendment)

DAR FILE NO.: 28494  
 FILED: 02/03/2006, 17:08

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change makes technical corrections to the Administrative Procedures Act rules for proceedings involving real estate licensees.

SUMMARY OF THE RULE OR CHANGE: This rule change clarifies that it is disciplinary proceedings following investigation that are formal proceedings. The rule change also provides for proceedings under the Utah Land Sales Practices Act, which were previously omitted from the rule, and harmonizes the provision for proceedings under the Time Share and Camp Resort Act with the authority given to the Division of Real Estate under that Act.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 61-2-5.5 and Subsection 63-46b-1(5)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--This rule change does not affect which proceedings are conducted as informal proceedings and which are conducted as formal proceedings. It simply makes technical corrections to the rule. Therefore, this rule change will neither cost nor save the State any money
- ❖ LOCAL GOVERNMENTS: None--Technical corrections to the Division of Real Estate's Administrative Procedures Act rules do not affect local government. Therefore, this rule change will neither cost nor save local governments any money.
- ❖ OTHER PERSONS: None--Technical corrections to the Division of Real Estate's Administrative Procedures Act rules do not affect other persons. Therefore, this rule change will neither cost nor save other persons any money.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--No persons are affected by technical corrections to the Division of Real Estate's Administrative Procedures Act rules, and therefore this rule change does not result in compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing clarifies existing standards and provisions regarding adjudicative proceedings. Therefore, no fiscal impact to businesses is anticipated as a result of this filing. Francine A. Giani, Executive Director

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

COMMERCE  
 REAL ESTATE  
 HEBER M WELLS BLDG  
 160 E 300 S

SALT LAKE CITY UT 84111-2316, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 Shelley Wismer at the above address, by phone at 801-530-6761, by FAX at 801-530-6749, or by Internet E-mail at swismer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2006

AUTHORIZED BY: Derek Miller, Director

**R162. Commerce, Real Estate.**  
**R162-10. Administrative Procedures.**  
**R162-10-1. Formal Adjudicative Proceedings.**

10.1. Any adjudicative proceeding as to the following matters shall be conducted ~~[on a formal basis]~~ as a formal adjudicative proceeding:

10.1.1. ~~[Except as otherwise expressly provided herein, the revocation, suspension or probation of a real estate license, school or instructor certification or fine levied against a licensee.]~~ A disciplinary action commenced by the Division following investigation of a complaint.

10.1.2. The revocation~~;~~ or suspension ~~[or probation]~~ of any registration issued pursuant to the Time Share and Camp Resort Act, or the imposition of a fine against the registrant.

10.1.3. The revocation or suspension of any registration issued pursuant to the Utah Uniform Land Sales Practices Act, or the imposition of a fine against the registrant.

10.1.~~3~~4. Any proceedings conducted subsequent to the issuance of cease and desist orders.

**KEY: real estate businesses**

**Date of Enactment or Last Substantive Amendment: ~~March 20, 2000~~ 2006**

**Notice of Continuation: October 7, 2005**

**Authorizing, and Implemented or Interpreted Law: 61-2-5.5; 63-46b-1(5)**



Commerce, Real Estate  
**R162-202-10**  
 Principal Lending Manager Experience  
 Requirement

**NOTICE OF PROPOSED RULE**  
 (Amendment)

DAR FILE NO.: 28499  
 FILED: 02/08/2006, 12:48

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The mortgage licensing statute authorizes the Utah Residential Mortgage Regulatory Commission to determine what experience will be accepted as the equivalent of the three years of active full-time experience as a mortgage officer that is required to obtain a principal lending manager license.

SUMMARY OF THE RULE OR CHANGE: The new section added to this rule, R162-202-10, provides that experience in originating loans or directly supervising individuals who originate loans will be considered "equivalent experience" for the purposes of Section 61-2c-206(1)(e).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 61-2c-206(1)(e)

## ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The experience that is required to obtain a principal lending manager license has no impact on the state budget.
- ❖ LOCAL GOVERNMENTS: None--Local governments do not engage in the residential mortgage loan business that is regulated by the Division of Real Estate. Therefore, the experience requirements for principal lending manager licenses have no impact on local governments.
- ❖ OTHER PERSONS: The only persons who are affected by this rule are persons who would like to apply for the new principal lending manager license. The rule will not cost them money and may save them money since it provides a potential quicker route to licensure than having to wait until they have been licensed with the Division as a mortgage officer for three years before they may qualify for a principal lending manager license.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only persons who are affected by this rule are applicants for principal lending manager licenses. Since this rule liberalizes the experience requirement for that license, there are no compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing clarifies the experience requirement for a lending manager license to include experience in originating loans or directly supervising individuals who originate loans. A costs savings to the industry may result from this filing, but that savings is difficult to estimate as it will depend on the number of applications received and the applicants who meet this criteria. Francine A. Giani, Executive Director

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

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

## DIRECT QUESTIONS REGARDING THIS RULE TO:

Shelley Wismer at the above address, by phone at 801-530-6761, by FAX at 801-530-6749, or by Internet E-mail at swismer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2006

AUTHORIZED BY: Derek Miller, Director

**R162. Commerce, Real Estate.****R162-202. Initial Application.****R162-202-10. Principal Lending Manager Experience Requirement.**

202.10 Equivalent Experience. Experience in originating loans or directly supervising individuals who originate loans shall be considered to be "equivalent experience" for the purposes of Section 61-2c-206(1)(e).

**KEY: residential mortgage loan origination**

**Date of Enactment or Last Substantive Amendment:** ~~August 3, 2005~~ **2006**

**Authorizing, and Implemented or Interpreted Law:** 61-2c-103(3)



Commerce, Real Estate  
**R162-204**

Residential Mortgage Record Keeping  
Requirements

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 28497

FILED: 02/08/2006, 12:26

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for the change is to clarify that it is the entity licensee that has the obligation to maintain records, as opposed to each individual licensee maintaining his or her own files, and that it is the manager of that entity who has the obligation to produce the records to the Division of Real Estate when required.

SUMMARY OF THE RULE OR CHANGE: The rule is changed to state that a licensed entity is required to maintain records instead of each licensed person, and that it is the entity's principal lending manager who will be required to produce the records on behalf of the entity.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 61-2c-302 and Subsection 61-2c-103(3)(c)

## ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The state budget is not impacted by who within a licensed mortgage entity is required to keep the entity's records or to produce records on behalf of the entity.
- ❖ LOCAL GOVERNMENTS: None--Local governments do not engage in the residential mortgage loan business regulated by the Division of Real Estate, and therefore, the rules on who keeps or who produces records of that business do not impact local governments.
- ❖ OTHER PERSONS: The only persons impacted by the rules on who keeps and who produces mortgage records are licensed mortgage officers and the licensed entities for which they work. Since entities are legally "persons," the rule as currently written could be interpreted to require both individual licensees and entities to keep records. By eliminating this duplication, individual licensees will be relieved of substantial costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Most, if not all, licensed mortgage companies already maintain the records required by this rule. There would be compliance costs for any mortgage entity that does not already maintain files on its transactions. However, a much larger number of individual licensees will be relieved of their obligation to maintain files and the accompanying expense.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing clarifies that the record keeping requirements by licensees apply to licensed entities rather than individuals. A cost savings to the industry may result from this clarification, but that savings is difficult to estimate as it will depend on the number of licensed entities and individuals. Francine A. Giani, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Shelley Wismer at the above address, by phone at 801-530-6761, by FAX at 801-530-6749, or by Internet E-mail at swismer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2006

AUTHORIZED BY: Derek Miller, Director

**R162. Commerce, Real Estate.****R162-204. Residential Mortgage Record Keeping Requirements.****R162-204-1. Residential Mortgage Record Keeping Requirements.**

204.1.1 Entity Requirements. An [person]entity licensed under the Utah Residential Mortgage Practices Act must maintain for the period set forth in Utah Code Section 61-2c-302 the following records:

- (a) Application forms;
- (b) Disclosure forms;
- (c) Truth-in-Lending forms;
- (d) Credit reports and the explanations therefor;
- (e) Conversation logs;
- (f) Verifications of employment, paycheck stubs, and tax returns;
- (g) Proof of legal residency, if applicable;
- (h) Appraisals, appraisal addenda, and records of communications between the appraiser and the registrant or lender;
- (i) Underwriter denials;
- (j) Loan approval; and
- (k) All other records required by underwriters involved with the transaction.

204.1.2. Principal Lending Manager Requirements. The principal lending manager of an entity shall be responsible to make the records set forth in Section 204.1.1 available to the Division as provided in Section 61-2c-302(3).

**KEY: residential mortgage loan origination**

**Date of Enactment or Last Substantive Amendment:** [~~April 12, 2004~~]2006

**Authorizing, and Implemented or Interpreted Law:** 61-2c-302



## Commerce, Real Estate

### R162-205

#### Residential Mortgage Unprofessional Conduct

##### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 28498

FILED: 02/08/2006, 12:42

##### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for the rule change is to provide that principal lending managers of a licensed entity are responsible to supervise not only the licensees of that entity but also any unlicensed support staff.

SUMMARY OF THE RULE OR CHANGE: Failing to exercise reasonable supervision over the activities of any unlicensed staff is added as an act that constitutes unprofessional conduct.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 61-2c-103(3)(d) and 61-2c-301(1)(k)

## ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--The state budget is not impacted by a requirement that the principal lending manager of a licensed mortgage entity must supervise not only the licensees of that entity but also the unlicensed staff of the entity.

❖ LOCAL GOVERNMENTS: None--Local governments are not entities that engage in the residential mortgage business that is regulated by the Division of Real Estate. Therefore, a requirement that affects the principal lending manager of a licensed mortgage entity does not affect local governments.

❖ OTHER PERSONS: The only other persons who are affected by this rule are licensed mortgage entities and their managers. The current manager of an entity is a "control person." The control person currently is responsible for supervising the licensee of the entity and the entity's unlicensed staff. Effective May 1, 2006, the "control person" of an entity will be replaced by a new licensed category, the "principal lending manager." It will neither save nor cost licensed entities any money for their new manager, the principal lending manager, to have the same supervisory responsibility as their old manager, the control person.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only persons who will be affected by this rule will be licensed mortgage entities and their managers. Their new manager, the "principal lending manager," will have the same supervisory responsibility as their old manager, the "control person." This will not result in any increased compliance costs for the entity.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing clarifies the provisions regarding unprofessional conduct to include the principal lending manager's duty to supervise unlicensed staff members. Because it is a clarification of existing standards, no fiscal impact to businesses is anticipated as a result of this filing. Francine A. Gianì, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Shelley Wismer at the above address, by phone at 801-530-6761, by FAX at 801-530-6749, or by Internet E-mail at swismer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2006

AUTHORIZED BY: Derek Miller, Director

**R162. Commerce, Real Estate.****R162-205. Residential Mortgage Unprofessional Conduct.****R162-205-1. Residential Mortgage Unprofessional Conduct.**

Unprofessional conduct includes the following acts:

(a) conducting the business of residential mortgage lending under any name other than a name under which the entity or individual conducting such business is licensed with the Division;

(b) failing to remit to the appropriate third parties appraisal fees, inspection fees, credit reporting fees, insurance premiums, or similar fees which have been collected from a borrower;

(c) charging for services not actually performed;

(d) charging a borrower more for third party services than the actual cost of those services;

(e) filling out or altering any Real Estate Purchase Contract or other contract for the sale of real property, or any addenda thereto;[  
and]

(f) making any alteration to any appraisal of real property[-]; and

(g) in the case of a principal lending manager, failing to exercise reasonable supervision over the activities of any unlicensed staff of the entity.

**KEY: residential mortgage loan origination**

**Date of Enactment or Last Substantive Amendment: [~~October 7, 2004~~2006**

**Authorizing, and Implemented or Interpreted Law: 61-2c-301(1)(~~g~~)(k)**



## Education, Administration

**R277-716**Alternative Language Services for Utah  
Students**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 28522

FILED: 02/15/2006, 16:22

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purposes of this rule are to address the requirements of Title VI and implementing regulations and case law, to define the responsibilities of the State Board of Education and local boards of education, to identify English Language Learner/Limited English Proficient (ELL/LEP) students who are currently enrolled in schools, to provide consistent and appropriate services to identified students, and to meet No Child Left Behind (NCLB) funding eligibility requirements and to distribute ELL/LEP funds to school districts/charter schools.

SUMMARY OF THE RULE OR CHANGE: The rule provides definitions, State Board of Education responsibilities, local board of education responsibilities, teacher qualifications, and miscellaneous provisions under this rule of serving ELL/LEP students.

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

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There are no anticipated cost or savings to state budget. The State Board of Education shall distribute federal Title III funding to eligible school districts and charter schools to cover the costs of this rule.
- ❖ LOCAL GOVERNMENTS: There are no anticipated cost or savings to local government. Eligible school districts and charter schools shall receive funding to cover the costs of participation in the program.
- ❖ OTHER PERSONS: There are no anticipated cost or savings to other persons because all program and participation costs will be paid by Title III funds.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons because all program and participation costs will be paid by Title III funds.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2006

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

**R277. Education Administration.**

**R277-716. Alternative Language Services for Utah Students.**

**R277-716-1. Definitions.**

A. "Alternative language program" means a research-based language acquisition instructional service model used to achieve English proficiency and academic progress of identified students.

B. "Alternative language services (ALS)" means language services designed to meet the education needs of all language minority students so that students are able to participate effectively in the regular instruction program.

C. "Annual measurable achievement objectives (AMAOs)" means English Language Proficiency Performance Targets

established by the USOE consistent with NCLB Title III requirements for public school students who are receiving language acquisition services in the state of Utah as required by Title III, Section 3122.

D. "Approved language acquisition instructional model" means methods of ALS instruction that are evidence-based and recommended by the U.S. Department of Education and the USOE.

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

F. "Consolidated Utah Student Achievement Plan" means the application for federal funds authorized under ESEA, and other federal sources submitted annually to the Utah State Office of Education.

G. "English Language Learner/Limited English Proficient (ELL/LEP)" means an individual:

(1) who has sufficient difficulty speaking, reading and writing or understanding the English language and whose difficulties may deny such individual the opportunity to learn successfully in classrooms where the language of instruction is English or which may deny the individual the opportunity to participate fully in society; or

(2) who was not born in the United States or whose native language is a language other than English and who comes from an environment where a language other than English is dominant; or

(3) who is an American Indian or Alaskan native or who is a native resident of the outlying areas and comes from an environment where a language other than English has had a significant impact on such individual's level of English language proficiency.

H. "IEP" means Individualized Education Program for eligible students with disabilities under the Individuals with Disabilities Education Act of 2004.

I. "Immigrant children and youth" for purposes of this rule means individuals who:

(1) are ages 3 through 21;

(2) were born outside of the United States; and

(3) have not been attending one or more schools in any one or more states of the United States for more than 3 full academic years.

J. "Instructional Materials Commission" means a Commission appointed by the Board to evaluate instructional materials for recommendation by the Board consistent with Section 53A-14-101.

K. "Language acquisition instructional program" means an instructional program for students for purpose of developing and attaining English proficiency, while meeting state academic content and achievement standards.

L. "Mountain West Consortium" means a committee consisting of 10 Western state education agencies formed to develop a multi-state English proficiency test.

M. "State Approved Endorsement Program (SAEP)" means a professional development plan on which a licensed Utah educator is working to obtain an endorsement.

N. "USOE" means the Utah State Office of Education.

**R277-716-2. 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 No Child Left Behind Title III Language Instruction for Limited English Proficient and Immigrant Students, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purposes of this rule are:

(1) to address the requirements of Title VI and implementing regulations and case law;

(2) to clearly define the respective responsibilities of the Board and local boards of education:

(a) in identifying ELL/LEP students who are currently enrolled in Utah schools;

(b) in providing consistent and appropriate services to identified students; and

(3) in order to meet NCLB requirements, to meet NCLB funding eligibility requirements and to appropriately distribute ELL/LEP funds to school districts/charter schools with adequate policies.

**R277-716-3. State Board of Education Responsibilities.**

A. The Board shall make available an identification and placement procedure model to local school boards to provide language acquisition services for LEP/ELL students.

B. The Board shall develop and require all school districts/charter schools to use the statewide annual assessment to measure growth and progress in listening, speaking, reading, and writing and comprehension based on the Title III AMAOs for English language acquisition. For the 2005-2006 school year, the Utah Academic Language Proficiency Assessment (UALPA) shall be administered between January 1 and May 1, 2006. Each year thereafter, the testing window shall be open throughout the school year. School districts may determine restricted testing dates within the school year.

C. The Board shall apply a formula and distribute funds to local boards for identification and services to ELL/LEP students and their families.

(1) The formula shall provide an amount based upon eligible students and available funds, to be distributed to all eligible school districts/charter schools and consortia consistent with Title III requirements.

(2) The formula shall provide for an additional amount to qualifying school districts/charter schools based on numbers of immigrant children and youth.

D. The Board shall make available to school districts/charter schools models and accountability measures in providing ALS services to students. School districts/charter schools shall use Board-identified models or models based upon educational research.

E. The Board shall require school districts/charter schools that receive NCLB funds under this rule to:

(1) provide a budget as part of the Consolidated Utah Student Achievement Plan data on student achievement;

(2) provide the number of students served with Title III funds;

(3) provide assurances of services or a program used to serve students; school districts/charter schools shall maintain documentation of services or program;

(4) provide assurances of required parent notification; school districts/charter schools shall maintain documentation of parent notification;

(5) provide in a biennial report a summary of the school district's/charter school's progress under R277-716-3G(1) over a two year period in addition to the annual Consolidated Utah Student Achievement Plan information.

F. The Board shall provide timelines to school districts for meeting Title III requirements.

G. The Board shall assist and provide training to school districts/charter schools in development of ALS and Title III services to students who do not meet prescribed English proficiency AMAOs.

H. Monitoring: the USOE shall remind school districts/charter schools annually in November that school districts/charter schools shall maintain:

(1) an ALS budget plan;

(2) a plan for delivering student instruction;

(3) ALS assessments to date;

(4) a sample of parent notification required under R277-716-4F; and

(5) documentation or evidence of progress of required Title III AMAOs.

I. USOE staff shall make on-site visits to all funded ALS programs within every five year period beginning with 2006.

J. USOE staff shall provide technical assistance during on-site visits and as the USOE deems necessary.

**R277-716-4. Local Board of Education Responsibilities.**

A. A local board of education that receives funds under Title III of NCLB shall assure as part of the Consolidated Utah Student Achievement Plan that the local board has a written plan that:

(1) includes an ELL/LEP student find process, including a home language survey and a language proficiency for program placement, that is implemented with student registration;

(2) uses a valid and reliable assessment of proficiency in listening, speaking, reading, writing, and comprehension of English of identified ELL/LEP students;

(3) provides language acquisition instructional services based on the Utah English Language Proficiency Standards approved by the Board on September 1, 2005;

(4) establishes student exit criteria from ALS programs or services;

(5) includes the ELL/LEP student count, by classification, prior to July 1 of each year.

B. Following funding, a school district/charter school shall:

(1) determine what type of Title III ALS services are available and appropriate for each student identified in need of ALS services. Examples include dual immersion, ESL content-based, or sheltered instruction;

(2) implement an approved language acquisition instructional program designed to achieve English proficiency and academic progress of identified students;

(3) ensure that all identified ELL/LEP students receive English language development services, consistent with R277-716-4A(3);

(4) provide adequate staff development to assist ELL/LEP teachers and staff in meeting AMAOs;

(5) provide necessary staff, curricular materials approved by the Instructional Materials Commission consistent with R277-469, and facilities for adequate and effective training;

C. If school districts/charter schools do not meet AMAOs, they shall develop and implement improvement plans to satisfy AMAOs.

D. Following evaluation of student achievement and services, a school district/charter school shall:

(1) analyze results and determine the programs' success or failure; and

(2) modify a program or services that are not effective in meeting the state AMAOs.

E. A school district/charter school shall have a policy to identify and serve students who qualify for services under IDEA, including:

(1) implementing procedures and training consistent with federal regulations and state special education rules that ensure ELL/LEP students are not misidentified as students with disabilities due to their inability to speak and understand English;

(2) reviewing the assessment results of students' language proficiency in English and other language prior to initiating evaluation activities, including selecting additional assessment tools;

(3) conducting assessments for IDEA eligibility determination and educational programming in students' native language when appropriate;

(4) using nonverbal assessment tools when appropriate;

(5) ensuring that accurate information regarding students' language proficiency in English and other language(s) is considered in evaluating assessment results;

(6) considering results from assessments administered both in English and in the students' home language; and

(7) ensuring that all required written notices and communications with parents who are not proficient in English are provided in the parents' preferred language to the extent practicable, including utilizing interpretation services when appropriate; and

(8) coordinating the language acquisition services and special education and related services to ensure that the IEP is implemented as written.

F. A school district/charter school shall also provide information and training to staff that limited English proficiency is not a disability; if there is evidence that students with limited English proficiency have disabilities, they shall be referred for possible evaluation for eligibility under IDEA.

G. Parent involvement and notification:

(1) Each school district/charter school shall notify parents who are not proficient in English of school district/charter school required activities. Schools shall provide information about optional school activities in the parents' preferred language to the extent practicable.

(2) School districts/charter schools shall provide interpretation and translation services for parents at registration, IEP meetings, SEOP meetings, parent-teacher conferences and student disciplinary meetings.

(3) School districts/charter schools shall provide annual notice to parents of students placed in language acquisition programs at the beginning of the school year or no later than 30 days after identification. If a child has been identified as requiring ALS services after the school year has started, parent notification shall take place within 14 days of the student's identification and placement. The required notice shall include:

(a) the student's level of English proficiency, how such level was assessed, and the status of the student's academic achievement;

(b) the methods of instruction proposed to increase language acquisition, including using both the student's native language and English if necessary;

(c) specifically, how the methods of instruction will help the child learn English and meet age-appropriate academic achievement standards for grade promotion and graduation;

(d) the specific exit requirements for the program including:

(i) the expected rate of transition from the program into classrooms that are not tailored for LEP students and

(ii) the expected graduation from secondary school(s) if funds appropriated consistent with this rule are used for secondary school students.

(4) School districts/charter schools shall provide notice to parent(s) of ELL/LEP students in addition to other required parent notification if the school district/school fails to meet AMAOs. Notice shall be provided within 30 days of the school district's/charter school's receipt of the annual State Title III Accountability Report from the USOE.

#### **R277-716-5. Teacher Qualifications.**

A. Utah educators who are assigned to provide instruction in language acquisition programs shall comply with the State ESL Endorsement requirements provided in R277-520.

B. Teachers whose primary assignment is to provide English language instruction to ELL students shall have an ESL or ESL/Bilingual endorsement consistent with the assignment.

#### **R277-716-6. Miscellaneous Provisions.**

A. School districts/charter schools that generate less than \$10,000 from their ELL/LEP student count, are encouraged to form a consortium with other similar school districts/charter schools.

(1) The consortium shall designate a fiscal agent and shall submit all budget and reporting information from all of the member school districts/charter schools of the consortium.

(2) Each member of the consortium shall submit plans and materials to the fiscal agent of the consortium for final reporting submission to the USOE.

(3) The consortium fiscal agent assumes all responsibility of a local board under R277-716-4.

B. No school district, charter school or consortium may withhold more than two percent of NCLB Title III funding for administrative costs in serving ELL/LEP students.

#### **KEY: alternative language services**

**Date of Enactment or Last Substantive Amendment: 2006  
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3)**



## Education, Administration **R277-717** Mathematics, Engineering, Science Achievement (MESA)

### **NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 28523

FILED: 02/15/2006, 16:22

### **RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to clarify definitions, add charter school language, and make other program changes that have developed over the years.

SUMMARY OF THE RULE OR CHANGE: The rule provides for changes to definitions, proposal criteria, budget, State Board of Education funding priorities, proposal applications and time lines.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3) and Section 53A-4-205

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated cost or savings to state budget. The State Board of Education receives an appropriation to fund MESA programs in the school districts and their local activities.

❖ LOCAL GOVERNMENTS: There are no anticipated cost or savings to local government. School districts and charter schools receive funding from the State Board of Education for MESA activities and student experiences. School district and charter school programs are funded on a competitive basis.

❖ OTHER PERSONS: There are no anticipated cost or savings to other persons. There are no program costs for MESA participants.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. There are no program costs for MESA participants.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2006

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

## R277. Education, Administration.

### R277-717. Mathematics, Engineering, Science Achievement (MESA).

#### R277-717-1. Definitions.

A. "Annual report" means information and data identified under R277-717-3E provided by funding recipients to the Utah State Office of Education by ~~May 1~~ June 30 of each year as a requirement for continued funding of the school or school district program.

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

C. "Mathematics, Engineering, Science Achievement (MESA)" program means a course or courses offered during the regular school day or a club or activities held after school that involves identified students and addresses identified school district/charter school objectives with underserved ethnic minority and all female students consistent with funding purposes and the purposes of this rule. MESA programs, activities, and courses or classes may be offered at all grade levels. Programs should be coordinated among [high]secondary schools/charter schools and their feeder schools.

D. "MESA Public Education Funding Application Review Committee (Committee)" means a funding advisory committee to the [USOE]Board composed of nine members as follows: four Coalition of Minorities Advisory Committee (CMAC) representatives who are not employed by applicant districts[-(4)], three school districts/charter schools representatives, including only representatives of districts that [have and have not applied] are not applying for MESA funding during the current grant cycle[-(3)], two higher education [members of the Mathematics, Engineering, Science Achievement/Science, Technology, Engineering Program (MESA/STEP) Advisory Board (2)]representatives with expertise in mathematics, engineering, science or technology. USOE staff shall facilitate the funding application review process but shall not vote in any Committee decisions.

E. "Minority Students" means African American students, Asian students, American Indian~~[/]~~ students, Alaskan Native students, Native Hawaiian students, Hispanic~~[/]~~ students, Latino students, Pacific Islander students or other underserved ethnic minority students as [designated]proposed by the applicant.

F. "School District/Charter School or School Proposal" means a written proposal[-outlined in writing], including budget and evaluation components, developed by each school district/charter school [receiving]applying for MESA funding or, if so determined by the district, by each recipient school.

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

~~H. "Utah MESA/STEP Consortium" means a collaboration among public education, higher education, industry, and professional and community groups to increase the number of underserved ethnic minority and all female students to participate and succeed in academic and career pursuits in mathematics, science, engineering, and related technical fields.]~~

#### R277-717-2. 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-4-205 which assigns to the Board the responsibility for developing standards and administering funds for ~~[a-]programs~~ promoting educational excellence, Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities, and Section 53A-17a-121 which appropriates funding for programs for at-~~[ ]~~ risk youth. The USOE shall provide ~~[overall]~~ statewide supervision of the program and budget and shall recommend funding for MESA programs based on MESA objectives and Board funding priorities.

B. This rule establishes standards and procedures to direct recipient public school districts[-or-]/traditional schools or charter schools to develop proposals ~~[to]~~ that encourage the participation of underserved ethnic minority and all female students who traditionally have not participated in mathematics, engineering, and science classes and programs proportionately to white males.

**R277-717-3. Proposal Criteria.**

A. School district ~~or~~ traditional school or charter school proposals shall identify objectives and activities to address MESA and Board objectives.

B. The objectives of the MESA program are:

(1) to increase the number of underserved ethnic minority and all female students who pursue course work, advanced study and possible careers in mathematics, engineering, and science areas, including teaching of mathematics and science;

(2) to provide a program and activities designed to motivate underserved ethnic minority and all female students to take better advantage of all existing educational opportunities;

(3) to facilitate an increase in high school graduation rates of MESA-involved students ~~from high school~~;

(4) to strengthen the [self-image]confidence of underserved ethnic minority and all female students relating to their success in mathematics and science courses, and to provide them with skills and opportunities to become successful role models for other students;

(5) to provide underserved ethnic minority and all female students the opportunity to relate to and associate with successful role models; ~~and~~

(6) to coordinate the efforts of public schools, colleges and universities, the USOE, industries, professional and community groups, and others in the development and maintenance of academic support programs to increase the participation of underserved ethnic minority and all female students in academic and career pursuits ~~[of] in~~ mathematics and science~~. Examples of such courses include:~~

- ~~— (1) ATE classes;~~
- ~~— (2) community school classes;~~
- ~~— (3) concurrent enrollment;~~
- ~~— (4) advanced placement classes; or~~
- ~~— (5) classes offered through higher education institutions; and~~
- (7) to provide more information about MESA opportunities and participation criteria to parents of minority students and to actively involve minority students' parents in school activities and programs.

C. Courses shall include secondary courses that place underserved ethnic minority and all female students on a college preparation track for post high school opportunities in mathematics and science. MESA courses may include:

- ~~— (1) CTE classes;~~
- ~~— (2) community school classes;~~
- ~~— (3) concurrent enrollment;~~
- ~~— (4) advanced placement classes; or~~
- ~~— (5) classes offered through higher education institutions.~~

D. ~~[Examples of]~~ MESA activities may include:

(1) regularly scheduled after-school ~~meetings with advisors to hear~~ guest presenters;

(2) tutoring sessions, particularly in mathematics and science, including study aids;

(3) field trips;

(4) [hands-on]practical activities designed to introduce students to career possibilities, curriculum options or additional courses of study;

(5) [exposure to]meaningful experiences and opportunities to discuss career opportunities in mathematics, engineering, and science, including teaching in these fields as a potential career;

(6) [community]academic service learning designed to address school interest and attendance issues as well as to introduce underserved ethnic minority and all female students to mathematics, ~~[science,]~~engineering-related businesses/activities, science and

opportunities for high school and post-secondary classes and the future; ~~and~~

(7) internships or work experiences in identified areas which may be encouraged by student stipends or academic credit or both~~;~~

~~— (8) science fairs;~~

~~— (9) math competitions; and~~

~~— (10) extracurricular math/science activities.~~

E. A school district or school/charter school proposal shall include a ~~[n-annual]~~ report of the previous year's courses and activities from the funding [recipient to the USOE:]cycle.

(1) The [P]proposal shall also include[s]:

(a) a program narrative;

(b) a plan to coordinate program activities with MESA objectives;

(c) a projected budget; and

(d) an evaluation plan.

(2) The [A]annual report shall include[s]:

(a) an accounting ~~[for]of~~ MESA funds spent in the previous year consistent with objectives identified in the proposal;

(b) descriptions and examples of materials or activities that encouraged participation of underserved ethnic minority and all female students in MESA-funded courses and activities;

(c) specific numbers or examples of increased participation or success in mathematics, science, engineering courses/activities by underserved ethnic minority and all female students;

(d) ~~[a program evaluation based on MESA and Board objectives and criteria; and]~~ the number of ethnic minority teachers added to math/science departments;

(e) ~~[evidence of program response to evaluation data.]~~ data on the course taking patterns of ethnic minority and female students;

(f) number of MESA participants who began college programs; and

(g) number of MESA participants who took the ACT/SAT exams.

**R277-717-4. Budget.**

A. Proposed expenditures shall be ~~[tied]~~ specific to program objectives.

B. The budget may include payments to compensate schools for school fees directly related to ~~[successful]~~ participation by underserved ethnic minority and all female students in identified MESA courses or activities.

C. School districts or schools are encouraged to consider additional and creative course alternatives for identified students.

**R277-717-5. Board Funding Priorities.**

The Board shall fund school district or school programs based on priorities and criteria including:

A. programs that clearly address all MESA objectives;

B. programs that provide matching funds from school districts or federal sources, or both;

C. programs that show an increase in MESA participants ~~[of underserved ethnic minority and all female participants]~~ over the previous year;

D. increased participation of MESA students in college preparation classes;

E. increased rate of graduation among MESA students;

F. innovative and effective counseling and tutoring models; and

G. total number of targeted students in the school district or school's population.

**R277-717-6. Proposal Applications and Timeline.**

A. Proposals shall be submitted tri-annually beginning June 15, 2006 by school districts or schools/charter schools with approval of their governing board to the Committee no later than [May 1] June 30 of each designated year together with the required program report(s).

B. The USOE may request more information, additional data or budget information if annual reports or student assessments indicate that MESA funding is being used ineffectively, for ineligible students, or inconsistently with the school district/school/charter school plan or the intent of this rule.

[B]C. Proposals shall be submitted to the USOE on forms provided by the USOE and consistent with state and federal laws and USOE timelines.

[C]D. State funding may require matching funding from local or federal sources. Applications may require identification of matching [local or community] funds.

[D]E. The Funding Committee may seek additional information from applicants and may assist applicants to align proposed expenditures with MESA objectives.

[E]F. The Funding Committee shall make final recommendations to the USOE no later than [June 15] July 31.

[F]G. The USOE shall make recommendations to the Board for final approval of program funding.

**KEY: minority education, mathematics, engineering, science**  
**Date of Enactment or Last Substantive Amendment: [~~May 2, 2003~~]2006**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-4-205; 53A-1-401(3)**



Education, Rehabilitation

**R280-204**

Utah State Office of Rehabilitation  
 Employee Background Check  
 Requirement

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 28521

FILED: 02/15/2006, 16:21

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is established to provide procedures under which criminal background checks may be required of designated Utah State Office of Rehabilitation (USOR) employees and volunteers.

SUMMARY OF THE RULE OR CHANGE: The rule provides definitions and procedures for: designation of employees and volunteers requiring criminal background checks, USOR review of criminal background check information, criminal background check costs and fees, and provides for miscellaneous provisions.

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The USOR will pay for approximately 100 designated USOR employees hired between February 28, 2003, and March 1, 2006, at a cost of \$49 per person for a total of \$4,900. The USOR will pay for background checks of new hires and volunteers as designated after March 1, 2006. The USOR anticipates that there will be approximately 50 designated new hires or volunteers per year for an anticipated cost of \$49.00 per individual for a total of \$2,450 per year.

❖ LOCAL GOVERNMENTS: There are no anticipated cost or savings to local government units of USOR. The USOR will pay all required background check fees.

❖ OTHER PERSONS: There are no anticipated cost or savings to other persons. USOR will pay for all required background checks.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. USOR will pay for all required background checks.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2006

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

**R280. Education, Rehabilitation.**

**R280-204. Utah State Office of Rehabilitation Employee Background Check Requirement.**

**R280-204-1. Definitions.**

A. "BCI" means the Utah Bureau of Criminal Identification.

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

C. "Criminal background check" means the submission by an employee of fingerprints through a law enforcement unit, through the Utah State Office of Education paper/card fingerprinting process or by means of an electronic fingerprinting scanning machine, review by the BCI for comparison with recorded arrests and convictions and discussion or explanation of resulting criminal arrest or conviction information as determined by this rule and USOR procedures.

D. "Significant unsupervised access" means a period of time that an employee, volunteer or intern covered by this rule may spend with a Rehabilitation client during which the employee or volunteer is alone with the client for more than a brief time, provides services for clients protected under this rule on a regular basis by assignment, or who generally works with clients protected under this rule.

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

F. "USOR" means the Utah State Office of Rehabilitation.

G. "USOR employee" means employees, including consultants, temporary employees, interns and traditional employees of the USOR or agencies or subdivisions of the USOR.

#### **R280-204-2. Authority and Purpose.**

A. This rule is authorized by 53A-24-103 which places the USOR under the policy direction of the Board. The Board is authorized under 53A-1-401(3) to adopt rules and policies in accordance with its responsibilities.

B. The purpose of this rule is to establish definitions and procedures under which criminal background checks may be required of designated USOR employees and volunteers and under which employees, prospective employees and volunteers may receive notice of required background check requirements and review.

#### **R280-204-3. Criminal Background Check Requirement for Designated USOR Employees.**

A. Background checks shall be completed for all USOR employees hired, transferred, or assigned to the USOR after February 28, 2003 who have significant unsupervised access to clients.

B. Background checks shall be completed on all designated USOR employees by July 1, 2007.

C. Background checks shall be completed on designated USOR employees hired before March 2, 2006.

D. The USOR Executive Director shall review supervisor recommendations of USOR employee positions identified for background checks under R280-204-3B and C and designate employee and volunteer positions for which background checks are necessary. Designated employees and volunteers shall receive adequate notice of the required background check from their supervisors.

E. All USOR volunteers may be required, following reasonable notice, to complete a criminal background check.

#### **R280-204-4. Criminal Background Check Requirement for USOR Employees Hired After March 1, 2006.**

A. Employees hired for USOR positions after March 1, 2006 in positions designated by the USOR Executive Director shall be required to complete a criminal background check and review prior to final and official hiring by the USOR.

B. Background checks shall be required for prospective transfers from outside USOR after March 1, 2006 for designated positions.

C. Background checks may be required at the discretion of the USOR Executive Director for USOR employees reassigned or promoted to designated positions.

D. New employees, transfer employees from other state government positions and volunteers may provide information from background checks that were completed by the BCI or by the applicant at live scan sites no more than 12 months prior to the date of employment by USOR instead of completing a new background check.

E. Prospective transferees or employees shall receive notice of the background check requirement in the job/employment notice.

#### **R280-204-5. USOR Procedures for Review of Criminal Background Check Information.**

A. Background checks of designated USOR employees hired between February 28, 2003 and March 1, 2006 shall take place using one of the following methods as directed by the USOR:

(1) using fingerprint cards submitted to the BCI; or

(2) using the live scan process at any Utah live scan location.

B. All background checks that identify arrests or convictions shall be reviewed by USOR staff.

C. USOR staff shall notify the background check applicant in a timely manner that arrest(s), conviction(s), or both, were reported as a result of the background check.

D. Designated USOR staff shall review arrests, convictions, or both, and determine if the arrests or convictions pose risks to USOR clients.

E. USOR current and prospective employees whose background checks reveal arrests or convictions shall have an opportunity to provide an explanation or additional information to USOR staff.

F. The review of criminal background check information may result in a prospective USOR employee not being hired, in disciplinary action for current USOR employees, or termination of a volunteer's participation with the USOR.

G. Current employees shall have adequate due process consistent with USOR policies prior to discipline resulting from background check review.

#### **R280-204-6. Criminal Background Check Costs and Fees.**

A. All costs and fees associated with criminal background checks of USOR employees hired before March 2, 2006 shall be borne by the USOR.

B. All costs and fees associated with criminal background checks of USOR employees hired after March 1, 2006 shall be the responsibility of the employee or prospective employee. The USOR may contribute to criminal background check costs and expenses as funds are available and at the discretion of the USOR.

C. The responsibility for costs and fees of employees transferred within USOR or from other government agencies shall be determined on a case-by-case basis.

D. The responsibility for costs and fees of USOR volunteers shall be determined on a case-by-case basis.

E. A criminal background check fee schedule shall be available to prospective USOR employees from the USOR. Costs may include a fee for review of fingerprint cards to the BCI, a fee for use of live scan equipment or a fee for review of fingerprint results by the USOR.

**R280-204-7. Miscellaneous Provisions.****A. Confidentiality:**

(1) All criminal background information received by the USOR shall be secured by the designated USOE section.

(2) All criminal background check records maintained by USOR and USOE are protected under Section 63-2-304 with the exception of public employee information under Section 63-2-201.

B. The USOR or USOE has no liability for any errors or misinformation received from the BCI as a result of a criminal fingerprint background check. Correction of any misinformation is the responsibility of the fingerprint background check applicant.

**KEY: criminal background checks**

**Date of Enactment or Last Substantive Amendment: 2006**

**Authorizing, and Implemented or Interpreted Law: 53A-24-103; 53A-1-401(3)**

◆ ————— ◆

**Environmental Quality, Air Quality**  
**R307-204**  
**Emission Standards: Smoke**  
**Management**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 28501

FILED: 02/09/2006, 10:29

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Air Quality Board is proposing to revise Rule R307-204 to enhance Utah's smoke management program by providing land managers more flexibility when igniting "small prescribed fires" and "small prescribed pile fires (de minimis)" with minimal risk. In addition, to better protect the public health, revisions to this rule will require land managers to submit more information for "wildland fire use events," such as distance to nearest community, elevation of fire, and fire's airshed number. Finally a new section was added to clarify the procedures for igniting "large prescribed pile fires," which will aid in reducing the risk of wildland fires.

SUMMARY OF THE RULE OR CHANGE: Land managers are given more flexibility when igniting "small prescribed fires" and "small prescribed pile fires (de minimis)" with minimal risk. Currently land managers cannot ignite these types of fires when the clearing index is below 500. When the Clearing Index of 500 was originally established there was little scientific information available. This proposal will allow land managers to ignite these types of fires when the clearing index is between 500 and 400 with approval of the executive secretary. Allowing these types of fires will help land managers reduce excess fuel and thus reduce the potential for wildfires. In addition, these types of fires are small and contained, making them easier to monitor and control. Further, because these fires burn very hot and efficiently, they produce fewer emissions. Research on pile burning has

found that particulates produced by pile burning are nearly half of that from broadcast burning (Smoke Management Guide for Prescribed and Wildland Fire, 2001 Edition, Ottmar, Roger D., 2001). Revisions to this rule will require land managers to submit more information about "wildland fire use events," such as distance to nearest community, elevation of fire, and fire's airshed number. This proposal includes a new section outlining procedures for igniting "large prescribed pile fires." Additional grammatical and technical revisions were made throughout the rule.

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

**ANTICIPATED COST OR SAVINGS TO:**

- ❖ THE STATE BUDGET: Expenses of staffing the smoke management program are shared by state and federal agencies, with the federal agencies paying all of the salary. There may be a savings to the federal and state governments in reduced costs for wildfire suppression, by reducing the available fuels and thus reducing the potential for wildfires.
- ❖ LOCAL GOVERNMENTS: Local governments will not be affected by the rule unless they manage wildlands or use prescribed fire. If so, their costs will approximate those of other persons--see "Compliance costs for affected persons" below.
- ❖ OTHER PERSONS: Most of the paperwork required by this rule is already used by governmental land managers. The proposed revisions will better protect the public by reducing fuels, which will result in lower intensity wildfires. In addition, these revisions may result in some savings in reduced illness, emergency room visits, lost work and school time for sensitive individuals such as asthmatics and the elderly. However, those benefits are not quantifiable.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Most of the paperwork required by this rule is already used by governmental land managers. The proposed revisions will better protect the public by reducing fuels, which will result in lower intensity wildfires. In addition, these revisions may result in some savings in reduced illness, emergency room visits, lost work and school time for sensitive individuals such as asthmatics and the elderly. However, those benefits are not quantifiable.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Land managers are working to restore healthy ecosystems, and are including the use of fire as a management tool. This rule ensures that public health is better protected. Very few businesses will be affected by the rule, and their costs are uncertain. Dianne R. Nielson, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/31/2006

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 3/16/2006 at 2:00 PM, DEQ Building, Main Conference Room, 150 N 1950 W, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 04/06/2006

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

### **R307. Environmental Quality, Air Quality.**

#### **R307-204. Emission Standards: Smoke Management.**

##### **R307-204-3. Definitions.**

The following additional definitions apply only to R307-204.

"Annual Emissions Goal" means the annual establishment of a planned quantitative value of emissions reductions from prescribed fire.

"Best Management Practices" means smoke management and dispersion techniques used during a prescribed fire or a wildland fire use[~~d~~] event[~~for resource benefit~~] that affect the direction, duration, height or density of smoke.

"Burn Plan" means the plan required for each fire ignited by managers or allowed to burn.

"Burn Window" means the period of time during which the prescribed fire is scheduled for ignition.

"Emission Reduction Techniques (ERT)" mean techniques for controlling emissions from prescribed fires to minimize the amount of emission output per unit or acre burned.

"Federal Class I Area" means any Federal land that is federally classified or reclassified Class I.

"Fire Prescription" means the measurable criteria that define conditions under which a prescribed fire may be ignited, guide selection of appropriate management responses, and indicate~~s~~ other required actions. Prescription criteria may include but are not limited to safety, economic, public health, environmental, geographic, administrative, social, or legal considerations.

"Land Manager" means any federal, state, local or private entity that owns, administers, directs, oversees or controls the use of public or private land, including the application of fire to the land.

"Non-burning Alternatives to Fire" means non-burning techniques that are used to achieve a particular land management objective, including but not limited to reduction of fuel loading, manipulation of fuels, enhancement of wildlife habitat, and ecosystem restructuring. These alternatives are designed to replace the use of fire for at least the next five years.

"Particulate Matter" means the liquid or solid particles such as dust, smoke, mist, or smog found in air emissions.

"Pile" means natural materials or debris resulting from some type of fuels management practice that have been relocated either by hand or machinery into a concentrated area.

"Pile Burning" means burning of individual piles.

"Prescribed Fire or Prescribed Burn" means any fire ignited by management actions to meet specific objectives, such as achieving resource benefits.[

~~—"Particulate Matter" means the liquid or solid particles such as dust, smoke, mist, or smog found in air emissions.]~~

"Smoke Sensitive Receptors" means population centers such as towns and villages, campgrounds and trails, hospitals, nursing homes, schools, roads, airports, Class I areas, nonattainment and maintenance areas, areas whose air quality monitoring data indicate pollutant levels that are close to health standards, and any other areas where smoke and air pollutants can adversely affect public health, safety and welfare.

"Wildland" means an area in which development is essentially non-existent, except for pipelines, power lines, roads, railroads, or other transportation or conveyance facilities. Structures, if any, are widely scattered.

"Wildland Fire" means any non-structure fire, other than prescribed fire, that occurs in the wildland.

"Wildland Fire Use[~~d~~ for Resource Benefits (WFURB)] Event" means naturally ignited wildland fire that is managed to accomplish specific pre-stated resource management objectives in predefined geographic areas.

"Wildland Fire Implementation Plan" means the plan required for each fire that is allowed to burn.

"Wildland Fire Implementation Plan Stage I" means the initial wildland fire planning document. It is developed for fires with a low potential of spread and negative impacts.

"Wildland Fire Implementation Plan Stage II" means a more detailed wildland fire planning document. It is developed for larger more active fires with a greater potential for geographic extent.

##### **R307-204-4. General Requirements.**

(1) Management of On-Going Fires. If, after consultation with the land manager, the executive secretary determines that a prescribed fire, wildland fire use[~~d~~ for resource benefits] event, wildland fire, or any smoke transported from other locations, is degrading air quality to levels that could violate the National Ambient Air Quality Standards or burn plan conditions, the land manager shall promptly stop igniting additional prescribed fires.

(2) Emissions Calculations. In calculating emissions information required under R307-204, each land manager shall use emission factors approved by the executive secretary.

(3) Non-burning Alternatives to Fire. Beginning in 2004 and annually thereafter, each land manager shall submit to the executive secretary by March 15 a list of areas treated using non-burning alternatives to fire during the previous calendar year, including the number of acres, the specific types of alternatives used, and the location of these areas.

(4) Annual Emissions Goal. The executive secretary shall provide an opportunity for an annual meeting with land managers for the purpose of evaluation and adoption of the annual emission goal. The annual emission goal shall be developed in cooperation with states, federal land management agencies and private entities, to control prescribed fire emissions increases to the maximum feasible extent.

(5) Long-term Fire Projections. Each land manager shall provide to the executive secretary by March 15 annually long-term projections of future prescribed fire [~~and wildland fire used for resource benefits~~] activity for annual assessment of visibility impairment.

**R307-204-6. Small Prescribed Fires.**

(1) A prescribed fire that covers less than 20 acres per burn[~~and results in air emissions less than 0.5 tons of particulate matter per day~~] shall be ignited only when the clearing index is 500 or greater.

(2) A prescribed fire that covers less than 20 acres per day may be ignited when the National Weather Service Clearing Index is between 500 and 400 under a conditional basis with approval of the executive secretary.

(a) The prescribed fire should be recorded as a de minimis prescribed fire on the Utah Annual Burn Schedule.

(b) The Land Manager is required to notify the executive secretary by fax, e-mail, or phone prior to ignition of the burn when burning below a National Weather Service Clearing Index is between 500 and 400.

(c) Additional reporting requirements including hourly photographs, a record of any complaints, hourly meteorological conditions and an hourly description of the smoke plume must be recorded and submitted.

**R307-204-7. Small Prescribed Pile Fires (de minimis).**

(1) Pile burns covering up to 30,000 cubic feet per day shall be ignited only when the clearing index is 500 or greater.

(2) Pile burns covering up to 30,000 cubic feet per day may be ignited when the National Weather Service Clearing Index is between 500 and 400 under a conditional basis with approval of the executive secretary.

(a) The pile fire should be recorded as a de minimis prescribed fire on the Utah Annual Burn Schedule.

(b) The Land Manager is required to notify the executive secretary by fax, e-mail, or phone prior to ignition of the burn when burning below a National Weather Service Clearing Index is between 500 and 400.

(c) Additional reporting requirements including hourly photographs, a record of any complaints, hourly meteorological conditions and an hourly description of the smoke plume must be recorded and submitted.

**R307-204-[7]8. Large Prescribed Fires.**

(1) Burn Plan. For a prescribed fire that covers 20 acres[~~or more per burn or results in air emissions of 0.5 tons or more of particulate matter per day~~], the land manager shall submit to the executive secretary a burn plan, including a fire prescription, upon request.

(2) Pre-Burn Information. For a prescribed fire that covers 20 acres or more per burn[~~or results in air emissions of 0.5 tons or more of particulate matter per day~~], the land manager shall submit pre-burn information to the executive secretary at least two weeks before the beginning of the burn window. The pre-burn information shall be submitted to the executive secretary on the form provided by the Division of Air Quality by fax, electronic mail or postal mail and shall include the following information:

(a) The three-letter ID, project number, date submitted, name of person submitting the form, burn manager, and phone numbers;

(b) Summary of burn objectives, such as restoration or maintenance of ecological functions or indication of fire resiliency;

(c) Any sensitive receptor within 15 miles, including any Class I or nonattainment or maintenance area, and distance and direction in degrees from the project site;

(d) Planned mitigation methods;

(e) The smoke dispersion or visibility model used and results;

(f) The estimated amount of total particulate matter anticipated;

(g) A description of how the public and land managers in neighboring states will be notified;

(h) A map[~~, preferably with a scale of 1:62,500,~~] depicting both the daytime and nighttime smoke path and down-drainage flow for a minimum of 15 miles from the burn site with smoke-sensitive areas delineated;

(i) Safety and contingency plans for addressing any smoke intrusions; and

(j) If the fire is in a nonattainment or maintenance area and is subject to general conformity (42 U.S.C. 7506(c)), a copy of the conformity demonstration showing that the fire meets the requirements of the Clean Air Act and conforms with the applicable State Implementation Plan.

(k) Planned use of emission reduction techniques to support establishment of an annual emissions goal, if not already submitted under R307-204-5.

(l) Any other information needed by the executive secretary for smoke management purposes, or for assessment of contribution to visibility impairment in any Class I area.

(3) Burn Request.

(a) The land manager shall submit to the executive secretary a burn request on the form provided by the Division of Air Quality by [~~10:00 a.m.~~]1000 hours at least two business days before the planned ignition time. The form may be submitted by fax or electronic mail, and must include the following information:

(i) The three-letter identification and project number consistent with the annual burn schedule required in R307-204-5(1) above;

(ii) The date submitted and by whom; and

(iii) The burn manager conducting the burn and phone numbers.

(b) No prescribed fire requiring a burn plan shall be ignited before the executive secretary approves or conditionally approves the burn request.

(c) If a prescribed fire is delayed, changed or not completed following burn approval, any significant changes in the burn plan shall be submitted to the executive secretary before the burn request is submitted. If a prescribed fire is not carried out, the land manager shall list the reasons on the burn request form provided by the Division of Air Quality and shall submit the form by fax or electronic mail to the executive secretary by [~~8:00 a.m.~~]0800 hours the following business day.

(4) Daily Emissions Report. By [~~8:00 a.m.~~]0800 hours on the day following the prescribed burn, for each day of prescribed fire activity covering [~~50~~]20 acres or more, the land manager shall submit to the executive secretary a daily emission report on the form provided by the Division of Air Quality including the following information:

(a) The three-letter identification and project number consistent with the annual burn schedule required in R307-204-5(1) above;

(b) The date submitted and by whom;

(c) The start and end dates and times of the burn;

(d) Emission information including black acres, tons fuel consumed per acre, and tons particulate matter produced;

(e) Public interest regarding smoke;

(f) Daytime ventilation;

(g) Nighttime smoke behavior;

(h) Evaluation of the techniques used by the land manager to reduce emissions or manage the smoke from the prescribed burn; and

(i) Emission reduction techniques applied.

(5) Emission Reduction and Dispersion Techniques. Each land manager shall take measures to prevent smoke impacts. Such measures may include best management practices such as dilution, emission

reduction or avoidance in addition to others described in the pre-burn information form provided by the Division of Air Quality. An evaluation of the techniques shall be included in the daily emissions report required by (4) above.

(6) Monitoring. Land managers shall monitor the effects of the prescribed fire on smoke sensitive receptors and on visibility in Class I areas, as directed by the burn plan. Hourly visual monitoring and documentation of the direction of the smoke plume shall be recorded on the form provided by the Division of Air Quality or on the land manager's equivalent form. Complaints from the public shall be noted in the project file. Records shall be available for inspection by the executive secretary for six months following the end of the fire.

### **R307-204-9. Large Prescribed Pile Fires.**

(1) Burn Plan. For a prescribed pile fire that exceeds 30,000 cubic feet per day, the land manager shall submit to the executive secretary a burn plan, including a fire prescription, upon request.

(2) Pre-Burn Information. For a prescribed pile fire that exceeds 30,000 cubic feet or more per burn, the land manager shall submit pre-burn information to the executive secretary at least two weeks before the beginning of the burn window. The pre-burn information shall be submitted to the executive secretary on the form provided by the Division of Air Quality by fax, electronic mail or postal mail and shall include the following information:

(a) The three-letter ID, project number, date submitted, name of person submitting the form, burn manager, and phone numbers;

(b) Summary of burn objectives, such as restoration or maintenance of ecological functions or indication of fire resiliency;

(c) Any sensitive receptor within 15 miles, including any Class I or nonattainment or maintenance area, and distance and direction in degrees from the project site;

(d) Planned mitigation methods;

(e) The smoke dispersion or visibility model used and results;

(f) The estimated amount of total particulate matter anticipated;

(g) A description of how the public and land managers in neighboring states will be notified;

(h) A map depicting both the daytime and nighttime smoke path and down-drainage flow for a minimum of 15 miles from the burn site with smoke-sensitive areas delineated;

(i) Safety and contingency plans for addressing any smoke intrusions; and

(j) If the fire is in a nonattainment or maintenance area and is subject to general conformity (42 U.S.C. 7506(c)), a copy of the conformity demonstration showing that the fire meets the requirements of the Clean Air Act and conforms with the applicable State Implementation Plan.

(k) Planned use of emission reduction techniques to support establishment of an annual emissions goal, if not already submitted under R307-204-5.

(l) Any other information needed by the executive secretary for smoke management purposes, or for assessment of contribution to visibility impairment in any Class I area.

(3) Burn Request.

(a) The land manager shall submit to the executive secretary a burn request on the form provided by the Division of Air Quality by 1000 hours at least two business days before the planned ignition time. The form may be submitted by fax or electronic mail, and must include the following information:

(i) The three-letter identification and project number consistent with the annual burn schedule required in R307-204-5(1) above;

(ii) The date submitted and by whom; and

(iii) The burn manager conducting the burn and phone numbers.

(b) No prescribed pile fire requiring a burn plan shall be ignited before the executive secretary approves or conditionally approves the burn request.

(c) If a prescribed pile fire is delayed, changed or not completed following burn approval, any significant changes in the burn plan shall be submitted to the executive secretary before the burn request is submitted. If a prescribed fire is not carried out, the land manager shall list the reasons on the burn request form provided by the Division of Air Quality and shall submit the form by fax or electronic mail to the executive secretary by 0800 hours the following business day.

(4) Daily Emissions Report. By 0800 hours on the day following the prescribed pile burn, for each day of pile fire activity exceeding 30,000 cubic feet, the land manager shall submit to the executive secretary a daily emission report on the form provided by the Division of Air Quality including the following information:

(a) The three-letter identification and project number consistent with the annual burn schedule required in R307-204-5(1) above;

(b) The date submitted and by whom;

(c) The start and end dates and times of the burn;

(d) Emission information including black acres, tons fuel consumed per acre, and tons particulate matter produced;

(e) Public interest regarding smoke;

(f) Daytime ventilation;

(g) Nighttime smoke behavior;

(h) Evaluation of the techniques used by the land manager to reduce emissions or manage the smoke from the prescribed pile burn; and

(i) Emission reduction techniques applied.

(5) Emission Reduction and Dispersion Techniques. Each land manager shall take measures to prevent smoke impacts. Such measures may include best management practices such as dilution, emission reduction or avoidance in addition to others described in the pre-burn information form provided by the Division of Air Quality. An evaluation of the techniques shall be included in the daily emissions report required by (4) above.

(6) Monitoring. Land managers shall monitor the effects of the prescribed pile fire on smoke sensitive receptors and on visibility in Class I areas, as directed by the burn plan. Hourly visual monitoring and documentation of the direction of the smoke plume shall be recorded on the form provided by the Division of Air Quality or on the land manager's equivalent form. Complaints from the public shall be noted in the project file. Records shall be available for inspection by the executive secretary for six months following the end of the fire.

### **R307-204-[8]10. Requirements for Wildland Fire [with Potential for Use Events[for Resource Benefits].**

(1) Burn Approval Required.

(a) The land manager shall notify the executive secretary [by the close of business of the first day of any wildland fire that covers 20 acres or more. The notification shall include the following information] of any potential wildland fire use (WFO) event having a wildland fire implementation plan (WFIP) Stage I. The following information will be provided:

(i) UTM coordinate of the fire;

(ii) Active burning acres;

(iii) Probable fire size and daily anticipated growth in acres;

(iv) Types of wildland fuel involved;

(v) An emergency telephone number that is answered 24 hours a day;[and]

(vi) Wilderness or Resource Natural Area designation, if applicable[-];

(vii) Distance to nearest community;

(viii) Elevation of fire; and

(ix) Fire's airshed number.

(b) ~~[The following information shall be submitted to the executive secretary 48 hours after submittal of the information required by (1)(a) above]~~The Land Managers shall notify the executive secretary of any potential wildland fire use (WFU) event covering more than 20 acres or having a WFIP Stage II. In addition to the information required for a WFU with a WFIP Stage I, the following additional information will be provided to the executive secretary as it is being developed:

(i) WFIP Stage II [W]wildland fire implementation plan and anticipated emissions;

(ii) A map~~[-, preferably with a scale of 1:62,500,]~~ depicting both the daytime and nighttime smoke path and down-drainage flow for a minimum of 15 miles from the burn site with smoke-sensitive areas delineated; and

(iii) Additional computer smoke modeling, if requested by the executive secretary.

(c) The executive secretary's approval of the smoke management element of the wildland fire implementation plan shall be obtained before managing the fire as a wildland fire use~~[d] event[for resource benefits]~~.

(2) Daily Emission Report for ~~[W]~~wildland ~~[F]~~fire ~~[U]~~use~~[d] event[for Resource Benefits]~~. By ~~[8:00 a.m.]~~0800 hours on the business day following fire activity covering ~~[50]~~20 acres or more, the land manager shall submit to the executive secretary the daily emission report on the form provided by the Division of Air Quality, including the following information:

(a) The three-letter identification, project number, Air Quality Basin, and name of the burn manager;

(b) UTM coordinate;

(c) Dates and times of the start and end of the burn;

(d) Black acres by wildland fuel type;

(e) Estimated proportion of wildland fuel consumed by wildland fuel type;

(f) Proportion of moisture in the wildland fuel by size class;

(g) Emission estimates;

(h) Level of public interest or concern regarding smoke; and

(i) Conformance to the wildland fire implementation plan.

(3) Monitoring. The land manager shall monitor the effects of smoke on smoke sensitive receptors and visibility in Class I areas as directed by the wildland fire implementation plan. Complaints from the public shall be recorded in the project file. Records shall be available for inspection by the executive secretary for six months following the end of the fire.

**KEY: air quality, wildland fire, smoke, land manager**  
**Date of Enactment or Last Substantive Amendment: ~~July 7, 2005~~2006**  
**Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)**

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## Environmental Quality, Air Quality

# R307-801

## Asbestos

## NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 28502

FILED: 02/09/2006, 13:18

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The amendments allow users to notify the Division of Air Quality (DAQ) electronically when demolition or renovation projects that disturb asbestos are to be undertaken. Nonsubstantive editorial corrections are also made.

SUMMARY OF THE RULE OR CHANGE: In Section R307-801-12, add language to allow notification of DAQ through the DAQ electronic notification system when demolition or renovation projects that disturb asbestos are planned. The rule currently allows notification in person, by the U.S. Postal Service, or by commercial delivery services, and those notification methods will remain in the revised rule. In Subsection R307-801(2)(b), clarify that the waiting period is 10 WORKING days, not calendar days, to be consistent with Subsection R307-801-11(1)(a); in Subsection R307-801-14(4), correct the citation from Section R307-801-8 to Section R307-801-14; in Subsection R307-801-15(1), delete the acronym ACWM and insert ASBESTOS WASTE.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1) (d) and 19-2-104(3)(r) through (t), 40 CFR Part 61 Subpart M, and 40 CFR Part 763 Subpart E

#### ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The electronic notification system has been created from a grant from the federal EPA and with DAQ asbestos program fees. There will be small ongoing savings to DAQ, because notification forms will be stored electronically and not in paper files.

❖ LOCAL GOVERNMENTS: Local governments are not affected by this change because they do not conduct demolition or renovation projects that disturb asbestos.

❖ OTHER PERSONS: Electronic notification will be quicker, thus saving time and money for asbestos contractors. However, the amounts saved are not quantifiable. The other changes to the rule do not affect costs or savings, other than that making the rule language clearer will save time for affected persons. Again, this benefit is small and not quantifiable.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Electronic notification will be quicker, thus saving time and money for asbestos contractors. However, the amounts saved are not quantifiable. The other changes to the rule do not affect costs or savings, other than making the rule language clearer will save time for affected persons. Again, this benefit is small and not quantifiable.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Electronic notification saves time and money for the business community, and, in many cases, is also more convenient. Dianne Nielson, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-0085, or by Internet E-mail at janmiller@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/31/2006

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 3/23/2006 at 2:00 PM, DEQ Building, Main Conference Room, 150 N 1950 W, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 05/04/2006

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

### **R307. Environmental Quality, Air Quality.**

#### **R307-801. Asbestos.**

#### **R307-801-12. Renovation and Demolition: Notification Procedures and Contents.**

(1) All notifications required by R307-801 shall be submitted in writing on the appropriate form provided by the executive secretary and shall be postmarked or received by the Division by the date specified, or shall be submitted using the Division of Air Quality electronic notification system by the date specified. The type of notification and whether the notification is original or revised shall be indicated.

(2) If the notification is an original notification of demolition, an original asbestos notification for a NESHAP-[-]sized asbestos project, or an original annual notification, the written notice shall be sent with an original signature by U.S. Postal Service, commercial delivery service, or hand delivery, or with an electronic signature if submitted using the Division of Air Quality electronic notification system. If the U.S. Postal Service is used, the submission date is the postmark date. If other service or hand delivery is used, the submission date is the date that the document is received at the Division. If the Division of Air Quality electronic notification system is used, the submission date is the date that the notification is received by the Division.

(3) An original asbestos notification for a less than NESHAP-sized asbestos project or any revised notification may be submitted by any of the methods in (2), or by facsimile, by the date specified in R307-801-11. The sender shall ensure that the fax is legible.

(4) All original notifications shall contain the following information:

- (a) The name, address, and telephone number of the owner of the structure, and of any contractor working on the project;
- (b) Whether the operation is a demolition or a renovation project;

(c) A description of the structure that includes the size in square feet or square meters, the number of floors, the age, and the present and prior uses of the structure;

(d) The procedures, including analytical methods, used to inspect for the presence of ACM;

(e) The location and address, including building number or name and floor or room number, street address, city, county, state, and zip code of the structure being demolished or renovated;

(f) A description of procedures for handling the discovery of unexpected ACM or of nonfriable ACM that has become friable or regulated;

(g) A description of planned demolition or renovation work, including the demolition and renovation techniques to be used and a description of the affected structural components.

(5) In addition to the information in (4) above, an original demolition notification shall contain the following information:

(a) An estimate of the amount of non-friable and non-regulated ACM that will not become regulated as a result of demolition activities and that will remain in the building during demolition;

(b) The starting and ending dates of demolition activities; and

(c) If the structure will be demolished under an order of a state or local government agency, the name, title, and authority of the government representative ordering the demolition, the date the order was issued, and the date the demolition was ordered to commence. A copy of the order shall be attached to the notification.

(6) In addition to the information in (4) and (5) above, an original asbestos notification or an annual notification shall contain the following information:

(a) An estimate of the approximate amount of ACM to be stripped, including which units of measure were used;

(b) The scheduled starting and completion dates of asbestos removal work in a renovation or demolition;

(c) The beginning and ending dates for preparation and asbestos removal, and of renovation activities if applicable;

(d) If an emergency renovation operation will be performed, the date and hour the emergency occurred, a description of the event and an explanation of how the event has caused unsafe conditions or would cause equipment damage or unreasonable financial burden;

(e) A description of work practices and engineering controls to be used to prevent emissions of asbestos at the demolition or renovation work site;

(f) The name and location of the waste disposal site where the asbestos waste will be deposited, including the name and telephone number of the waste disposal site contact;

(g) The name, address, contact person, and phone number of the waste transporters; and

(h) The name, contact person, and phone number of the person receiving the waste shipment record as required by 40 CFR 61.150(d)(1).

(7) A revised notification shall contain the following information:

(a) The name, address, and telephone number of the owner of the structure, and any demolition or asbestos abatement contractor working on the project;

(b) Whether the operation is a demolition or a renovation project;

(c) The date that the original notification was submitted;

(d) The applicable original start and stop dates for asbestos removal, renovation, or demolition;

(e) Revised start and stop dates, if applicable, for asbestos removal or demolition activities;

(f) Changes in amount of asbestos to be removed, if applicable; and

(g) All other changes.

(8) If a NESHAP-sized asbestos project that requires a notification under (4) above or a demolition project that requires a notification under (4) above will commence on a date other than the date submitted in the original written notification, the executive secretary shall be notified of the new starting date by the following deadlines.

(a) If the new starting date is later than the original starting date, notice by telephone shall be given as soon as possible before the original starting date and a revised notice shall be submitted in accordance with R307-801-12(7) as soon as possible before, but no later than, the original starting date.

(b) If the new starting date is earlier than the original starting date, submit a written notice in accordance with R307-801-12(7) at least ten working days before beginning the project.

(c) In no event shall an asbestos project covered by this subsection begin on a date other than the new starting date submitted in the revised written notice.

#### **R307-801-14. Renovation and Demolition: Asbestos Work Practices.**

(1) Persons performing any asbestos project shall follow the work practices in this subsection. Where the work practices in R307-801-14(1) and (2) are required, wrap and cut, open top catch bags, glove bags, and mini-enclosures may be used in combination with those work practices.

(a) Adequately wet RACM with amended water before exposing or disturbing it.

(b) Install barriers and post warning signs to prevent access to the work area. Warning signs shall conform to the specifications of 29 CFR 1926.1101(k)(7).

(c) Keep RACM adequately wet until it is containerized and disposed of in accordance with R307-801-15.

(d) Ensure that RACM that is stripped or removed is promptly containerized.

(e) Prevent visible particulate matter and uncontainerized asbestos-containing debris and waste originating in the asbestos work area from being released outside of the negative pressure enclosure or designated work area.

(f) Filter all waste water to 5 microns before discharging it to a sanitary sewer.

(g) Decontaminate the outside of all persons, equipment and waste bags before they leave the work area.

(h) Apply encapsulant to RACM that is exposed but not removed during stripping.

(i) Clean the work area, drop cloths, and other interior surfaces of the enclosure using HEPA vacuum and wet cleaning techniques until there is no visible residue before dismantling barriers.

(j) After cleaning and before dismantling enclosure barriers, mist the space and surfaces inside of the enclosure with a penetrating encapsulant designed for that purpose.

(k) Handle and dispose of friable ACM or RACM according to the disposal provisions of R307-801.

(2) All operators of NESHAP-sized asbestos projects shall install a negative pressure enclosure using the following work practices.

(a) All openings to the work area shall be covered with at least one layer of 6 mil or thicker polyethylene sheeting sealed with duct tape or an equivalent barrier to air flow.

(b) If RACM debris is present, the site shall be prepared by removing the debris using the work practice and disposal requirements of R307-801. If the total amount of loose visible RACM debris throughout the entire work area is less than the SSSD amount, then site preparation may begin after notification and before the end of the ten working [-]day waiting period.

(c) All persons shall enter and leave the negative pressure enclosure or work area only through the decontamination unit.

(d) All persons subject to R307-801 shall shower before entering the clean-room of the decontamination unit when exiting the enclosure.

(e) No materials may be removed from the enclosure or brought into the enclosure through any opening other than a waste load-out or a decontamination unit.

(f) The negative pressure enclosure of the work area shall be constructed with the following specifications:

(i) Apply at least two layers of 6 mil or thicker polyethylene sheeting or its equivalent to the floor extending at least one foot up every wall and seal in place with duct tape or its equivalent;

(ii) Apply at least 2 layers of 4 mil or thicker polyethylene sheeting or its equivalent to the walls without locating seams in wall or floor corners;

(iii) Seal all seams with duct tape or its equivalent; and

(iv) Maintain the integrity of all enclosure barriers.

(v) Where a wall or floor will be removed as part of the asbestos project, polyethylene sheeting need not be applied to that component.

(g) View ports shall be installed in the enclosure or barriers where feasible. View ports shall be:

(i) At least one foot tall and one foot wide;

(ii) Made of clear material that is impermeable to the passage of air, such as an acrylic sheet;

(iii) Positioned so as to maximize the view of the inside of the enclosure from a position outside the enclosure; and

(iv) Accessible to a person outside of the enclosure.

(h) A decontamination unit shall be constructed according to the following specifications:

(i) The unit shall be attached to the enclosure or work area;

(ii) The decontamination unit shall consist of at least 3 chambers as specified by 29 CFR 1926.1101(j)(1);

(iii) The clean room, which is the chamber that opens to the outside, shall be no less than 3 feet wide by 3 feet long;

(iv) The dirty room, which is the chamber that opens to the negative pressure enclosure or the designated work area, shall be no less than 3 feet wide by 3 feet long;

(v) The dirty room shall be provided with an accessible waste bag at any time that asbestos work is being done.

(i) A separate waste load-out following the specifications below may be attached to the enclosure for removal of decontaminated waste containers and decontaminated or wrapped tools from the enclosure.

(i) The waste load-out shall consist of at least one chamber constructed of 6 mil or thicker polyethylene walls and 6 mil or thicker polyethylene flaps or the equivalent on the outside and inside entrances;

(ii) The waste load-out chamber shall be at least 3 feet long, 3 feet high, and 3 feet wide; and

(iii) The waste load-out supplies shall be sufficient to decontaminate bags, and may include a water supply with filtered drain, clean rags and clean bags.

(j) Negative air pressure and flow shall be established and maintained within the enclosure by:

(i) Maintaining four air changes per hour in the enclosure;

(ii) Routing the exhaust from HEPA filtered ventilation units to the outside of the structure whenever possible;

(iii) Maintaining a minimum of 0.02 column inches of water pressure differential relative to outside pressure; and

(iv) Maintaining a monitoring device to measure the negative pressure in the enclosure.

(3) In lieu of two layers of polyethylene on the walls and the floors as required by R307-801-(2)(f)(i) and (ii), the following work practices and controls may be used only under the circumstances described below:

(a) If an asbestos project is conducted in a crawl space or pipe chase and the available space is less than 6 feet high or is less than 3 feet wide, then the following may be used:

(i) Drop cloths extending at least 6 feet around all RACM to be removed, or extended to a wall and attached with duct tape or equivalent; and

(ii) Either glovebags, wrap and cut, or the open top catch bag method must be used. The open top catch bag method may be used only if the material to be removed is pre-formed RACM pipe insulation.

(b) Scattered ACM. If the RACM is scattered in small patches, such as isolated pipe fittings, the following procedures may be used.

(i) Glovebags, mini-enclosures as described in R307-801-14(5), or wrap and cut methods with drop cloths large enough to capture all RACM fragments that fall from the work area may be used.

(ii) If all asbestos disturbance is limited to the inside of negative pressure glovebags or mini-enclosure, then openings need not be sealed and negative pressure need not be maintained outside of the glovebags or mini-enclosure during the asbestos removal operation.

(iii) A remote decontamination unit may be used as described in R307-801-14(5)(d) only if an attached decontamination unit is not feasible.

(4) During outdoor asbestos projects, the work practices of R307-801-14[8] shall be followed, with the following modifications:

(a) Negative pressure need not be maintained if there is not an enclosure;

(b) Six mil polyethylene or equivalent drop cloth large enough to capture all RACM fragments that fall from the work area shall be used; and

(c) A remote decontamination unit as described in R307-801-14(5)(d) may be used.

(5) Special work practices.

(a) If the wrap and cut method is used:

(i) The component shall be cut at least 6 inches from any RACM on that component;

(ii) If asbestos will be removed from the component to accommodate cutting, the asbestos removal shall be done using a single glove bag for each cut, and no RACM shall be disturbed outside of a glove bag;

(iii) The wrapping shall be leak tight and shall consist of two layers of 6 mil polyethylene, each individually sealed with duct tape, and all RACM between the cuts shall be sealed inside wrap; and

(iv) The wrapping shall remain intact and leak-tight throughout the removal and disposal process.

(b) If the open top catch bag method is used:

(i) Asbestos waste bags that are leak tight and strong enough to hold contents securely shall be used;

(ii) The bag shall be placed underneath the stripping operation to minimize ACM falling onto the drop cloth;

(iii) All material stripped from the component shall be placed in the bag;

(iv) One worker shall hold the bag and another worker shall strip the ACM into the bag; and

(v) A drop cloth large enough to capture all RACM originating in the work area shall be used.

(c) If glove bags are used, they shall be negative pressure, and the procedures required by 29 CFR 1926.1101(g)(5) shall be followed.

(d) A remote decontamination unit may be used under the conditions set forth in R307-801-14(3)(b) or (4), or when approved by the executive secretary. The remote decontamination unit and procedures shall include:

(i) Outerwear shall be HEPA vacuumed or removed, and additional clean protective outerwear shall be put on;

(ii) Either polyethylene sheeting shall be placed on the path to the decontamination unit and the path shall be blocked or taped off to prevent public access, or workers shall be conveyed to the remote decontamination unit in a vehicle that has been lined with two layers of 6 mil or thicker polyethelene sheeting or its equivalent; and

(iii) The polyethylene path or vehicle liner shall be removed at the end of the project, and disposed of as asbestos waste.

(e) Mini-enclosures, when used under approved conditions, shall conform to the requirements of 29 CFR 1926.1101(g)(5)(vi).

#### **R307-801-15. Disposal and Handling of Asbestos Waste.**

(1) Containerize ~~asbestos waste~~<sup>ACWM</sup> while adequately wet.

(2) Asbestos waste containers shall be leak-tight and strong enough to hold contents securely.

(3) Containers shall be labeled with the waste generator's name, address, and phone number, and the contractor's name and address, before they are removed from the work area.

(4) Containerized RACM shall be disposed of at a landfill which complies with 40 CFR 61.150.

(5) The waste shipment record shall include a list of items and the amount of asbestos waste being shipped. The waste generator originates and signs this document.

**KEY: air pollution, asbestos, asbestos hazard emergency response<sup>[\*]</sup>, schools**

**Date of Enactment or Last Substantive Amendment: ~~August 1, 2000~~2006**

**Notice of Continuation: April 23, 2002**

**Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(d); 19-2-104(3)(r) through (t); 40 CFR Part 61, Subpart M; 40 CFR Part 763, Subpart E**

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**Environmental Quality, Environmental  
Response and Remediation  
R311-200  
Underground Storage Tanks:  
Definitions**

**NOTICE OF PROPOSED RULE**

(Amendment)  
DAR FILE NO.: 28516  
FILED: 02/15/2006, 10:47

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The definition for "No Further Action determination" at Subsection R311-200-1(25) was added to define terminology used within the changes made to Section R311-211-6. (DAR NOTE: The proposed amendment to Rule R311-211 is under DAR No. 28519 in this issue.)

SUMMARY OF THE RULE OR CHANGE: This change adds a definition for "No Further Action determination".

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105 and 19-6-403

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--There is no financial impact anticipated for defining terminology used within the changes made to Section R311-211-6. The notice of proposed rule amendment for Rule R311-211 details the anticipated financial impact.
- ❖ LOCAL GOVERNMENTS: None--There is no financial impact anticipated for defining terminology used within the changes made to Section R311-211-6.
- ❖ OTHER PERSONS: None--There is no financial impact anticipated for defining terminology used within the changes made to Section R311-211-6.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--There is no financial impact anticipated for defining terminology used within the changes made to Section R311-211-6.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There should be no impact on businesses from this rule change. The change only defines what is meant by "No Further Action determination" for use in cleanup of leaking underground storage tank sites. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY  
ENVIRONMENTAL RESPONSE AND REMEDIATION  
168 N 1950 W  
SALT LAKE CITY UT 84116-3085, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gary Astin at the above address, by phone at 801-536-4103, by FAX at 801-359-8853, or by Internet E-mail at [gastin@utah.gov](mailto:gastin@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 03/31/2006

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 3/28/2006 at 2:00 PM, Department of Environmental Quality, 168 N 1950 W, Room 201, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 05/15/2006

AUTHORIZED BY: Dianne R. Nielson, Executive Director

**R311. Environmental Quality, Environmental Response and Remediation.**

**R311-200. Underground Storage Tanks: Definitions.**

**R311-200-1. Definitions.**

- (a) Refer to Section 19-6-402 for definitions not found in this rule.
- (b) For purposes of underground storage tank rules:
  - (1) "Actively participated" for the purpose of the certification programs means that the individual applying for certification must have had operative experience for the entire project from start to finish, whether it be an installation or a removal.
  - (2) "As built drawing" (as constructed drawing, record drawing) for purpose of notification refers to a drawing to scale of newly constructed USTs. The UST shall be referenced to buildings, streets and limits of the excavation. Drawing size shall be limited to 8-1/2" x 11" if possible, but shall in no case be larger than 11" x 17".
  - (3) "Automatic line leak detector test" means a test that simulates a leak, and causes the leak detector to restrict or shut off the flow of regulated substance through the piping or trigger an audible or visual alarm.
  - (4) "Backfill" means any foreign material, usually pea gravel or sand, which usually differs from the native soil and is used to support or cover the underground storage tank system.
  - (5) "Burden" means the addition of the percentage of indirect costs which are added to raw labor costs.
  - (6) "Certificate" means a document that evidences certification.
  - (7) "Certification" means approval by the Executive Secretary or the Board to engage in the activity applied for by the individual.
  - (8) "Change-in-service" means the continued use of an UST to store a non-regulated substance.
  - (9) "Confirmation sample" means an environmental sample taken, excluding closure samples as outlined in Section R311-205-2, during soil overexcavation or any other remedial or investigation activities conducted for the purpose of determining the extent and degree of contamination.
  - (10) "Customary, reasonable and legitimate expenses" means costs incurred during the investigation, abatement and corrective actions that address a release which are normally charged according to accepted industry standards, and which must be justified in an audit as an appropriate cost. The costs must be directly related to the tasks performed.

(11) "Customary, reasonable and legitimate work" means work for investigation, abatement and corrective action that is required to reduce contamination at a site to levels that are protective of human health and the environment. Acceptable levels may be established by risk-based analysis and taking into account current or probable land use as determined by the Executive Secretary following the criteria in R311-211.

(12) "Department" means the Utah Department of Environmental Quality.

(13) "Eligible exempt underground storage tank" for the purpose of eligibility for the Utah Petroleum Storage Tank Trust Fund means a tank specified in 19-6-415(1).

(14) "Environmental Consultant" or "Consultant" is an individual who provides or contracts to provide information, an opinion, or advice for a fee, or in conjunction with services for which a fee is charged, relating to underground storage tank management, release abatement, investigation, corrective action, or evaluation.

(15) "Environmental sample" is a groundwater, surface water, air, or soil sample collected, using appropriate methods, for the purpose of evaluating environmental contamination.

(16) "EPA" means the United States Environmental Protection Agency.

(17) "Expediently disposed of" means disposed of as soon as practical so as not to become a potential threat to human health or safety or the environment, whether foreseen or unforeseen as determined by the Executive Secretary.

(18) "Fiscal year" means a period beginning July 1 and ending June 30 of the following year.

(19) "Full installation" for the purposes of 19-6-411(2) means the installation of an underground storage tank.

(20) "Groundwater sample" is a sample of water from below the surface of the ground collected according to protocol established in Rule R311-205.

(21) "Groundwater and soil sampler" is the person who performs environmental sampling for compliance with Utah underground storage tank rules.

(22) "In use" means that an operational, inactive or abandoned underground storage tank contains a regulated substance, sludge, dissolved fractions, or vapor which may pose a threat to human health, safety or the environment as determined by the Executive Secretary.

(23) "Lapse" in reference to the Certificate of Compliance and coverage under the Petroleum Storage Tank Trust Fund, means to terminate automatically.

(24) "Native soil" means any soil that is not backfill material, which is naturally occurring and is most representative of the localized subsurface lithology and geology.

(25) "No Further Action determination" means that the Executive Secretary has evaluated information provided by responsible parties or others about the site and determined detectable petroleum contamination from a particular release does not present an unacceptable risk to public health or the environment based upon Board established criteria in R311. If future evidence indicates contamination from that release may cause a threat, further corrective action may be required.

(26) "Notice of agency action" means any enforcement notice, notice of violation, notice of non-compliance, order, or letter issued to an individual for the purpose of obtaining compliance with underground storage tank rules and regulations.

(27) "Occurrence" in reference to Subsection R311-208-4 means a separate petroleum fuel delivery to a single tank.

(28) "Owners and operators" means either an owner or operator, or both owner and operator.

(29) "Overexcavation" means any soil removed in an effort to investigate or remediate in addition to the minimum amount required to remove the UST or take environmental samples during UST closure activities as outlined in Section R311-205-2.

(30) "Permanently closed" means underground storage tanks that are removed from service following guidelines in 40 CFR Part 280 Subpart G adopted by Section R311-202.

(31) "Petroleum storage tank" means a storage tank that contains petroleum as defined by Section 19-6-402(20).

(32) "Petroleum storage tank fee" means the fee which capitalizes the Petroleum Storage Tank Trust Fund as established in Section 19-6-409.

(33) "Petroleum storage tank trust fund" means the fund created by Section 19-6-409.

(34) "Registration fee" means underground storage tank registration fee.

(35) "Regulated substance" means any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act "CERCLA" of 1980, but not including any substance regulated as a hazardous waste under subtitle C, and petroleum, including crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure, 60 degrees Fahrenheit and 14.7 pounds per square inch absolute. The term "regulated substance" includes petroleum and petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading, and finishing, and includes motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

(36) "Site assessment" or "site check" is an evaluation of the level of contamination at a site which contains or has contained an UST.

(37) "Site assessment report" is a summary of relevant information describing the surface and subsurface conditions at a facility following any abatement, investigation or assessment, monitoring, remediation or corrective action activities as outlined in Rule R311-202, Subparts E and F.

(38) "Site investigation" is work performed by the owner or operator, or his designee, when gathering information for reports required for Utah underground storage tank rules.

(39) "Site plat" for purpose of notification, or reporting, refers to a drawing to scale of USTs in reference to the facility. The scale should be dimensioned appropriately. Drawing size shall be limited to 8-1/2" x 11" if possible, but shall in no case be larger than 11" x 17". The site plat should include the following: property boundaries; streets and orientation; buildings or adjacent structures surrounding the facility; present or former UST(s); extent of any excavation(s) and known contamination and location and volume of any stockpiled soil; locations and depths of all environmental samples collected; locations and total depths of monitoring wells, soil borings or other measurement or data points; type of ground-cover; utility conduits; local land use; surface water drainage; and other relevant features.

(40) "Site under control" means that the site of a release has been actively addressed by the owner or operator who has taken the following measures:

(A) Fire and explosion hazards have been abated.

(B) Free flow of the product out of the tank has been stopped.

(C) Free product is being removed from the soil, groundwater or surface water according to a work plan or corrective action plan approved by the Executive Secretary.

(D) Alternative water supplies have been provided to affected parties whose original water supply has been contaminated by the release.

(E) A soil or groundwater management plan or both have been submitted for approval by the Executive Secretary.

(4[0]1) "Soil sample" is a sample collected following the protocol established in Rule R311-205.

(4[+2]2) "Surface water sample" is a sample of water, other than a groundwater sample, collected according to protocol established in Rule R311-205.

(4[2]3) "Tank" is a stationary device designed to contain an accumulation of regulated substances and constructed of non-earthen materials, such as concrete, steel, or plastic, that provide structural support.

(4[3]4) "UAPA-exempt orders" are orders that are exempt from requirements of the Utah Administrative Procedures Act under Section 63-46b-1(2)(k), Utah Code Annot.

(4[4]5) "Underground storage tank" or "UST" means any one or combination of tanks, including underground pipes connected thereto and any underground ancillary equipment and containment system, that is used to contain an accumulation of regulated substances, and the volume of which, including the volume of underground pipes connected thereto, is ten percent or more beneath the surface of the ground, regulated under Subtitle I, Resource Conservation and Recovery Act, 42 U.S.C., Section 6991c et seq.

(4[5]6) "Underground storage tank registration fee" means the fee assessed by Section 19-6-408 on tanks located in Utah.

(4[6]7) "UST inspection" is the inspection required by state and federal underground storage tank rules and regulations during the installation, testing, repairing, operation or maintenance, and removal of regulated underground storage tank.

(4[7]8) "UST inspector" is an individual who performs underground storage tank inspections for compliance with state and federal rules and regulations.

(4[8]9) "UST installation" means the installation of an underground storage tank, including construction, placing into operation, building or assembling an underground storage tank in the field. It includes any operation that is critical to the integrity of the system and to the protection of the environment, which includes:

(A) pre-installation tank testing, tank site preparation including anchoring, tank placement, and backfilling;

(B) vent and product piping assembly;

(C) cathodic protection installation, service, and repair;

(D) internal lining;

(E) secondary containment construction; and

(F) UST repair and service.

(4[9]50) "UST installation permit fee" means the fee established by Section 19-6-411(2)(a)(ii).

(5[0]1) "UST installer" means an individual who engages in underground storage tank installation.

(5[+2]2) "UST removal" means the removal of an underground storage tank system, including permanently closing and taking out of service all or part of an underground storage tank.

(5[2]3) "UST remover" means an individual who engages in underground storage tank removal.

(5[3]4) "UST tester" means an individual who engages in UST testing.

(5[4]5) "UST testing" means a testing method which can detect leaks in an underground storage tank system, or testing for compliance with corrosion protection requirements. Testing methods must meet applicable performance standards of 40 CFR 280.40(a)(3), 280.43(c),

and 280.44(b) for tank and product piping tightness testing, 280.44(a) for automatic line leak detector testing, and 280.31(b) for cathodic protection testing.

**KEY:** ~~[hazardous substances,]petroleum, underground storage tanks~~

**Date of Enactment or Last Substantive Amendment:** ~~[September 9, 2004]2006~~

**Notice of Continuation:** March 6, 2002

**Authorizing, and Implemented or Interpreted Law:** 19-6-105; 19-6-403



## Environmental Quality, Environmental Response and Remediation **R311-205-2** Site Assessment Protocol

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 28517

FILED: 02/15/2006, 10:48

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** All references to "recommended cleanup levels" were changed to "initial screening levels" as a minimum reporting limit for laboratories analyzing environmental samples taken under this rule. The reference to "recommended cleanup levels" was a policy that has never been in rule. The change to "initial screening levels" is to be more explanatory as a change in the standard which is reflected in Rule R311-211. (DAR NOTE: The proposed amendment to Rule R311-211 in under DAR No. 28519 in this issue.)

**SUMMARY OF THE RULE OR CHANGE:** This amendment changes references to "recommended cleanup levels" to "initial screening levels".

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 19-6-105, 19-6-403, and 19-6-413

#### ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** None--There is no financial impact anticipated for changing terminology used within the changes made to Rule R311-205. The notice of proposed rule amendment for Rule R311-211 details the anticipated financial impact of changing the standards.

❖ **LOCAL GOVERNMENTS:** None--There is no financial impact anticipated for changing terminology used within the changes made to Rule R311-205. Laboratories are already expected to meet a minimum reporting standard and the standard has not changed significantly enough to impact laboratory costs.

❖ **OTHER PERSONS:** None--There is no financial impact anticipated for changing terminology used within the changes made to Rule R311-205. Laboratories are already expected to meet a minimum reporting standard and the standard has not changed significantly enough to impact laboratory costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--There is no financial impact anticipated for changing terminology used within the changes made to Rule R311-205. Laboratories are already expected to meet a minimum reporting standard and the standard has not changed significantly enough to impact laboratory costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no financial impact anticipated. The change in terminology reflects a change made elsewhere in the rule and does not significantly affect current procedures used by laboratories when they analyze samples from underground tank sites. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY  
ENVIRONMENTAL RESPONSE AND REMEDIATION  
168 N 1950 W  
SALT LAKE CITY UT 84116-3085, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gary Astin at the above address, by phone at 801-536-4103, by FAX at 801-359-8853, or by Internet E-mail at [gastin@utah.gov](mailto:gastin@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 03/31/2006

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 3/28/2006 at 2:00 PM, Department of Environmental Quality, 168 N 1950 W, Room 201, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 05/15/2006

AUTHORIZED BY: Dianne R. Nielson, Executive Director

**R311. Environmental Quality, Environmental Response and Remediation.**

**R311-205. Underground Storage Tanks: Site Assessment Protocol.**

**R311-205-2. Site Assessment Protocol.**

(a) General Requirements.

(1) When a site assessment or site check is required, pursuant to 40 CFR 280 or Subsection 19-6-428(3), owners or operators shall perform or commission to be performed a site assessment or a site check according to the protocol outlined in Rule R311-205 or equivalent, as approved by the Executive Secretary. Additional environmental samples must be collected when contamination is found, suspected, or as requested by the Executive Secretary.

(2) Groundwater samples shall be collected in accordance with the "EPA RCRA Ground-water Monitoring Technical Enforcement Guidance Document" (OSWER Directive 9950.1), 1986 or as determined by the Executive Secretary. Surface water samples shall be collected in accordance with protocol established in the "EPA

Compendium of ERT Surface Water and Sediment Sampling Procedures" January 1991, or as determined by the Executive Secretary. Soil samples shall be collected in accordance with the "EPA Description and Sampling of Contaminated Soils, A Field Pocket Guide", November 1991 or as determined by the Executive Secretary.

(3) Owners and operators must document and report to the Executive Secretary sample types, sample locations and depths, field and sampling measurement methods, the nature of the stored substance, the type of backfill and native soil, the depth to groundwater, and other factors appropriate for identifying the source area and the degree and extent of subsurface soil and groundwater contamination.

(4) The owner or operator shall report the discovery of any release or suspected release to the Executive Secretary within twenty-four hours. Owners or operators shall begin release investigation and confirmation steps in accordance with 40 CFR 280, Subpart E upon suspecting a release. Owners or operators shall begin release response and corrective action in accordance with 40 CFR 280, Subpart F upon confirming a release.

(5) All environmental samples shall be collected by a certified groundwater and soil sampler who meets the requirements of Rule R311-201. The certified groundwater and soil sampler shall record the depth below grade and location of each sample collected to within one foot.

(6) All environmental samples shall be analyzed within the time frame allowed, in accordance with Table 4.1 of the "EPA RCRA Ground-water Monitoring Technical Enforcement Guidance Document" (OSWER Directive 9950.1), by a Utah Certified Environmental Laboratory approved by the Executive Secretary. Soil samples must be corrected for moisture, if necessary, with percent moisture reported to accurately represent the level of contamination.

(7) Environmental samples for UST permanent closure or change in service shall be collected according to the protocol outlined in Subsection R311-205-2(b), after the UST system is emptied and cleaned and after the closure plan has been approved.

(8) Environmental confirmation samples are required following overexcavation of soils. Confirmation samples shall be taken at locations and depths sufficient to detect the presence, extent and degree of a release from any portion of the UST in accordance with 40 CFR 280, Subparts E, F and G. Additional confirmation samples may be required as determined by the Executive Secretary.

(9) Upon confirming a release, a site assessment report, an updated site plat, analytical laboratory results, chain of custody forms, and all other applicable documentation required by 40 CFR 280, Subparts E and F, following any abatement, investigation or assessment, monitoring, remediation or corrective action activities, shall be submitted to the Executive Secretary within the specified time frames as outlined in compliance schedules.

(10) When conducting environmental sampling to satisfy the requirements of 40 CFR 280, subparts E and F, soil classification samples to determine native soil type shall be collected at locations and depths as outlined in compliance schedules, or as determined by the Executive Secretary. Techniques of the Unified Soil Classification such as a sieve analysis or laboratory classification, or a field description from a qualified individual as determined by the Executive Secretary, may be used to satisfy requirements of determining native soil type.

(11) Other types of environmental or quality assurance samples may be required as determined by the Executive Secretary.

(b) Site Assessment Protocol for UST Closure.

(1) The appropriate number of environmental samples, as described in Subsection R311-205-2(b)(4) shall be collected in native

soils, below the backfill material, and as close as technically feasible to the tank, piping or dispenser island. Any other samples required by Subsection R311-205-2(a) must also be collected. Soil samples shall be collected from a depth of zero to two feet below the backfill and native soil interface. If groundwater is contacted in the process of collecting the soil samples, the soil samples required by Subsection R311-205-2(b)(4) shall be collected from the unsaturated zone immediately above the capillary fringe. Groundwater samples shall be collected using proper surface water collection techniques, from a properly installed groundwater monitoring well, or as determined by the Executive Secretary. All environmental samples shall be analyzed using the appropriate analytical methods outlined in Subsection R311-205-2(d).

(2) One soil classification sample to determine native soil type shall be collected at the same depth as indicated for environmental samples, at each tank and product piping area. For all dispenser islands, only one representative sample to determine native soil type is required. Techniques of the Unified Soil Classification such as a sieve analysis or laboratory classification shall be used to satisfy requirements of determining native soil type when taking samples for UST closure.

(3) For purposes of complying with Rule R311-205, for tanks or piping to be removed, closed in-place or that undergo a change in service, a tank or product piping area is considered to be an excavation zone or equivalent volume of material containing one, or more than one immediately adjacent, UST or piping run.

(4) Environmental Sampling Protocol for UST closures:

(A) For a tank area containing one UST, one soil sample shall be collected at each end of the tank. If groundwater is contacted during the process of collecting soil samples, a minimum of one groundwater and one soil sample shall be collected from each end of the tank.

(B) For a tank area containing more than one UST, one soil sample shall be collected from each corner of the tank area. If groundwater is contacted during the process of collecting soil samples, a minimum of one groundwater and one soil sample shall be collected from each end of the tank area.

(C) Product piping samples shall be collected from each product piping area, at locations where leaking is most likely to occur, such as joints, connections and fittings, at intervals which do not allow more than 50 linear feet of piping in a single piping area to go unsampled. If groundwater is contacted during the process of collecting soil samples, a minimum of one groundwater and one soil sample shall be collected from each piping area where groundwater was encountered.

(D) For dispenser islands, environmental samples shall be collected from the middle of each dispenser island. Additional environmental samples shall be collected at intervals which do not allow more than 25 linear feet of dispenser island piping to go unsampled. If groundwater is contacted during the process of collecting soil samples, a minimum of one groundwater and one soil sample shall be collected from each dispenser island where groundwater was encountered.

(c) Site Check Requirements for Re-applying to Participate in the Petroleum Storage Tank Trust Fund Program.

(1) Owners or operators wishing to re-apply for participation in the Petroleum Storage Tank Trust Fund Program following a period of lapse or non-participation shall perform a tank tightness test and site check pursuant to Subsection 19-6-428(3)(a). The tank tightness test and site check shall be consistent with requirements for testing and site assessment as defined under 40 CFR 280, Subparts D and E.

(2) The owner or operator shall develop or commission to have developed a site check plan outlining the intended sampling program.

The Executive Secretary shall review and approve the site check plan prior to its implementation. The site check shall meet the sampling requirements for USTs, dispensers and piping as defined in Subsection R311-205-2(b), or as determined by the Executive Secretary on a site-specific basis. Additional sampling may be required by the Executive Secretary based on review of the proposed site check plan and site specific conditions.

(d) Laboratory Analyses of Environmental Samples.

(1) Environmental samples which have been collected to determine levels of contamination from underground storage tanks shall be analyzed using appropriate laboratory analytical methods as referenced in the "Analytical Methods for Environmental Sampling at Underground Storage Tank Sites in Utah (July 2004)", or as determined by the Executive Secretary.

(2) Environmental samples which have been collected to determine levels of contamination by gasoline shall be analyzed for total petroleum hydrocarbons (purgeable TPH as gasoline range organics C<sub>6</sub> - C<sub>10</sub>), benzene, toluene, ethylbenzene, xylenes and naphthalene (BTEXN), and for methyl tertiary butyl ether (MTBE).

(3) Environmental samples which have been collected to determine levels of contamination by diesel fuel shall be analyzed for total petroleum hydrocarbons (extractable TPH as diesel range organics C<sub>10</sub> - C<sub>28</sub>), benzene, toluene, ethylbenzene, xylenes and naphthalene (BTEXN).

(4) Environmental samples which have been collected to determine levels of contamination by used oil shall be analyzed for oil and grease (O and G) or total recoverable petroleum hydrocarbons (TRPH); and for benzene, toluene, ethylbenzene, xylenes, naphthalene (BTEXN); methyl tertiary butyl ether (MTBE); and halogenated volatile organic compounds (VOX).

(5) Environmental samples which have been collected to determine levels of contamination by new oil shall be analyzed for oil and grease (O and G) or total recoverable petroleum hydrocarbons (TRPH).

(6) Environmental samples which have been collected to determine levels of contamination from underground storage tanks which contain substances other than or in addition to petroleum shall be analyzed for appropriate constituents as determined by the Executive Secretary.

(7) Environmental samples which have been collected to determine levels of contamination for an unknown petroleum product type shall be analyzed for total petroleum hydrocarbons (purgeable TPH as gasoline range organics C<sub>6</sub> - C<sub>10</sub>); total petroleum hydrocarbons (extractable TPH as diesel range organics C<sub>10</sub> - C<sub>28</sub>); oil and grease (O and G) or total recoverable petroleum hydrocarbons (TRPH); benzene, toluene, ethylbenzene, xylenes and naphthalene (BTEXN) and methyl tertiary butyl ether (MTBE); and for halogenated volatile organic compounds (VOX).

(8) All original laboratory sample results must be returned to the certified groundwater and soil sampler or certified UST consultant to verify all chain of custody protocols, including holding times and analytical procedures, were properly followed. Environmental samples shall be collected and transported under chain of custody according to EPA methods as approved by the Executive Secretary.

(9) Reporting limits used by laboratories analyzing environmental samples taken under this rule shall be below ~~recommended cleanup levels~~ initial screening levels for the contaminated media under study. Environmental samples shall be analyzed with the least possible dilution to ensure reporting limits are below ~~recommended cleanup levels~~ initial screening levels to the extent possible. If more than one determinative analysis is performed on any given environmental

sample, the final dilution factor used and the reporting limit must be reported by the laboratory. As an alternative to diluting environmental samples, the laboratory shall consider using appropriate analytical cleanup methods and describe which analytical cleanup methods were used to eliminate or minimize matrix interference. Any analytical cleanup method used must not eliminate the contaminant of concern or target analyte.

**KEY:** ~~hazardous substances,~~ petroleum, underground storage tanks

**Date of Enactment or Last Substantive Amendment:** ~~September 9, 2004~~ 2006

**Notice of Continuation:** March 6, 2002

**Authorizing, and Implemented or Interpreted Law:** 19-6-~~2~~105; 19-6-403; 19-6-413

## Environmental Quality, Environmental Response and Remediation

### R311-207-5

#### Responsible Parties' Standard Liability and Customary, Reasonable and Legitimate Expenses

#### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 28518

FILED: 02/15/2006, 10:49

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Occasionally, consultants who perform corrective action at leaking underground storage tank sites propose designing and manufacturing their own equipment for use in the corrective action and clean-up of the site. The purpose of the proposed amendment is to clarify the time and material reimbursement constraints for consultant designed and manufactured equipment used at sites utilizing a time and material reimbursement method. The proposed change does not apply at pay for performance based sites.

**SUMMARY OF THE RULE OR CHANGE:** This change adds Subsection R311-207-5(e). It also provides that the Petroleum Storage Tank Trust Fund may reimburse an eligible claimant for use of a consultant's originally designed and manufactured equipment used for corrective action. Reimbursement will be made in accordance with the following:

1) the consultant's actual direct labor hours for manufacturing the equipment; and 2) the actual costs (to the consultant) of the materials used to manufacture the equipment. No reimbursement will be made for labor hours and costs associated with patenting or marketing. The price paid for the equipment by the Petroleum Storage Tank Trust Fund shall not exceed the sales price for comparable equipment available to other customers through the consultant or through another source.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 19-6-105, 19-6-403, and 19-6-419

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** This rule change may result in savings to the Petroleum Storage Tank Trust Fund by allowing consultants who perform environmental cleanups to design and manufacture equipment for specific site conditions and projects. The aggregate savings to the Fund would depend on the equipment that might be developed in the future and how frequently it is employed on cleanup sites. Experience with one piece of equipment that has been developed indicates it could result in savings over time of \$180,000 if used at 100 typical cleanup sites.

❖ **LOCAL GOVERNMENTS:** This rule change may result in comparable savings to local governments that, as owners or operators of underground storage tanks, must pay for environmental cleanups.

❖ **OTHER PERSONS:** This rule change may result in comparable savings to private parties who, as owners or operators of underground storage tanks, must pay for environmental cleanups.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs associated with this rule change. The change only specifies how reimbursement will be made from the Petroleum Storage Tank Trust Fund when a consultant designs or manufactures, or both, equipment used in an environmental cleanup.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The rule change may encourage consultants to use their knowledge of specific site and project conditions to manufacture equipment that cleans up environmental problems in a more effective manner, resulting in cost savings to the individual or business that is paying for the cleanup. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY  
ENVIRONMENTAL RESPONSE AND REMEDIATION  
168 N 1950 W  
SALT LAKE CITY UT 84116-3085, or  
at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

Gary Astin at the above address, by phone at 801-536-4103, by FAX at 801-359-8853, or by Internet E-mail at [gastin@utah.gov](mailto:gastin@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 03/31/2006

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 3/28/2006 at 2:00 PM, Department of Environmental Quality, 168 N 1950 W, Room 201, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 05/15/2006

AUTHORIZED BY: Dianne R. Nielson, Executive Director

**R311. Environmental Quality, Environmental Response and Remediation.**

**R311-207. Accessing the Petroleum Storage Tank Trust Fund for Leaking Petroleum Storage Tanks.**

**R311-207-5. Responsible Parties' Standard Liability and Customary, Reasonable and Legitimate Expenses.**

(a) Costs claimed by the responsible party in accordance with Section 19-6-419(1) must be customary, reasonable, and legitimate, and must be expended for customary, reasonable, and legitimate work, as determined by the Executive Secretary. The Executive Secretary may determine the amount of fund monies that will be reimbursed to an owner or operator for items including, but not limited to, labor, equipment, services, and tasks established according to the provisions of R311-207-7 or such other methods that are applicable to the item or task. As conditions require, costs of the following activities may be considered to be customary, reasonable, and legitimate: performing abatement, investigation, site assessment, monitoring, or corrective action activities; providing alternative drinking water supplies; and settling or otherwise resolving third party damage claims and settlements in accordance with Section 19-6-422.

(b) This rule incorporates by reference the TABLE OF UTAH PETROLEUM STORAGE TANK TRUST FUND TIME AND MATERIAL REIMBURSEMENT STANDARDS dated November 14, 2002. This document contains specific items that will and will not be reimbursed by the Fund.

(c) This rule incorporates by reference the UTAH PETROLEUM STORAGE TANK FUND, MAXIMUM ALLOWABLE RATE LIST FOR EQUIPMENT AND SUPPLIES as revised November 14, 2002. This document contains specific rates the Fund will reimburse the responsible party or consultant for the included items.

(d) If a claim that does not comply with the requirements of R311-207 is returned by the Executive Secretary to a responsible party or consultant for correction, the responsible party or consultant shall not claim for reimbursement the costs expended to correct and re-submit the claim.

(e) The Petroleum Storage Tank Trust Fund may reimburse an owner or operator or other eligible claimant for the use or purchase of his consultant's originally designed and manufactured equipment provided the cost is customary, reasonable, and legitimate as determined by the Executive Secretary. The rate of reimbursement shall not exceed the consultant's direct labor hours for manufacturing at specified fixed hourly rates in the rate schedule approved by the Executive Secretary and the materials at cost to the consultant. Material costs shall include adjustments for all available discounts, refunds, rebates and allowances which the consultant reasonably should take under the circumstances, and for credits for proceeds the consultant received or should have received from salvage and material returned to suppliers. In no event shall the price paid by the Petroleum Storage Tank Trust Fund exceed the sales price of comparable equipment available to other customers through the consultant or through another source. The consultant's claimed direct labor hours for manufacturing and costs shall be documented through time sheets, original invoices or other documents acceptable to the Executive Secretary. No reimbursement shall be made for undocumented labor

hours and costs. No reimbursement shall be made for labor hours and costs associated with patenting or marketing.

**KEY: financial responsibility, petroleum, underground storage tanks**

**Date of Enactment or Last Substantive Amendment: ~~February 4, 2003~~ 2006**

**Notice of Continuation: March 6, 2002**

**Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-403; 19-6-419**



**Environmental Quality, Environmental  
Response and Remediation  
R311-211  
Corrective Action Cleanup Standards  
Policy - UST and CERCLA Sites**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 28519

FILED: 02/15/2006, 10:51

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change adds references to maximum contaminant limits (MCLs) or other cleanup standards for soil, in addition to the present references to water and air quality standards, allows the Solid and Hazardous Waste Control Board to establish alternative cleanup levels for soil on a case-by-case basis taking into consideration Sections R311-211-3 and R311-211-4. The Division of Environmental Response and Remediation (DERR) was directed by the Administrative Rules Review Committee to place cleanup standards with actual numeric values in rule and clarify the requirements for establishing the cleanup standards and receiving a "No Further Action determination" at the end of cleanup. Previously, cleanup levels were established through internal guidance documents, and as cleanup numbers changed they were not subject to public comment. Section R311-211-6 is added to codify the cleanup standards and specify the process to achieve a "No Further Action determination." Section R311-211-6 incorporates by reference the Initial Screening Levels and Tier 1 Screening Criteria tables, which provide the numeric values to be used in evaluating sites for cleanup and "No Further Action determination." Placing these standards in rule gives the regulated public an opportunity to comment on the process. Section R311-211-7, Interim Policy, is removed, as it is no longer necessary with the addition of Section R311-211-6.

SUMMARY OF THE RULE OR CHANGE: The changes add references to maximum contaminant limits (MCL) or other cleanup standards for soil, in addition to present references to water and air quality standards. It also adds Section R311-211-6 to codify cleanup standards for cleanups of releases

from Underground Storage Tank sites. It establishes consistent cleanup standards and clarifies requirements for establishing cleanup standards and receiving a "No Further Action determination" at the end of cleanup. It incorporates by reference the Initial Screening Levels table and the Tier 1 Screening Criteria table to be used in evaluating sites for cleanup and "No Further Action determination." It also deletes Section R311-211-7.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105, 19-6-106, and 19-6-403

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Adds "Initial Screening Levels" table dated November 1, 2005, and "Tier 1 Screening Criteria" table dated November 1, 2005

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--The cleanup standards that were previously used as guidance are now being referenced in rule with a few minor changes. The net cost to implement the rule will be negligible because the cleanup standards in rule are very comparable to the cleanup standards formerly used as guidance.

❖ LOCAL GOVERNMENTS: None--The cleanup standards that were previously used as guidance are now being referenced in rule with a few minor changes. The net cost to implement the rule will be negligible because the cleanup standards in rule are very comparable to the cleanup standards formerly used as guidance.

❖ OTHER PERSONS: None--The cleanup standards that were previously used as guidance are now being referenced in rule with a few minor changes. The net cost to implement the rule will be negligible because the cleanup standards in rule are very comparable to the cleanup standards formerly used as guidance.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The cleanup standards that were previously used as guidance are now being referenced in rule with a few minor changes. The net cost to implement the rule will be negligible because the cleanup standards in rule are very comparable to the cleanup standards formerly used as guidance.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It is not anticipated that the rule change will have a fiscal impact on businesses because the change puts into rule the cleanup standards and evaluation processes that are already in place. The procedures for site evaluation and cleanup will remain essentially the same, so the effect on businesses should be minimal. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY  
ENVIRONMENTAL RESPONSE AND REMEDIATION  
168 N 1950 W  
SALT LAKE CITY UT 84116-3085, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gary Astin at the above address, by phone at 801-536-4103, by FAX at 801-359-8853, or by Internet E-mail at [gastin@utah.gov](mailto:gastin@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 03/31/2006

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 3/28/2006 at 2:00 PM, Department of Environmental Quality, 168 N 1950 W, Room 201, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 05/15/2006

AUTHORIZED BY: Dianne R. Nielson, Executive Director

**R311. Environmental Quality, Environmental Response and Remediation.**

**R311-211. Corrective Action Clean[-]up Standards Policy - UST and CERCLA Sites.**

**R311-211-3. Clean[-]up Standards Evaluation Criteria.**

Subsequent to source elimination, clean[-]up standards for remaining contamination which may include numerical, technology-based or risk-based standards or any combination of those standards, shall be determined on a case-by-case basis, taking into consideration the following criteria:

- (a) The impact or potential impact of the contamination on the public health;
- (b) The impact or potential impact of the contamination on the environment;
- (c) Economic considerations and cost effectiveness of clean[-]up options; and
- (d) The technology available for use in clean[-]up.

**R311-211-4. Prevention of Further Degradation.**

In determining background concentrations, clean[-]up standards, and significance levels, levels of contamination in ground water, surface water, soils or air will not be allowed to degrade beyond the existing contamination levels determined through appropriate monitoring or the use of other data accepted by the Board or the Executive Secretary as representative.

**R311-211-5. Clean[-]up Standards.**

(a) The following shall be the minimum standards to be met for any clean[-]up of regulated substances, hazardous material, and hazardous substances at a UST or CERCLA facility in Utah:

- (1) for water-related corrective action, the Maximum Contaminant Limits (MCL[<sup>-</sup>]s) established under the federal Safe Drinking Water Act or other applicable water classifications and standards; and
- (2) for air-related corrective action, the appropriate air quality standards established under the Federal Clean Air Act.
- (3) Other standards as determined applicable by the Board may be utilized.
- (b) Clean[-]up levels below the MCL[<sup>-</sup>]s or other applicable water, soil, or air quality standards may be established by the Board on

a case-by-case basis taking into consideration R311-211-3 and R311-211-4.

(c) In the case of contamination above the MCL or other applicable water, soil, or air quality standards, if, after evaluation of all alternatives, it is determined that applicable minimum standards cannot reasonably be achieved, clean[-]up levels above these minimum standards may be established on a case-by-case basis utilizing R311-211-3 and R311-211-4. In assessing the evaluation criteria, the following factors shall be considered:

- (1) quantity of materials released;
- (2) mobility, persistence, and toxicity of materials released;
- (3) exposure pathways;
- (4) extent of contamination and its relationship to present and potential surface and ground water locations and uses;
- (5) type and levels of background contamination; and
- (6) other relevant standards and factors as determined appropriate by the Board.

#### **R311-211-6. UST Facility Cleanup Standards.**

(a) This rule incorporates by reference the Initial Screening Levels table dated November 1, 2005. The table lists initial screening levels for UST sites.

(b) If the Executive Secretary determines that a release from an underground storage tank has occurred, the Executive Secretary shall evaluate whether the contamination at the site exceeds Initial Screening Levels for the contaminants released. The Executive Secretary may require owners and operators to submit any information that the Executive Secretary believes will assist in making this evaluation.

(c) If all contaminants are below initial screening levels, the Executive Secretary shall evaluate the site for No Further Action determination.

(d) This rule incorporates by reference the Tier 1 Screening Criteria table dated November 1, 2005. The table lists cleanup criteria for UST sites. Tier 1 screening levels are only applicable when the following site conditions are met:

(1) No buildings, property boundaries or utility lines are located within 30 horizontal feet of the highest measured concentration of any contaminant that is greater than the initial screening levels but less than or equal to the Tier 1 screening levels in the tables referred to in subparagraphs (a) and (d) above, respectively, and;

(2) No water wells or surface water are located within 500 horizontal feet of the highest measured concentration of any contaminant that is greater than the initial screening levels but less than or equal to the Tier 1 screening levels in the tables referred to in subparagraphs (a) and (d) above, respectively.

(e) If any contaminants from a release are above the Initial Screening Levels, the Executive Secretary shall require owners and operators to submit all relevant information required to evaluate the site using the Tier 1 Screening Criteria.

(1) If all Tier 1 Screening Criteria have been met, the Executive Secretary shall evaluate the site for No Further Action determination.

(2) If any of the Tier 1 Screening Criteria have not been met owners and operators shall proceed as described below.

(i) Owners and operators shall conduct a site investigation to provide complete information to the Executive Secretary regarding the factors outlined in R311-211-5(c) and 40 CFR Part 280.

(ii) When the site investigation is complete, owners and operators may propose for the evaluation and approval of the Executive Secretary site-specific cleanup standards based upon an analysis of the factors

outlined in R311-211-5(c). Alternatively, the owners and operators may propose for the approval of the Executive Secretary the Initial Screening Levels established in R311-211-6(a) as the site-specific cleanup standards.

(iii) A partial corrective action approach may be approved by the Executive Secretary prior to completing the site investigation. However, if corrective action is implemented in separate phases, the Executive Secretary will not make a No Further Action determination until all factors outlined in R311-211-5(c) are evaluated.

(iv) Owners and operators may then propose and conduct corrective action approved by the Executive Secretary to attempt to reach the approved site-specific cleanup standards. If the owners and operators demonstrate that the approved site-specific cleanup standards have been met and maintained based upon sampling at intervals and for a period of time approved by the Executive Secretary, the Executive Secretary shall evaluate the site for No Further Action determination.

(v) If the owners and operators do not make progress toward reaching site-specific cleanup standards after conducting the approved corrective action, the Executive Secretary may require the owners and operators to submit an amended corrective action plan or an amended site-specific cleanup standards proposal and analysis of the factors outlined in R311-211-5(c) for the Executive Secretary's approval. The Executive Secretary may also require further investigation to fully define the extent and degree of the contamination if the passage of time or other factors creates the possibility that existing data may no longer be reliable.

#### **R311-211-[6]7. Significance Level.**

(a) Where contamination is identified that is below applicable MCL[']s, water classification standards, or air quality standards or where applicable standards do not exist for either the parameter in question or the environmental media in which the contamination is found, the clean[-]up standard shall be established using R311-211-3 and will be set between background and the observed level of contamination. Should it be determined that the observed level of contamination will be allowed to remain, this becomes the significance level.

(b) At any time, should continued monitoring identify contamination above the significance level, the criteria of R311-211-3 will be reapplied in connection with R311-211-4 to re-evaluate the need for corrective action and determine an appropriate clean[-]up standard.

#### **[R311-211-7. Interim Policy.**

— This will serve as an interim rule until the Board chooses to modify it or a federal policy, regulation, or statute applicable to corrective action clean-up levels is established. At the time a federal policy is promulgated this rule will be reviewed for consistency with the federal action and will be modified as appropriate and in accordance with applicable state law.

**[KEY: petroleum, underground storage tanks**

**Date of Enactment or Last Substantive Amendment: [September 16, 1996]2006**

**Notice of Continuation: March 6, 2002**

**Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106; 19-6-403**

◆ ————— ◆

Health, Health Systems Improvement,  
Licensing  
**R432-31**  
Transferable Physician Order for Life-  
Sustaining Treatment

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 28500

FILED: 02/08/2006, 13:22

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rulemaking updates the rule regarding the Physician Order for Life Sustaining Treatment (POLST). Since the rule went into effect in 2002, health providers have had a chance to use the form and review the rules associated with it. The updates will clarify the process for using a POLST form and add details that are provided in a training packet that was used with the form, but were not included in the rule.

**SUMMARY OF THE RULE OR CHANGE:** The rule changes will add the steps a health facility will take to ensure that all patients have been given an opportunity to use the form. Another change will add "nurse practitioner" as someone who can sign the form, instead of just a physician. This has been allowed by practice, but not clarified in the rule. The rule also adds details regarding patient preferences and who can make changes to the form or void it altogether.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 26, Chapter 21

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** This rule amendment does not increase any requirements or work load to the Department or other agencies. It only clarifies existing requirements in the POLST rule. There is no anticipated aggregate cost to the state budget.

❖ **LOCAL GOVERNMENTS:** This rule amendment does not increase any requirements or work load to the local governments. It only clarifies existing requirements in the POLST rule. There is no anticipated cost to local governments.

❖ **OTHER PERSONS:** This rule amendment does not increase any requirements to other persons. It only clarifies existing requirements in the POLST rule. There is no anticipated cost to local governments.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The rule amendments clarify existing requirements for providers using the POLST form. There are no anticipated compliance costs for providers or individuals using the forms.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule change will strengthen the ability to direct an individual's own health care through a Physician's Order. This form has been very useful

to practitioner's in Utah. David L. Sundwall, MD, Executive Director

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](mailto: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 03/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2006

AUTHORIZED BY: David N. Sundwall, Executive Director

**R432. Health, Health Systems Improvement, Licensing.  
R432-31. Transferable Physician Order for Life-Sustaining Treatment.**

**R432-31-1. Legal Authority.**

This rule is adopted pursuant to Title 26, Chapter 21.

**R432-31-2. Purpose.**

This rule provides for the orderly communication and transfer of physician orders that outline [patient]individual preferences for life-sustaining treatment when an [patient]individual transfers from one licensed health care facility to another.

**R432-31-3. Definitions.**

"Advance directive" means a written instruction, such as a living will or durable power of attorney for health care, recognized under State law relating to the provision of health care when an individual is incapacitated.

**R432-31-~~3~~4. Transferable Physician Order.**

(1) A physician may enter a [patient's]individual's preferences and the physician's orders for life- sustaining treatment on a transferable physician order form. The Department shall, in consultation with the Health Facility Committee, design a uniform transferable physician order for life-sustaining treatment form that may be used by physicians and health care facilities.

(2) Upon admission to a health care facility or acceptance to a home health agency, the facility or agency shall make a good faith effort to determine whether the individual's physician has completed a transferable physician order for life-sustaining treatment.

(a) Health care facilities shall inform each individual, or if the individual does not have the capacity to act, the individual's family or legal representative, about transferable physician orders for life-sustaining treatment in the same manner as required for providing information about advance directives.

(b) The facility shall offer each individual an opportunity to complete a transferable physician order for life-sustaining treatment upon admission to the facility.

(c) The facility shall place the transferable physician order for life-sustaining treatment in a prominent part of the individual's current medical record.

(3) A physician or licensed practitioner, as defined in R432-1-3(69), must sign the transferable physician order for life sustaining treatment.

~~[(3)](4)~~ A health care facility or its employee that makes a good faith effort to follow the instructions in a transferable physician order for life-sustaining treatment is not subject to any Department sanction as a result of those good faith efforts.

(5) The facility shall review the transferable physician order for life-sustaining treatment with the individual, or if the individual does not have the capacity to act, the individual's family or legal representative, when any of the following occur:

(a) there is a substantial, permanent change in the individual's health status;

(b) the individual is transferred from one care setting to another; and

(c) the individual's treatment preferences change.

~~[(4)](6)~~ The transferable physician order for life-sustaining treatment is fully transferable between all licensed health care facilities.

~~[(5)](7)~~ A transferring licensed health care facility shall send the physician order for life-sustaining treatment, if it exists, with the ~~[patient]~~individual to the receiving facility. The receiving facility and health care providers at the receiving facility shall honor the physician order for life-sustaining treatment until it has been properly changed or voided.

**KEY: health facilities**

**Date of Enactment or Last Substantive Amendment:** ~~[December 19, 2002]~~2006

**Authorizing, and Implemented or Interpreted Law:** 26-21



**Insurance, Title and Escrow  
Commission  
R592-3  
Submission of a Title Schedule of  
Escrow Charges Filing**

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 28508

FILED: 02/13/2006, 15:02

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to set forth procedures for filing a schedule of escrow charges pursuant to Section 31A-19a-209 and applies to title insurers, agencies, and producers. This rule replaces Bulletin 99-6, Procedures for Filing Escrow, Settlement, and Closing Charges.

SUMMARY OF THE RULE OR CHANGE: This rule sets forth procedures for filing a schedule of escrow charges as required in Section 31A-19a-209. The rule sets forth definitions that apply to this specific rule, information to be contained in each filing, requirements as to how a filing is to be made, and how correspondence, inquiries, and responses with and to the department are to be handled. A section of the rule references penalties for failure to comply with the law and rule, and another section makes the rule enforceable 90 days after its effective date.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-2-404

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This rule will not change the workload in the office enough to require the addition or reduction of our workforce, nor will it change department revenues.

❖ LOCAL GOVERNMENTS: This rule does not affect local governments since it only deals with the relationship between the department and its licensed title and escrow agencies.

❖ OTHER PERSONS: This rule standardizes the escrow charges form that is to be filed by the title agency, insurer or producer and defines how that form is to be filed. If the producer, agency, or insurer is found to be charging other than their filed charges and cost of doing business the licensee will be warned or fined. This will add additional protections to consumers by requiring title agencies to apply their charges equally and according to the licensee's cost of doing business.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule standardizes the escrow charges form that is to be filed by the title agency, insurer or producer and defines how that form is to be filed. If the producer, agency, or insurer is found to be charging other than their filed charges and cost of doing business the licensee will be warned or fined. This will add additional protections to consumers by requiring title agencies to apply their charges equally and according to the licensee's cost of doing business.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impact of this rule will vary from one title agency to another based on the way they are conducting business now. If their filed charges reflect their cost of doing business, as required by the code, this rule will have no fiscal impact on them. D. Kent Michie, Commissioner

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

INSURANCE

TITLE AND ESCROW COMMISSION

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](mailto: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 03/31/2006

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 3/23/2006 at 9:00 AM, State Office Building, Room 1112, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2006

AUTHORIZED BY: Jilene Whitby, Information Specialist

**R592. Insurance, Title and Escrow Commission.**

**R592-3. Submission of a Title Schedule of Escrow Charges Filing.**

**R592-3-1. Authority.**

This rule is promulgated by the Title and Escrow Commission pursuant to Section 31A-2-404.

**R592-3-2. Purpose and Scope.**

(1) The purpose of this rule is to set forth the procedures for filing a Schedule of Escrow Charges pursuant to Section 31A-19a-209.

(2) This rule applies to all title insurers, agencies and producers providing escrow services in Utah.

**R592-3-3. Required Documents.**

(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 available on the department's web site, <http://www.insurance.utah.gov/RF-Flgs.html>.

(a) "Schedule of Escrow Charges;"  
(b) "Title Marketing Information Package Filing Schedule;"  
and

(c) "Transmittal Document for Title Agency or Title Producer."

**R592-3-4. Definitions.**

In addition to the definitions of Sections 31A-1-301, 31A-2-402, and 31A-19a-102, the following definitions shall apply for the purpose of this rule:

(1) "Certification" means that a filing being submitted is in compliance with the Utah Insurance Code.

(2) "File and Use" means a filing can be used, sold, or offered for sale after it has been filed with the department.

(3) "File Before Use" means a filing can be used, sold, or offered for sale after it has been filed with the department and a stated period of time has elapsed from the date filed.

(4) "Filer" means a person or entity who submits a filing.

(5) "Marketing Information Package" means an information packet, a listing kit, a farm package or any other form of title

evidence beyond that which is readily available in public records in the county in which the property is located.

(6) "Order to Prohibit Use" means an order issued by the commissioner that forbids the use of a filing.

(7) "Rejected" means a filing is:

(a) not submitted in accordance with Utah laws and rules;

(b) returned to the filer by the department with the reasons for rejection; and

(c) not considered filed with the department.

**R592-3-5. General Filing Information.**

(1) Each filing submitted must be accurate, consistent, complete, and contain all required documents in order for the filing to be processed in a timely and efficient manner. The commissioner may request any additional information deemed necessary.

(2) Insurers and filers are responsible for assuring compliance with Utah laws and rules. Filings not in compliance with Utah laws and rules are subject to regulatory action under Section 31A-2-308.

(3) Charges, supplementary information, and forms applying to a specific program or product may be submitted as one filing.

(4) A filing that does not comply with this rule will be rejected as incomplete and returned to the filer. A rejected filing is not considered filed with the department.

(5) Prior filings will not be researched to determine the purpose of the current filing.

(6) The department does not review or proofread every filing.

(a) A filing may be reviewed:

(i) when submitted;

(ii) as a result of a complaint;

(iii) during a regulatory examination or investigation; or

(iv) at any other time the department deems necessary.

(b) If a filing is reviewed and is not in compliance with Utah laws and rules, an ORDER TO PROHIBIT USE will be issued to the filer. The commissioner may require the filer to disclose deficiencies in forms or rating practices to affected consumers.

(7) Filing correction.

(a) No filing transmittal is required when clerical or typographical corrections are made to a filing previously filed if the corrected filing is submitted within 30 days of the date "Filed" with the department. The filer will need to reference the original filing.

(b) A new filing is required if the clerical or typographical corrections are made more than 30 days after the filed date of the original filing. The filer will need to reference the original filing.

(8) Filing withdrawal. A filer must notify the department when the filer withdraws a previously filed form, charge, or supplementary information.

**R592-3-6. Filing Requirements.**

(1) Only an individual who is authorized to act on behalf of the insurer, agency or producer can submit a filing.

(2) A complete filing consists of the following documents submitted in the following order:

(a) Transmittal Document for Title Agency or Title Producer;

(b) Schedule of Escrow Charges;

(c) Title Marketing Information Package Filing Schedule, if filing includes a marketing information package;

(3) Description of Filing. The filer must:

(a) indicate whether the filing is new, amending or replacing a previous filing, or contains charges that have been previously filed and are included for informational purposes;

(b) describe the filing and the purpose of the filing in detail in the Filing Description section of the transmittal; and

(c) if the filing is amending or replacing a previous filing:

(i) provide a detailed description of the changes; and

(ii) highlight the changed provisions.

(4) Transmittal Document for Title Agency or Title Producer. The entire transmittal form must be properly completed.

(5) Schedule of Escrow Charges.

(a) An initial Schedule of Escrow Charges filing is a file and use filing.

(b) A revised Schedule of Escrow Charges filing is a use and file filing and is effective:

(i) thirty calendar days after the revised Schedule of Escrow Charges is filed; or

(ii) a date specified by the filer that is later than 30 calendar days after the revised Schedule of Escrow Charges is filed.

(c) Marketing Information.

(i) Marketing information must be submitted using the Title Marketing Information Package Filing Schedule.

(ii) The initial charge or a revision to an initial charge for a marketing information package must be submitted using the Transmittal Document for Title Agency or Title Producer and a Title Marketing Information Package Filing Schedule.

(iii) The filing must include a copy of the marketing information package being filed.

(iv) The filer must maintain a record copy of each filed Marketing Information Package.

(6) Return Notification Materials.

(a) Return notification materials are limited to:

(i) a copy of the transmittal; and

(ii) a self-addressed, stamped envelope.

(b) Notice of filing will not be provided unless return notification materials are submitted.

(c) Any extra information will be discarded.

(7) Certification.

(a) The filer must certify that a filing has been properly completed AND is in compliance with Utah laws and rules.

(b) A filing will be rejected if the certification is missing or incomplete.

(c) A certification that is inaccurate may subject the filer to administrative action.

**R592-3-7. Correspondence, Inquiries, and Responses.**

(1) Correspondence. When corresponding with the department, provide sufficient information to identify the original filing:

(a) type of filing;

(b) date of filing;

(c) date of prior correspondence; and

(d) a copy of the original transmittal.

(2) Status Checks. A filer can request the status of its filing by telephone, or email 60 days after the date of submission.

(3) A Response to an Order must include:

(a) a response cover letter identifying the changes made;

(b) a copy of the prohibition letter;

(c) a copy of the revised documents; and

(d) return notification materials, which consist of a copy of the response cover letter and a self-addressed stamped envelope.

(4) Rejected Filings.

(a) A filing that is rejected is NOT considered filed.

(b) If resubmitted it is treated as a new filing. If a filing has been previously rejected, include a copy of the rejection form returned to the filer with the original filing.

**R592-3-8. Penalties.**

A person found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

**R592-3-9. Enforcement Date.**

The commissioner will begin enforcing this rule 90 days from the rule's effective date.

**R592-3-10. Severability.**

If any provision of this rule or the application of it to any person or circumstance is for any reason held to be invalid, the remaining provisions to other persons or circumstances shall not be affected.

**KEY: title escrow filings**

**Date of Enactment or Last Substantive Amendment: 2006  
Authorizing, and Implemented or Interpreted Law: 31A-2-404**



Insurance, Title and Escrow  
Commission

**R592-4**

Standards for Charges for Title Escrow  
Settlement Services and Title Fees

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 28507

FILED: 02/13/2006, 14:37

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to set forth standards for creating the charges for title escrow settlement services and title fees for pass through services and other services submitted on the Schedule of Escrow Charges. This rule replaces Bulletin 99-6, Procedures for Filing Escrow, Settlement, and Closing Charges.

SUMMARY OF THE RULE OR CHANGE: This rule sets forth standards for creating the charges for title escrow settlement services and title fees submitted on the Schedule of Escrow Charges as required in Section 31A-19a-209. The rule sets forth definitions that apply to this specific rule, information to be contained in each filing, requirements as to how a filing is to be made, and how correspondence, inquiries and responses with and to the department are to be handled. A section of the rule references penalties for failure to comply with the law and rule, and another section makes the rule enforceable 90 days after its effective date.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-19a-209

AUTHORIZED BY: Jilene Whitby, Information Specialist

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: This rule will not change the workload in the office enough to require the addition or reduction of our workforce, nor will it change department revenues.
- ❖ LOCAL GOVERNMENTS: This rule does not affect local governments since it only deals with the relationship between the department and its licensed title and escrow agencies.
- ❖ OTHER PERSONS: If a title licensee is found to be charging less than their filed charges the licensee can be warned or fined. This will add additional protections to consumers by requiring title licensees to apply their charges equally and according to their cost of doing business. The fiscal impact of this rule will vary from one licensee to another. If the licensee's filed charges reflect their cost of doing business this rule will have no fiscal impact on them.

COMPLIANCE COSTS FOR AFFECTED PERSONS: If a title licensee is found to be charging less than their filed charges the licensee can be warned or fined. This will add additional protections to consumers by requiring title licensees to apply their charges equally and according to their cost of doing business. The fiscal impact of this rule will vary from one licensee to another. If the licensee's filed charges reflect their cost of doing business this rule will have no fiscal impact on them.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impact of this rule will vary from one title agency to another based on the way they are conducting business now. If their filed charges reflect their cost of doing business, as required by the code, this rule will have no fiscal impact on them. D. Kent Michie, Commissioner

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

INSURANCE  
TITLE AND ESCROW COMMISSION  
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](mailto: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 03/31/2006

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 3/23/2006 at 10:00 AM, State Office Building, Room 1112, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2006

**R592. Insurance, Title and Escrow Commission.**

**R592-4. Standards for Charges for Title Escrow Settlement Services and Title Fees.**

**R592-4-1. Authority.**

This rule is promulgated by the Title and Escrow Commission pursuant to Section 31A-2-204.

**R592-4-2. Purpose and Scope.**

(1) The purpose of this rule is to set forth standards for creating the charges for title escrow settlement services and title fees for pass through services and other services submitted on the Schedule of Escrow Charges.

(2) This rule applies to all title insurers, agencies and producers providing escrow services in Utah.

**R592-4-3. Definitions.**

In addition to the definitions of Sections 31A-1-301, 31A-2-402 and 31A-19a-102, the following definitions shall apply for the purposes of this rule:

(1) "Additional escrow work" means escrow settlement services that are rendered in excess of the escrow settlement services not specifically shown in the escrow charges listed in the Schedule of Escrow Charges.

(2) "Charge" means a dollar amount charged for a service rendered by a title insurer, title agency, or title producer.

(3) "Document Preparation" means the preparation of documents in connection with escrow settlement services.

(4) "Escrow charge" means a dollar amount charged for an escrow service shown in the Schedule of Escrow Charges.

(5) "Schedule of Escrow Charges" means the standardized form submitted with a title escrow charge filing.

(6) "Escrow Settlement Services" means those services to settle real estate transactions.

(7) "Long-term Escrow" means For Benefit Of (FBO) accounts that are for the purpose of payment collection and administration of seller-financed transactions.

(8) "Marketing Information Package" means an information package, a listing kit, a farm package or any other form of title evidence beyond that which is readily available in public records in the county in which the property is located.

(9) "Mini Escrow" means an escrow settlement service done by a title agency to clear a title, obtain payoffs and record necessary closing documents for a lender that performs his or her own closing service.

(10) "Other Service Fee" means a fee for services performed or documents prepared that are neither a title insurance product nor an escrow settlement service.

(11) "Pass through fee" means a third-party fee incurred by the agency in connection with the settlement of real property transactions that are passed on to the appropriate principal party to the transaction.

**R592-4-4. Schedule of Escrow Charges.**

(1) The Schedule of Escrow Charges must be used when submitting:

- (a) an initial Schedule of Escrow Charges filing; or  
(b) changes to a previously submitted Schedule of Escrow Charges filing.  
(2) All blank fields of the Schedule of Escrow Charges must be completed.  
(3) If a filer does not perform a service, the blank field must show "N/A" or "Not Applicable."

**R592-4-5. Charges.**

- (1) Escrow settlement service charges.  
(a) Escrow charge.  
(i) In accordance with 31A-19a-209(3), no escrow charge may be filed or used that would cause the agency or producer to operate at less than the cost of doing the business of escrow.  
(ii) Only escrow charges shown in the Schedule of Escrow Charges must be filed.  
(iii) Filed escrow charges are minimum charges.  
(b) Additional escrow work charge.  
(i) An additional escrow work charge will be used for escrow charges not specifically shown in the Schedule of Escrow Charges.  
(ii) An additional escrow work charge must be filed as a per hour charge.  
(c) Document preparation charge.  
(i) Only document charges shown in the Schedule of Escrow Charges must be filed.  
(ii) The additional escrow work charge will be used for preparation of documents not specifically shown in the Schedule of Escrow Charges.  
(2) Marketing information package.  
(a) A marketing information package charge can be no less than the cost to produce one copy of the marketing information package.  
(b) A marketing information package charge will be stated as a per copy charge.  
(c) Each separate marketing information package must have its own charge.

**R592-4-6. Fees.**

- (1) Other service fee must be filed as a per hour fee.  
(2) A pass through fee is:  
(i) not filed; and  
(ii) must be equal to the third-party fee for providing the service.

**R592-4-7. Penalties.**

A person found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

**R592-4-8. Enforcement Date.**

The commissioner will begin enforcing this rule 90 days from the rule's effective date.

**R592-4-9. Severability.**

If any provision of this rule or the application of it to any person or circumstance is for any reason held to be invalid, the remaining provisions to other persons or circumstances shall not be affected.

**KEY: title escrow charges****Date of Enactment or Last Substantive Amendment: 2006****Authorizing, and Implemented or Interpreted Law: 31A-2-204**

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Transportation, Operations, Traffic and  
 Safety  
**R920-50-1**  
 Utah Ropeway Rules for Passenger  
 Ropeways

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 28524

FILED: 02/15/2006, 19:57

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: On the advice of counsel, the rule changes are being made.

SUMMARY OF THE RULE OR CHANGE: This rule amendment changes some of the technical requirements regarding tow way operation, see the new Subsection R920-50-1(H).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-1-201

## ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There should be no cost to the state as this does not require any additional operations on the part of the department.
- ❖ LOCAL GOVERNMENTS: This rule does not affect local government, because they do not operate rope tows. There will be no financial impact.
- ❖ OTHER PERSONS: There may be a cost if any members of the industry need to upgrade. However, it is impossible to know how much cost that would be.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be a cost if any members of the industry need to upgrade. However, it is impossible to know how much cost that would be.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Whatever slight fiscal impact the rule may have is outweighed by the safety impacts. John R. Njord, Executive Director

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

TRANSPORTATION  
 OPERATIONS, TRAFFIC AND SAFETY  
 CALVIN L RAMPTON COMPLEX  
 4501 S 2700 W  
 SALT LAKE CITY UT 84119-5998, or  
 at the Division of Administrative Rules.

## DIRECT QUESTIONS REGARDING THIS RULE TO:

James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at [jbeadles@utah.gov](mailto:jbeadles@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 03/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2006

AUTHORIZED BY: John R. Njord, Executive Director

## **R920. Transportation, Operations, Traffic and Safety.**

### **R920-50. Ropeway Operation Safety Rules.**

#### **R920-50-1. Utah Ropeway Rules for Passenger Ropeways.**

##### A. Introduction

These rules are issued pursuant to Utah Code Annotated, Section 72-11-210 to implement the Passenger Ropeway Safety Act, Utah Code Ann., Sections 72-11-201 et seq.

##### B. Governing Standard

1. The governing standard in Utah is the standard entitled "ANSI B-77.1, 1999", published by the American National Standards Institute, 1430 Broadway, New York, New York 10018, and approved by ANSI on March 11, 1999, and as modified by rule of the Committee. Use of this standard is authorized by Section 72-11-201.

2. The Utah Passenger Ropeway Safety Committee reserves the right to modify, add, or delete provisions included in the Governing Standard.

##### C. Classification of Ropeways and Applicable Standards

1. Section 1.2.4.1 of the Governing Standard is modified by the following requirements:

a. Existing installations need not comply with the new or revised requirements of the Governing Standard and these rules, except as set forth in R920-50-1.D.1.b;

b. Existing ropeways, when removed and reinstalled, shall be classified as new installations (see R920-50-1-C.2);

c. Ropeway modifications shall meet the requirements of R920-50-2.F and R920-50-8.

2. Section 1.2.4.2 of the Governing Standard is modified by the following requirement: New installations and those with design review completed by the Committee after the effective date of the Governing Standard, shall comply with the new or revised requirements of the Governing Standard and with these rules.

##### D. Inspections of Ropeways

1. The annual general inspection requirements stated in ANSI B77.1, 2.3.4.1, 3.3.4.1, 4.3.4.1, 5.3.4.1 and 6.3.4.1, are replaced by the following requirements:

a. An annual general or pre-operational inspection of each passenger ropeway shall be made by a Ropeway Inspector prior to approval of any application for licensure. An operational inspection of each passenger ropeway may be made by a Ropeway Inspector at least once a year during the high-use season. For each passenger ropeway inspected, items found either deficient or in noncompliance shall be noted. A report signed by the Ropeway Inspector listing items found either deficient or in noncompliance shall be filed with the owner. The owner shall correct all deficiencies and noncompliance items listed in the Ropeway Inspector's report or request an exception from the Governing Standard and applicable Utah Ropeway Operations Safety

Rules. In addition to the annual general, pre-operational, and operational inspections, the Committee may order other inspections in accordance with Section 72-11-211;

b. All installations shall comply with the new or revised requirements of the Governing Standard and these rules in the following areas, on or before the effective date of each paragraph, as set forth below:

1. Requirements for auxiliary drives, as set forth in ANSI B77.1, 2.1.2.1.1, 3.1.2.1.1, 4.1.2.1.1. These requirements shall be effective November 1, 1994;

2. Requirement for one device that senses the position of the rope shall be installed on each sheave unit, as set forth in ANSI B77.1, 3.1.3.3.2, paragraph 6. This requirement shall be effective November 1, 1994;

3. Requirements for audible warning devices, as specified by ANSI B77.1, 2.1.1.12, 3.1.1.12. These requirements shall be effective November 1, 2001;

4. Section 4.1.1.12 of the Governing Standard is modified by the following requirement: The aerial lift shall incorporate an audible warning device that signals an impending start of the ropeway. After the start button is pressed, the device shall sound an audible alarm for a minimum of two seconds before the ropeway begins to move. The audible device shall be heard inside and outside all terminals and machine rooms above the ambient noise level. These requirements shall be effective November 1, 2001;

5. "Qualified personnel" as used in X.1.1.11 means a qualified engineer approved by the Committee. A "aerial tramway specialist" as used in 2.3.4, "aerial lift specialist" as used in 3.3.4 and 4.3.4, "surface lift specialist" as used in 5.3.4, and a "tow specialist" as used in 6.3.4 means a ropeway inspector approved by the Committee.

c. Grips, clips, hangars, chairs, carriages and cabins shall be tested according to ANSI B77.1, X.3.4.3, except as modified in this subsection c.

1. Testing personnel shall be qualified in accordance with ASNT Recommended Practice No. SNT-TC-1A-1992. Testing agency shall provide certification of qualification of personnel performing testing.

2. Testing agency inspector shall certify to the owner or area operator that the passenger ropeway components tested were non-destructively tested in accordance with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer;

3. Sampling size and method of obtaining the sample shall comply with X.3.4.3 of the Governing Standard;

4. Rejection rate and retest procedures shall comply with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer;

5. Types of inspections to be performed and the procedures to be used shall comply with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer;

6. Criteria for acceptance/rejection of samples shall comply with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer.

d. Wire rope inspection shall be performed according to Section 7.4.1 of the Governing Standard and shall be performed by a competent inspector defined by the Governing Standard and who is approved by the Committee. The wire rope inspector shall certify to the owner or area operator whether the wire rope in its present condition meets requirements for continued operation.

e. All installations shall comply with the Operation and Maintenance requirements of the Governing Standard. These requirements are stated in ANSI B77.1, 2.3, 3.3, 4.3, 5.3, 6.3, and 7.4.

E. Fire Detection

All machine rooms that are in an enclosed structure located adjacent to the rope of the ropeway (vaulted) shall have a fire detection system installed in accordance with the National Fire Alarm Code. This system shall initiate a visual and audible alarm monitored at the drive terminal operator station.

F. Conveyors Standards

1. Section 8 of the ANSI B77.1-1999 is modified by the following requirement:

a. Modifying the maximum conveyor speed requirements stated in 8.1.1.5, that maximum speed is 160 feet/minute.

b. Loading and unloading areas requirements of 8.1.1.9 shall also accommodate the use of adaptive devices.

c. "Qualified personnel" as used in 8.1.1.11 means a qualified engineer approved by the Committee. A "conveyor specialist" as used in 8.3.4 means a ropeway inspector approved by the Committee.

d. Power units referred to in 8.1.2.1 may not have reverse capability.

e. "Power supply cords" referred to in 8.2.1.5.5 shall be protected from snow grooming, skiers, and other equipment and shall be ground fault protected.

f. The belt transition entry stop device referred to in 8.1.2.11.2 shall include redundant (double) sensors. Each sensor shall be part of an independent control circuit that can initiate an emergency shutdown of the conveyor. The device shall be so designed and maintained that no single point of failure can cause the entry stop device to malfunction. The device shall not be remotely resettable and shall require the operator to reset the device prior to restarting the conveyor.

g. A single operator, as referred to in 8.3.2.2 may not operate more than one conveyor.

h. No bypass of circuits, as referred to in 8.3.2.5.9 is allowed.

G. Dynamic Testing

1. Section X.3.3.1 is replaced with:

Foundations and structural, mechanical and electrical components shall be inspected regularly and kept in a state of good repair. The maintenance requirements of the designer or a Qualified Engineer (see X.1.6.2) shall be followed. Maintenance and testing logs shall be kept (see X.3.5.3).

2. Section X.3.3.1.2 is replaced with:

A written schedule for systematic dynamic testing shall be developed and followed. The schedule shall establish specific frequencies and conditions for periodic testing. The owner shall provide Experienced personnel to develop and conduct the dynamic test. The testing shall simulate or duplicate inertial loadings. The test load shall be equivalent to the design live load. Dynamic testing shall be performed at intervals not exceeding 7 years. The testing requirements shall include, but not be limited to the following:

- a) braking systems;
- b) auxiliary power units;
- c) tension systems; and
- d) electrical systems.

H. Tows

1. Section 6.1.2.11.2 is replaced with:

Automatic stop device(s) shall be installed at each terminal and beyond each unloading area to stop the tow if actuated by a person's passage. For actuating devices of the suspended type, the suspended portion shall be strong enough to cause release of the actuating devices in use under the most adverse conditions, and each side shall be detachable and shall interrupt the operating circuit when detached. The device shall be in accordance with the following as applicable:

(a) Intermediate unloading areas: Required only when passengers are not permitted beyond the intermediate unloading area;

(b) Terminal areas: Installed on the incoming side so that the distance from the stop gate to the first obstruction is more than 150% of the distance required to stop the empty tow operating at maximum speed. The stop device shall extend across the tow beneath the incoming and outgoing rope;

(c) Fiber rope tows: Additionally, at unloading areas a device shall encircle the incoming fiber rope.

**KEY: transportation safety, tramways, ropeways, tramway permits**

**Date of Enactment or Last Substantive Amendment: ~~July 12, 2005~~2006**

**Notice of Continuation: December 13, 2002**

**Authorizing, and Implemented or Interpreted Law: 72-11-201 through 72-11-216; 63-46b-1 et seq.**



**End of the Notices of Proposed Rules Section**

## NOTICES OF CHANGES IN PROPOSED RULES

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After an agency has published a PROPOSED RULE in the *Utah State Bulletin*, it may receive public comment that requires the PROPOSED RULE to be altered before it goes into effect. A CHANGE IN PROPOSED RULE allows an agency to respond to comments it receives.

As with a PROPOSED RULE, a CHANGE IN PROPOSED RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the CHANGE IN PROPOSED RULE including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the RULE ANALYSIS, the text of the CHANGE IN PROPOSED RULE is usually printed. The text shows only those changes made since the PROPOSED RULE was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [example]). A row of dots in the text (. . . . .) indicates that unaffected text was removed to conserve space. If a CHANGE IN PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends March 31, 2006. At its option, the agency may hold public hearings.

From the end of the waiting period through June 29, 2006, the agency may notify the Division of Administrative Rules that it wants to make the CHANGE IN PROPOSED RULE effective. When an agency submits a NOTICE OF EFFECTIVE DATE for a CHANGE IN PROPOSED RULE, the PROPOSED RULE as amended by the CHANGE IN PROPOSED RULE becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file another CHANGE IN PROPOSED RULE in response to additional comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or another CHANGE IN PROPOSED RULE, the CHANGE IN PROPOSED RULE filing, along with its associated PROPOSED RULE, lapses and the agency must start the process over.

CHANGES IN PROPOSED RULES are governed by *Utah Code* Section 63-46a-6 (2001); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

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

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

**NOTICE OF CHANGE IN PROPOSED RULE**

DAR File No.: 28429  
Filed: 02/13/2006, 13:56

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The Division needs to add a clarification to the rule regarding the maximum fine that may be assessed. Hunter Finch from the Governor's Office of Planning and Budget had contacted the Division regarding Subsection R156-3a-501(6) with concerns that the fine set for a third offense was double the fine amount for a second offense and that could result in a fine which may be in excess of the maximum allowed by statute. The statute provides that the fine for a third offense could be up to \$2,000 per day. If the third offense was for a single day rather than multiple days, then this could possibly happen. All persons attending the February 10, 2006, rule hearing were notified of the clarification which is now being added to the rule.

**SUMMARY OF THE RULE OR CHANGE:** In Subsection R156-3a-501(6), the following wording is being added which will eliminate the concerns identified above: "with a maximum amount not to exceed the maximum fine allowed under Subsection 58-3a-502(1)(b)(i)". (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the January 15, 2006, issue of the Utah State Bulletin, on page 15. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

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

**ANTICIPATED COST OR SAVINGS TO:**

- ❖ **THE STATE BUDGET:** No additional costs or savings are anticipated as a result of this change in proposed rule filing beyond those identified in the prior proposed rule amendment filing.
- ❖ **LOCAL GOVERNMENTS:** No additional costs or savings are anticipated as a result of this change in proposed rule filing beyond those identified in the prior proposed rule amendment filing.
- ❖ **OTHER PERSONS:** No additional costs or savings are anticipated as a result of this change in proposed rule filing beyond those identified in the prior proposed rule amendment filing.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** No additional costs or savings are anticipated as a result of this change in proposed rule filing beyond those identified in the prior proposed rule amendment filing.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This change to proposed rule clarifies that in no circumstances may a fine for a third offense exceed the maximum fine permitted by statute. No fiscal impact to businesses is anticipated as a result of this clarification. Francine A. Giani, Executive Director

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

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

**DIRECT QUESTIONS REGARDING THIS RULE TO:**  
Dan S. Jones at the above address, by phone at 801-530-6720, by FAX at 801-530-6511, or by Internet E-mail at dansjones@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2006

AUTHORIZED BY: J. Craig Jackson, Director

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

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**R156-3a-501. Administrative Penalties - Unlawful Conduct.**

In accordance with Subsections 58-1-501, 58-1-501(1)(a) through (d), and 58-3a-501, 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: \$800  
Second Offense: \$1,600
- (2) Engaging in, or representing oneself as engaged in the practice of architecture as a corporation, proprietorship, partnership, or limited liability company unless exempted from licensure.  
First Offense: \$800  
Second Offense: \$1,600
- (3) Impersonating another licensee or engaging in practice under this chapter using a false or assumed name, unless permitted by law.  
First Offense: \$1,000  
Second Offense: \$2,000

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

First Offense: \$1,000  
 Second Offense: \$2,000

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

First Offense: \$1,000  
 Second Offense: \$2,000

(6) Citations shall not be issued for third offenses, except in extraordinary circumstances approved by the investigative supervisor. If a citation is issued for a third offense, the fine is double the second offense amount, with a maximum amount not to exceed the maximum fine allowed under Subsection 58-3a-502(1)(b)(i).

(7) If multiple offenses are cited on the same citation, the fine shall be determined by evaluating the most serious offense.

(8) An investigative supervisor may authorize a deviation from the fine schedule based upon the aggravating or mitigating circumstances.

(9) In all cases the presiding officer shall have the discretion, after a review of the aggravating and mitigating circumstances, to increase or decrease the fine amount based upon the evidence reviewed.

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**KEY: architects, licensing**  
**Date of Enactment or Last Substantive Amendment: 2006**  
**Notice of Continuation: June 11, 2001**  
**Authorizing, and Implemented or Interpreted Law: 58-3a-101; 58-1-106(1)(a); 58-1-202(1)(a)**



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

**NOTICE OF CHANGE IN PROPOSED RULE**

DAR File No.: 28444  
 Filed: 02/13/2006, 13:57

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division needs to add a clarification to the rule regarding the maximum fine that may be assessed. Hunter Finch from the Governor's Office of Planning and Budget had contacted the Division regarding Subsection R156-22-501(6) with concerns that the fine set for a third offense was double the fine amount for a second offense and that could result in a fine which may be in excess of the maximum allowed by statute. The statute provides that the fine for a third offense could be up to \$2,000 per day. If the third offense was for a single day rather than multiple days, then this could possibly happen.

SUMMARY OF THE RULE OR CHANGE: In Subsection R156-22-501(6), the following wording is being added to the paragraph which will eliminate the concerns identified above: "with a maximum amount not to exceed the maximum fine allowed under Subsection 58-3a-502(1)(b)(i)". (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the January 15, 2006, issue of the Utah State Bulletin, on page 17. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

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

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: No additional costs or savings are anticipated as a result of this change in proposed rule filing beyond those identified in the prior proposed rule amendment filing.
- ❖ LOCAL GOVERNMENTS: No additional costs or savings are anticipated as a result of this change in proposed rule filing beyond those identified in the prior proposed rule amendment filing.
- ❖ OTHER PERSONS: No additional costs or savings are anticipated as a result of this change in proposed rule filing beyond those identified in the prior proposed rule amendment filing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No additional costs or savings are anticipated as a result of this change in proposed rule filing beyond those identified in the prior proposed rule amendment filing.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This change to proposed rule clarifies that in no circumstances may a fine for a third offense exceed the maximum fine permitted by statute. No fiscal impact to businesses is anticipated as a result of this clarification. Francine A. Gianì, 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](mailto: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 03/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 04/01/2006

AUTHORIZED BY: J. Craig Jackson, Director

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

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**R156-22-501. 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: \$800  
Second Offense: \$1,600

(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: \$800  
Second Offense: \$1,600

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

First Offense: \$1,000  
Second Offense \$2,000

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

First Offense: \$1,000  
Second Offense: \$2,000

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

First Offense: \$1,000  
Second Offense: \$2,000

(6) Citations shall not be issued for third offenses, except in extraordinary circumstances approved by the investigative supervisor. If a citation is issued for a third offense, the fine is double the second offense amount, with a maximum amount not to exceed the maximum fine allowed under Subsection 58-22-503(1)(i).

(7) If multiple offenses are cited on the same citation, the fine shall be determined by evaluating the most serious offense.

(8) An investigative supervisor may authorize a deviation from the fine schedule based upon the aggravating or mitigating circumstances.

(9) In all cases the presiding officer shall have the discretion, after a review of the aggravating and mitigating circumstances, to increase or decrease the fine amount based upon the evidence reviewed.

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

**Date of Enactment or Last Substantive Amendment: 2006**

**Notice of Continuation: January 13, 2003**

**Authorizing, and Implemented or Interpreted Law: 58-22-101; 58-1-106(1)(a); 58-1-202(1)(a)**



**End of the Notices of Changes in Proposed Rules Section**

# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1998).

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## Administrative Services, Fleet Operations, Surplus Property **R28-2** Surplus Firearms

### FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 28496  
FILED: 02/07/2006, 12:14

### NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 63A-9-801(2)(b)(vi): (a) the division shall make rules establishing a state surplus property program that meets the requirements of this chapter by following the procedures and requirements of Title 63, Chapter 46a, Utah Administrative Rulemaking Act; (b) those rules shall include requirements and procedures for disposing of firearms.

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 division must have rules in place to account for the disposal of firearms. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Margaret Chambers at the above address, by phone at 801-538-9675, by FAX at 801-538-1773, or by Internet E-mail at margareтчambers@utah.gov

AUTHORIZED BY: Margaret Chambers, Deputy Director

EFFECTIVE: 02/07/2006

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## Agriculture and Food, Plant Industry **R68-4**

## Standardization, Marketing, and Phyosanitary Inspection of Fresh Fruits, Vegetables, and Other Plant and Plant Products

### FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 28504  
FILED: 02/10/2006, 12:04

### 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 4-2-2 and Subsection 4-2-2(1)(h) authorize the department the functions, powers and duties to establish operational standards for any establishment which manufactures, processes, produces, distributes, stores, sells, or offers for sale any agricultural product.

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 adopts the standards and grades established by the Food Safety and Quality Service, United States Department of Agriculture, for the inspection of fresh fruits and vegetables. Phytosanitary inspection shall be in accordance with federal standards, as well as the importing country or state. This rule has been established for the protection and safety of the consumer, and 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 84116-3034, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Marolyn Leetham, Clair Allen, or Robert Hougaard at the above address, by phone at 801-538-7114, 801-538-7180, or 801-538-7187, by FAX at 801-538-7126, 801-538-7189, or 801-538-7189, or by Internet E-mail at mleetham@utah.gov, ClairAllen@utah.gov, or rhougaard@utah.gov

AUTHORIZED BY: Leonard M. Blackham, Commissioner

EFFECTIVE: 02/10/2006

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## Agriculture and Food, Plant Industry **R68-18** Quarantine Pertaining to Karnal Bunt

### FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 28505  
FILED: 02/10/2006, 12:14

### NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 4-2-2(1)(ii) authorizes the department to establish and enforce quarantines.

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 establishes a quarantine setting forth the name of the fungal disease against which the quarantine is established, the infested area,

the articles and commodities regulated, and specifying conditions governing disposition of violations, and therefore, the 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 84116-3034, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Marolyn Leetham or Clair Allen at the above address, by phone at 801-538-7114 or 801-538-7180, by FAX at 801-538-7126 or 801-538-7189, or by Internet E-mail at mleetham@utah.gov or ClairAllen@utah.gov

AUTHORIZED BY: Leonard M. Blackham, Commissioner

EFFECTIVE: 02/10/2006

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## Natural Resources, Parks and Recreation **R651-206** Carrying Passengers for Hire

### FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 28509  
FILED: 02/13/2006, 15:30

### NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 73-18-4 allows the board to promulgate rules and set fees regarding Vessel Operator Permits and River Guide Permits for the waters of the State of Utah. Giving direct instructions how to obtain one or both permits, who is eligible, the costs associated with obtaining the permit, any age restrictions and it has been an invaluable tool in maintaining, operating and sustaining the waterways with guides who are knowledgeable and have the legal permits to operate vessels on State of Utah waterways.

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: Without this rule, there would be no education, or responsibilities for those who want to do business carrying passengers and charging fees. There would be no accountability for them to obey or regulations by

which they can and can't operate such vessels both on lakes and guides or services on rivers as well in this State. This rule should be maintained and renewed for another five-year period to ensure the safest possible way to regulate those carrying passengers for hire.

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

NATURAL RESOURCES  
PARKS AND RECREATION  
Room 116  
1594 W NORTH TEMPLE  
SALT LAKE CITY UT 84116-3154, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at [deeguess@utah.gov](mailto:deeguess@utah.gov)

AUTHORIZED BY: Steve Roberts, Deputy Director (Legislation)

EFFECTIVE: 02/13/2006

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## Natural Resources, Parks and Recreation

### **R651-215**

#### Personal Floatation Devices

##### **FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE No.: 28510  
FILED: 02/13/2006, 15:31

##### **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 73-18-8 of the Utah Code lists the safety equipment required to be on board vessels used on waters in the State of Utah.

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 contains a list of safety equipment required for any vessel operating on waters in the State of Utah. It is for the safety of people, i.e., floatation devices; defines size of boat where certain safety equipment is required, states safety equipment for the vessels themselves, i.e. navigation lights, ventilations systems to remove any gases if a vessel is not entirely open, and other pertinent information for the safety of boating in Utah. This

rule should be continued as it is a valuable resource for the safety of the recreating public while boating in the State of Utah.

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

NATURAL RESOURCES  
PARKS AND RECREATION  
Room 116  
1594 W NORTH TEMPLE  
SALT LAKE CITY UT 84116-3154, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at [deeguess@utah.gov](mailto:deeguess@utah.gov)

AUTHORIZED BY: Mary Tullius, Director

EFFECTIVE: 02/13/2006

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## Natural Resources, Parks and Recreation

### **R651-222**

#### Muffling Requirements

##### **FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE No.: 28511  
FILED: 02/13/2006, 15:32

##### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 73-18-11 states that the board will adopt rules for the regulating of muffling devices on all vessels.

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: Without this rule in place, the sound levels of mufflers, creation of loud noises, alterations and the removal of mufflers all together would create dense noise pollution. With a few exemptions for vessels operating in racing events, etc., this rule should be renewed for five years to continue to help the waters of Utah be enjoyable for vessels to operate without excessive or usual noise.

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

NATURAL RESOURCES  
PARKS AND RECREATION  
Room 116  
1594 W NORTH TEMPLE  
SALT LAKE CITY UT 84116-3154, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

AUTHORIZED BY: Mary Tullius, Director

EFFECTIVE: 02/13/2006

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**Natural Resources, Parks and  
Recreation  
R651-224  
Towed Devices**

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 28512  
FILED: 02/13/2006, 15:33

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 73-18-15 states that the board will adopt rules for the regulation and safety of water skiing and aquaplane riding and the use of other devices which are towed behind a vessel.

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 be continued as it deals with the safety of those being towed behind a vessel, i.e. flags, PFD, etc., and gives right of way guidance and other safety instruction to anyone towing or being towed on the water.

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

NATURAL RESOURCES  
PARKS AND RECREATION

Room 116  
1594 W NORTH TEMPLE  
SALT LAKE CITY UT 84116-3154, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

AUTHORIZED BY: Mary Tullius, Director

EFFECTIVE: 02/13/2006

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**Natural Resources, Parks and  
Recreation  
R651-611  
Fee Schedule**

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 28513  
FILED: 02/13/2006, 15:33

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 63-11-17(8)(a) states that the Division of Parks and Recreation may make charges for special services and use of facilities, the income from which shall be available for park and recreation purposes. That the division may conduct and operate those services for the comfort and convenience of the public.

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: All fees for services, events, and activities, related to use of state parks facilities are published in this rule and are updated as fees change to keep a current fee schedule available to the public. This rule should be continued to keep the list of state park fees public and up-to-date for all those who wish to pull this rule up for their information. It is a valuable tool for all recreators of state parks and facilities.

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

NATURAL RESOURCES  
PARKS AND RECREATION  
Room 116  
1594 W NORTH TEMPLE  
SALT LAKE CITY UT 84116-3154, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320,  
by FAX at 801-537-3144, or by Internet E-mail at  
deeguess@utah.gov

AUTHORIZED BY: Steve Roberts, Deputy Director (Legislation)

EFFECTIVE: 02/13/2006



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

## NOTICES OF RULE EFFECTIVE DATES

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These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

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### Abbreviations

AMD = Amendment  
CPR = Change in Proposed Rule  
NEW = New Rule  
R&R = Repeal and Reenact  
REP = Repeal

### Education

#### Administration

No. 28446 (AMD): R277-602. Special Needs Scholarships - Funding and Procedures.  
Published: January 15, 2006  
Effective: February 15, 2006

### Health

#### Health Systems Improvement, Child Care Licensing

No. 28245 (AMD): R430-2. General Licensing Provisions, Child Care Facilities.  
Published: October 15, 2005  
Effective: February 6, 2006

No. 28245 (CPR): R430-2. General Licensing Provisions, Child Care Facilities.  
Published: December 15, 2005  
Effective: February 6, 2006

No. 28246 (AMD): R430-3. General Child Care Facility Rules Inspection and Enforcement.  
Published: October 15, 2005  
Effective: February 6, 2006

No. 28246 (CPR): R430-3. General Child Care Facility Rules Inspection and Enforcement.  
Published: December 15, 2005  
Effective: February 6, 2006

No. 28248 (AMD): R430-4. General Certificate Provisions.  
Published: October 15, 2005  
Effective: February 6, 2006

No. 28248 (CPR): R430-4. General Certificate Provisions.  
Published: December 15, 2005  
Effective: February 6, 2006

No. 28249 (AMD): R430-6. Background Screening.  
Published: October 15, 2005  
Effective: February 6, 2006

No. 28249 (CPR): R430-6. Background Screening.  
Published: December 15, 2005  
Effective: February 6, 2006

### Judicial Conduct Commission

#### Administration

No. 28351 (AMD): R595-4-1. Dismissals with Warning or upon Stated Conditions.  
Published: December 1, 2005  
Effective: February 10, 2006

### Labor Commission

#### Safety

No. 28256 (AMD): R616-3-3. Safety Codes for Elevators.  
Published: October 15, 2005  
Effective: February 8, 2006

### Public Service Commission

#### Administration

No. 28139 (AMD): R746-345. Pole Attachments for Cable Television Companies.  
Published: September 1, 2005  
Effective: February 8, 2006

No. 28139 (CPR): R746-345. Pole Attachments for Cable Television Companies.  
Published: December 15, 2005  
Effective: February 8, 2006

### Transportation

#### Motor Carrier, Ports of Entry

No. 28415 (AMD): R912-11. Overweight and/or Oversize Permitted Vehicle Restrictions on Certain Highways Throughout the State of Utah.  
Published: January 1, 2006  
Effective: February 8, 2006

# RULES INDEX BY AGENCY (CODE NUMBER) AND BY KEYWORD (SUBJECT)

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The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2006 including notices of effective date received through February 15, 2006, the effective dates of which are no later than March 1, 2006. 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. These difficulties with the index are related to a new software package used by the Division to create the Bulletin and related publications; we hope to have them resolved as soon as possible. Bulletin issue information and effective date information presented in the index are, to the best of our knowledge, complete and accurate. If you have any questions regarding the index and the information it contains, please contact Nancy Lancaster (801 538-3218), Mike Broschinsky (801 538-3003), or Kenneth A. Hansen (801 538-3777).

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

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## RULES INDEX - BY AGENCY (CODE NUMBER)

### ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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<u>Finance</u>					
R25-5	Payment of Per Diem to Boards	28384	AMD	01/25/2006	2005-24/2
<u>Fleet Operations</u>					
R27-1	Definitions	28474	5YR	01/30/2006	2006-4/33
R27-1	Definitions (5YR EXTENSION)	28279	NSC	01/30/2006	Not Printed
R27-1-2	Definitions	28368	NSC	01/01/2006	Not Printed
R27-2	Fleet Operations Adjudicative Proceedings	28475	5YR	01/30/2006	2006-4/33
R27-3	Vehicle Use Standards	28477	5YR	01/30/2006	2006-4/34
R27-3	Vehicle Use Standards (5YR EXTENSION)	28280	NSC	01/30/2006	Not Printed
R27-7	Safety and Loss Prevention of State Vehicles	28469	5YR	01/20/2006	2006-4/34

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R28-2	Surplus Firearms	28496	5YR	02/07/2006	2006-5/48
<u>Purchasing and General Services</u>					
R33-1	Utah State Procurement Rules Definitions	28436	NSC	02/22/2006	Not Printed
R33-1-1	Definitions	28445	AMD	02/21/2006	2006-2/3
R33-2-101	Delegation of Authority of the Chief Procurement Officer	28437	NSC	02/22/2006	Not Printed
R33-3	Source Selection and Contract Formation	28447	AMD	02/21/2006	2006-2/5
R33-4	Specifications	28438	NSC	02/22/2006	Not Printed
R33-5	Construction and Architect-Engineer Selection	28448	NSC	02/22/2006	Not Printed
R33-7	Cost Principles	28439	NSC	02/22/2006	Not Printed
R33-8	Property Management	28440	NSC	02/22/2006	Not Printed
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<u>Plant Industry</u>					
R68-4	Standardization, Marketing, and Phytosanitary Inspection of Fresh Fruits, Vegetables, and Other Plant and Plant Products	28504	5YR	02/10/2006	2006-5/48
R68-8	Utah Seed Law	28452	5YR	01/09/2006	2006-3/38
R68-18	Quarantine Pertaining to Karnal Bunt	28505	5YR	02/10/2006	2006-5/49
<u>Regulatory Services</u>					
R70-410	Grading and Inspection of Shell Eggs With Standard Grade and Weight Classes	28471	5YR	01/24/2006	2006-4/35
<b>Alcoholic Beverage Control</b>					
<u>Administration</u>					
R81-10A-7	Draft Beer Sales/Minors on Premises	28431	NSC	01/01/2006	Not Printed
<b>Commerce</b>					
<u>Occupational and Professional Licensing</u>					
R156-31b	Nurse Practice Act Rules	28365	AMD	01/23/2006	2005-24/3
R156-37	Utah Controlled Substances Act Rules	28310	CPR	02/16/2006	2006-2/35
R156-37	Utah Controlled Substances Act Rules	28310	AMD	02/16/2006	2005-22/8
R156-44a	Nurse Midwife Practice Act Rules	28352	AMD	01/05/2006	2005-23/4
R156-47b	Massage Therapy Practice Act Rules	28478	5YR	01/31/2006	2006-4/35
R156-56	Utah Uniform Building Standard Act Rules	28286	AMD	01/01/2006	2005-21/6
R156-56-707	Statewide Amendments to the IPC	28285	AMD	01/01/2006	2005-21/25
R156-56-711	Statewide Amendments to the IRC	28427	NSC	02/23/2006	Not Printed
R156-63-503	Administrative Penalties	28345	AMD	01/10/2006	2005-23/5
R156-74	Certified Shorthand Reporters Licensing Act Rules	28428	AMD	02/16/2006	2006-2/24
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R162-209	Administrative Proceedings	28476	5YR	01/30/2006	2006-4/36
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<u>Administration</u>					
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R199-9	Policy Concerning Enforceability and Taxability of Bonds Purchased	28348	NSC	01/01/2006	Not Printed
R199-10	Procedures in Case of Inability to Formulate Contract for Alleviation of Impact	28349	NSC	01/01/2006	Not Printed
R199-11	Community Development Block Grants (CDBG)	28350	NSC	01/01/2006	Not Printed
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R202-100	Community Services Block Grant Rules	28353	NSC	01/01/2006	Not Printed
R202-201	Energy Assistance: General Provisions	28359	NSC	01/01/2006	Not Printed
R202-202	Energy Assistance Programs Standards	28385	NSC	01/01/2006	Not Printed
R202-203	Energy Assistance Income Standards, Income Eligibility, and Payment Determination	28386	NSC	01/01/2006	Not Printed
R202-204	Energy Assistance: Asset Standards	28387	NSC	01/01/2006	Not Printed
R202-205	Energy Assistance: Program Benefits	28388	NSC	01/01/2006	Not Printed
R202-206	Energy Assistance: Eligibility Determination	28389	NSC	01/01/2006	Not Printed
R202-207	Energy Assistance: Records and Benefit Management	28390	NSC	01/01/2006	Not Printed
R202-208	Energy Assistance: Special State Programs	28391	NSC	01/01/2006	Not Printed
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R203-4	Utah Public Building Energy Loan and Grant Programs	28433	NSC	01/01/2006	Not Printed
R203-5	Utah Energy Technology Demonstration Program	28434	NSC	01/01/2006	Not Printed
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R207-2	Policy for Commissions, Purchases, and Donations to, and Loans from, the Utah State Art Collections	28362	NSC	01/01/2006	Not Printed
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R212-1	Adjudicative Proceedings	28404	NSC	01/01/2006	Not Printed
R212-3	Memberships, Sales, Gifts, Bequests, Endowments	28406	NSC	01/01/2006	Not Printed
R212-4	Archaeological Permits	28407	NSC	01/01/2006	Not Printed
R212-6	State Register for Historic Resources and Archaeological Sites	28405	NSC	01/01/2006	Not Printed
R212-7	Cultural Resource Management	28403	NSC	01/01/2006	Not Printed
R212-8	Preservation Easements	28408	NSC	01/01/2006	Not Printed
R212-9	Board of State History as the Cultural Sites Review Committee Review Board	28409	NSC	01/01/2006	Not Printed
R212-11	Historic Preservation Tax Credits	28410	NSC	01/01/2006	Not Printed
R212-12	Computerized Record of Cemeteries, Burial Locations and Plots, and Granting Matching Funds	28411	NSC	01/01/2006	Not Printed
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R223-1	Adjudicative Procedures	28343	NSC	01/01/2006	Not Printed
R223-2	Public Library Online Access for Eligibility to Receive Public Funds	28344	NSC	01/01/2006	Not Printed
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R230-1	Native American Grave Protection and Repatriation	28479	5YR	01/31/2006	2006-4/37

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R270-1-4	Counseling Awards	28473	NSC	02/22/2006	Not Printed
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<u>Administration</u>					
R277-602	Special Needs Scholarships - Funding and Procedures	28446	AMD	02/15/2006	2006-2/25
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<u>Air Quality</u>					
R307-170	Continuous Emission Monitoring Program	28226	AMD	01/05/2006	2005-19/6
R307-801-5	Company Certifications	28468	NSC	02/22/2006	Not Printed
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R309-605	Source Protection: Drinking Water Source Protection for Surface Water Sources	28380	NSC	01/01/2006	Not Printed
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<b>Governor</b>					
<u>Planning and Budget</u>					
R361-1	Rule for Implementation of the Resource Development Coordinating Committee Act, 1981	28295	REP	01/03/2006	2005-22/36
<b>Health</b>					
<u>Health Care Financing, Coverage and Reimbursement Policy</u>					
R414-3A	Outpatient Hospital Services	28414	R&R	02/01/2006	2006-1/22
R414-60	Medicaid Policy for Pharmacy Copayment Procedures	28357	R&R	01/04/2006	2005-23/42
R414-63	Medicaid Policy for Pharmacy Reimbursement	28356	REP	01/04/2006	2005-23/44
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R426-7	Emergency Medical Services Prehospital Data System Rules	28470	5YR	01/24/2006	2006-4/37
R426-8	Emergency Medical Services Per Capita Grants Program Rules	28472	5YR	01/24/2006	2006-4/38
<u>Health Systems Improvement, Child Care Licensing</u>					
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R430-2	General Licensing Provisions, Child Care Facilities	28245	AMD	02/06/2006	2005-20/14
R430-3	General Child Care Facility Rules Inspection and Enforcement	28246	AMD	02/06/2006	2005-20/18
R430-3	General Child Care Facility Rules Inspection and Enforcement	28246	CPR	02/06/2006	2005-24/35
R430-4	General Certificate Provisions	28248	CPR	02/06/2006	2005-24/37
R430-4	General Certificate Provisions	28248	AMD	02/06/2006	2005-20/23
R430-6	Background Screening	28249	AMD	02/06/2006	2005-20/26
R430-6	Background Screening	28249	CPR	02/06/2006	2005-24/41
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R432-106	Specialty Hospital - Critical Access	28301	AMD	01/05/2006	2005-22/39
R432-106	Specialty Hospital - Critical Access	28449	5YR	01/06/2006	2006-3/38
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R434-100-6	Contract Requirements	28331	NSC	01/01/2006	Not Printed
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<u>Aging and Adult Services</u>					
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R510-401	Utah Caregiver Support Program	28190	AMD	12/23/2006	2005-18/37
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R515-1	Processing Complaints Regarding the Utah Division of Child and Family Services	28401	NEW	02/01/2006	2006-1/26
<u>Recovery Services</u>					
R527-35	Non-IV-A Fee Schedule	28412	AMD	02/22/2006	2006-1/27
<u>Juvenile Justice Services</u>					
R547-13	Guidelines for Admission to Secure Youth Detention Facilities Review	28378	AMD	01/18/2006	2005-24/8
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<u>Administration</u>					
R590-85	Individual Accident and Health Insurance and Individual and Group Medicare Supplement Rates	28117	CPR	01/31/2006	2005-24/44
R590-85	Individual Accident and Health Insurance and Individual and Group Medicare Supplement Rates	28117	CPR	01/31/2006	2005-20/61
R590-85	Individual Accident and Health Insurance and Individual and Group Medicare Supplement Rates	28117	AMD	01/31/2006	2005-16/18
R590-98	Unfair Practice in Payment of Life Insurance and Annuity Policy Values	28267	CPR	01/31/2006	2005-24/46
R590-98	Unfair Practice in Payment of Life Insurance and Annuity Policy Values	28267	AMD	01/31/2006	2005-20/39
R590-131-4	Rules for Coordination of Benefits	28495	NSC	02/24/2006	Not Printed
R590-166-4	Rule	28269	AMD	01/24/2006	2005-20/40
<b>Judicial Conduct Commission</b>					
<u>Administration</u>					
R595-4-1	Dismissals with Warning or upon Stated Conditions	28351	AMD	02/10/2006	2005-23/45
<b>Labor Commission</b>					
<u>Industrial Accidents</u>					
R612-4	Premium Rates	28458	5YR	01/12/2006	2006-3/39
R612-4-2	Premium Rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund	28298	AMD	01/01/2006	2005-22/41
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<u>Oil, Gas and Mining; Non-Coal</u>					
R647-1-106	Definitions	28337	AMD	02/23/2006	2005-23/46
R647-2	Exploration	28338	AMD	02/23/2006	2005-23/48
R647-3	Small Mining Operations	28339	AMD	02/23/2006	2005-23/51
R647-4	Large Mining Operations	28340	AMD	02/23/2006	2005-23/55
R647-5-101	Formal and Informal Proceeding	28341	AMD	02/23/2006	2005-23/58
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R651-222	Muffling Requirements	28511	5YR	02/13/2006	2006-5/50
R651-224	Towed Devices	28512	5YR	02/13/2006	2006-5/51
R651-611	Fee Schedule	28169	AMD	01/01/2006	2005-18/46
R651-611	Fee Schedule	28513	5YR	02/13/2006	2006-5/51
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R657-5	Taking Big Game	28379	AMD	01/18/2006	2005-24/11
R657-13	Taking Fish and Crayfish	28303	AMD	01/18/2006	2005-22/41
R657-17	Lifetime Hunting and Fishing License	28382	AMD	01/18/2006	2005-24/17
R657-23	Utah Hunter Education Program	28377	AMD	01/18/2006	2005-24/19
R657-38	Dedicated Hunter Program	28371	AMD	01/18/2006	2005-24/22
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<u>Criminal Investigations and Technical Services, Criminal Identification</u>					
R722-300	Concealed Firearm Permit Rule	28250	AMD	01/09/2006	2005-20/48
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<u>Administration</u>					
R746-345	Pole Attachments for Cable Television Companies	28139	AMD	02/08/2006	2005-17/31
R746-345	Pole Attachments for Cable Television Companies	28139	CPR	02/08/2006	2005-24/47
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R986-600-604	Adults, Youth, and Dislocated Workers	28400	NSC	01/01/2006	Not Printed
<u>Unemployment Insurance</u>					
R994-406-302	Repayment and Collection of Fault Overpayments	28480	NSC	02/22/2006	Not Printed

## RULES INDEX - BY KEYWORD (SUBJECT)

### ABBREVIATIONS

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KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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<b><u>adjudicative proceedings</u></b>					
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<b><u>administrative procedures</u></b>					
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	28406	R212-3	NSC	01/01/2006	Not Printed
	28407	R212-4	NSC	01/01/2006	Not Printed
Community and Economic Development, Community Development, Library	28343	R223-1	NSC	01/01/2006	Not Printed
<b><u>admission guidelines</u></b>					
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<b><u>air pollution</u></b>					
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	28468	R307-801-5	NSC	02/22/2006	Not Printed

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<b><u>permits</u></b> Natural Resources, Wildlife Resources	28376	R657-42	AMD	01/18/2006	2005-24/27
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<b><u>public library</u></b> Community and Economic Development, Community Development, Library	28344	R223-2	NSC	01/01/2006	Not Printed
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<b><u>regional advisory councils</u></b> Natural Resources, Wildlife Resources	28453	R657-39	5YR	01/09/2006	2006-3/39
<b><u>rehabilitation</u></b> Community and Economic Development, Community Development, History Natural Resources, Wildlife Resources	28410 28456	R212-11 R657-40	NSC 5YR	01/01/2006 01/10/2006	Not Printed 2006-3/40
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<b><u>residential mortgage loan origination</u></b> Commerce, Real Estate	28476	R162-209	5YR	01/30/2006	2006-4/36

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<b><u>transportation commission</u></b> Transportation, Administration	28358	R907-68	NEW	01/04/2006	2005-23/61
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	28382	R657-17	AMD	01/18/2006	2005-24/17
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	28456	R657-40	5YR	01/10/2006	2006-3/40
	28376	R657-42	AMD	01/18/2006	2005-24/27
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