

UTAH STATE BULLETIN

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

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

Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Division of Administrative Rules, 4120 State Office Building, Salt Lake City, Utah 84114-1201, telephone 801-538-3764, FAX 801-359-0759. Additional rulemaking information, and electronic versions of all administrative rule publications are available at: <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

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 March 02, 2010, 12:00 a.m., and March 15, 2010, 11:59 p.m. are included in this, the April 01, 2010 issue of the *Utah State Bulletin*.

In this publication, each **PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **PROPOSED RULE** is usually printed. New rules or additions made to existing rules are underlined (e.g., example). Deletions made to existing rules are struck out with brackets surrounding them (e.g., [~~example~~]). Rules being repealed are completely struck out. A row of dots in the text between paragraphs (.) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not printed. If a **PROPOSED RULE** is too long to print, the Division of Administrative Rules will include only the **RULE ANALYSIS**. A copy of each rule that is too long to print is available from the filing agency or from the Division of Administrative Rules.

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least May 3, 2010. The agency may accept comment beyond this date and will indicate 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 hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through July 30, 2010, the agency may notify the Division of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Division of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE OF a CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses and the agency must start the process over.

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

PROPOSED RULES are governed by Section 63G-3-301; Rule R15-2; and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page

Education, Administration
R277-114
 Corrective Action and Withdrawal or
 Reduction of Program Funds

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 33440

FILED: 03/09/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this new rule is to provide procedures for public education program monitoring by Utah State Office of Education staff and corrective action for noncompliance with identified program requirements, program accountability standards, and financial propriety.

SUMMARY OF THE RULE OR CHANGE: This new rule provides definitions and Utah State Office of Education responsibilities for monitoring programs and program funds for which the Utah State Board of Education has responsibility.

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

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There are no anticipated costs or savings to the state budget. Utah State Office of Education program monitors may devote additional time monitoring programs and program funds but additional responsibilities will be managed by existing staff within existing budgets.

◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local government. There may be additional time required of school districts/charter schools responding to Utah State Office of Education requests for information, but the additional time should be minimal and will be managed by existing school district/charter school staff within existing budgets.

◆ **SMALL BUSINESSES:** There are no anticipated costs or savings to small businesses. Small businesses receiving funding from the state may need to provide information as requested by the Utah State Office of Education which may result in additional staff responsibilities. Small businesses should be able to manage any added requirements with existing staff.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities. Individuals receiving program funding from the state may be requested to provide information by the Utah State

Office of Education which may result in minimal additional efforts by individuals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be speculative negligible costs for affected persons or entities to cooperative with program monitors and comply with this rule.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Carol Lear 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 NO LATER THAN AT 5:00 PM ON 05/03/2010

THIS RULE MAY BECOME EFFECTIVE ON: 05/10/2010

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

R277. Education, Administration.

R277-114. Corrective Action and Withdrawal or Reduction of Program Funds.

R277-114-1. Definitions.

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

B. "Program" for purposes of the rule means a public education project or plan under the direction of the Board, with a specific goal or outcome for which public education funding is provided.

C. "Recipient" means a school district or school district program, charter school or charter school program, contractor, or any other entity that receives program funding as defined in this rule.

D. "State Superintendent" means the State Superintendent of Public Instruction as defined under Section 53A-1-301.

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

R277-114-2. 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 and by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of the rule is to provide procedures for public education program monitoring and corrective action for noncompliance with identified program requirements, program accountability standards, and financial propriety.

R277-114-3. USOE Responsibilities.

A. USOE Directors, coordinators and program specialists shall act as designees of the State Superintendent and shall review compliance with program outcomes and financial propriety.

B. Designated program reviewers shall act and carry out responsibilities consistent with federal requirements, state law and administrative rules.

C. The following minimum procedures shall be followed prior to reducing or withholding funds from a recipient:

(1) The USOE, with assistance from directors, coordinators and program specialists, shall draft and implement a consistent monitoring procedure that includes standards for both recipient program outcomes and financial compliance. This monitoring program shall be communicated to the recipient regularly, and proper documentation of monitoring and compliance procedures conducted by USOE staff shall be maintained at the USOE.

(2) Recipients that do not demonstrate satisfactory outcomes, demonstrate noncompliance with program requirements or allowable program expenditures, or those that do not comply with requests to provide accurate and complete program or financial information enabling determination of compliance may be placed on corrective action.

(3) All courses of action should be discussed with the USOE deputy/associate superintendent who supervises the program, prior to placing recipients on a corrective action plan as follows:

(a) Corrective action plans shall clearly outline all areas of noncompliance and establish a reasonable time frame for the recipient to correct identified issues.

(b) Notification and a copy of the corrective action plan shall be communicated in writing to a program administrator as well as the superintendent/CEO and business administrator of the school district or school district program, charter school or charter school program, contractor, other recipient in question, the USOE deputy/associate superintendent over the program, the USOE internal auditor, and the State Superintendent.

(4) Directors, coordinators and program specialists shall follow up with the recipient to clarify questions and assist the recipient in establishing appropriate corrective measures to further compliance.

(5) If a recipient does not respond or does not satisfy the requirements of the corrective action plan by established deadline(s), the program director, coordinator, or supervisor shall notify the Internal Auditor, who will notify the State Superintendent.

(6) Verification of noncompliance and contact with the recipient to discuss and investigate the issues addressed in the corrective action plan shall be left to the discretion of the State Superintendent, Board Audit Committee and Internal Auditor.

(7) The Board shall determine if and at what level funding for programs may be withheld or terminated by the State Superintendent and when the Board should withhold or terminate a program or validate the State Superintendent's recommendation for withholding or termination of funding.

KEY: programs, noncompliance, corrective action

Date of Enactment or Last Substantive Amendment: 2010

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

Education, Administration **R277-419-3** Minimum School Days, LEA Records, and Audits

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33441

FILED: 03/09/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section R277-419-3, Pupil Accounting, is amended to provide changes to deadlines for data submission to make the rule consistent with a new U.S. Department of Education regulation that requires No Child Left Behind Adequate Yearly Progress (AYP) Reports for schools/LEAs (local education Agency) in program improvement to be released to the public 14 days prior to the beginning of a new school year.

SUMMARY OF THE RULE OR CHANGE: The amended section changes deadlines.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3) and Subsection 53A-1-402(1)(e) and Subsection 53A-1-404(2)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There are no anticipated costs or savings to the state budget. The deadline changes make the rule consistent with a new U.S. Department of Education regulation. The Utah State Board of Education will receive data consistent with the changed deadlines which does not result in any costs or savings.

♦ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local government. School districts/schools will now submit data consistent with the changed deadlines in this rule. Submitting data consistent with the changed deadlines does not result in any costs or savings.

♦ **SMALL BUSINESSES:** There are no anticipated costs or savings to small businesses. The changes to this rule apply to public school districts/schools and do not apply to businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings to persons other

than small businesses, businesses, or local government entities. The changes to this rule apply to public school districts/schools.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. School districts/schools had deadlines in the rule prior to the changes and will continue the same process with the changed deadlines.

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

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

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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 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 NO LATER THAN AT 5:00 PM ON 05/03/2010

THIS RULE MAY BECOME EFFECTIVE ON: 05/10/2010

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

R277. Education, Administration.

R277-419. Pupil Accounting.

R277-419-3. Minimum School Days, LEA Records, and Audits.

A. Minimum standards for school days

(1) LEAs shall conduct school for at least 990 instructional hours and 180 school days each school year; exceptions to the number of school days for individual students and schools are provided for in R277-419-7.

(2) The required school days and hours may be offered at any time during the school year, consistent with the law.

(3) Health Department Emergency or Pandemic

(a) The Board may waive the school day and hour requirement, following a vote of Board members, pursuant to a directive from the Utah State Health Department or a local health department, that results in the closure of a school in the event of a pandemic or other public health emergency.

(b) In the event that the Board is unable to meet in a timely manner, the State Superintendent of Public Instruction may issue a waiver following consultation with a majority of Board members.

(c) The waiver may be for a designated time period and for specific areas, school districts, or schools in the state, as determined by the health department directive.

(d) The waiver may allow for school districts to continue to receive state funds for pupil services and reimbursements.

(e) The waiver by the Board or State Superintendent of Public Instruction shall direct school districts to provide as much notice to students and parents of the suspension of school services, as is reasonably possible.

(f) The waiver shall direct school districts to comply with health department directives, but to continue to provide any services to students that are not inconsistent with the directive.

(g) The Board may encourage school districts to provide electronic or distance learning services to affected students for the period of the pandemic or other public health emergency to the extent of personnel and funds available.

(4) Minimum standards shall apply to all public schools in all settings unless Utah law or this rule provides for specific exceptions. Local boards are encouraged to provide adequate school days and hours in the school district's yearly calendar to avoid the necessity of a waiver request except in the most extreme circumstances.

B. Official records

(1) To determine student membership, LEAs shall ensure that records of daily student attendance are maintained in each school which clearly and accurately show for each student the:

(a) entry date;

(b) exit date;

(c) exit or high school completion status;

(d) whether or not an absence was excused; and

(e) disability status (resource or self-contained, if applicable).

(2)(a) Computerized or manually produced records for Career and Technical Education (CTE) programs shall be kept by teacher, class and Classification of Instructional Program (CIP) code.

(b) These records shall clearly and accurately show for each student in a CTE class the:

(i) entry date;

(ii) exit date; and

(iii) excused or unexcused status of absence.

(3) A minimum of one attendance check shall be made by each public school each school day.

C[+]. Due to school activities requiring schedule and program modification during the first days and last days of the school year[-];

(1) For the first five school days, an LEA may report [~~for the first five days,~~] aggregate days of membership equal to the number recorded for the second five-day period of the school year.

(2) For the last [~~three~~] five-day period, an LEA may report aggregate days of membership equal to the number recorded for the immediately preceding [~~three~~] five-day period.

(3) Schools shall continue instructional activities throughout required calendared instruction days.

D. Audits

(1) An independent auditor shall be employed under contract by each LEA to audit its student accounting records annually and report the findings to the LEA board of education and to the Finance and Statistics Section of the USOE;

(2) Reporting dates, forms, and procedures are found in the State of Utah Legal Compliance Audit Guide, provided to LEAs by the USOE in cooperation with the State Auditor's Office and published under the heading of APP C-5;

(3) The USOE shall review student membership and fall enrollment audits as they relate to the allocation of state funds in accordance with the policies and procedures established in R277-484-7 and 8 and may periodically or for cause review LEA records and practices for compliance with the laws and this rule.

KEY: education finance, school enrollment

Date of Enactment or Last Substantive Amendment: [~~August 7, 2008~~2010

Notice of Continuation: October 5, 2007

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-1-402(1)(e); 53A-1-404(2); 53A-1-301(3)(d); 53A-3-404; 53A-3-410

Education, Administration
R277-470
Charter Schools

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 33442
FILED: 03/09/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to remove language requiring parental involvement on a satellite charter school's governing board consistent with the intent of the Legislature. Other minor wording changes for clarification purposes and terminology changes are also in the amended rule.

SUMMARY OF THE RULE OR CHANGE: The changes include adding a word in the definition of Expansion, removing dates in Sections R277-470-4 and R277-470-5 of the rule, changing the name of a required plan in Section R277-470-11 of the rule, and removing language requiring parental involvement on a satellite charter school's governing board in Section R277-470-15 of the rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-1a-513 and Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There are no anticipated costs or savings to the state budget for the procedural change to the rule that makes the rule consistent with Legislative intent and action.

◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to charter schools for the procedural changes to the rule.

◆ **SMALL BUSINESSES:** There are no anticipated costs or savings to small businesses. The changes relate to public charter schools and do not involve small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings to persons other than small business, businesses, or local government entities. The changes are procedural and relate to public charter schools and do not require anything of individuals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Complying with the procedural changes relating to governing board members on a satellite charter do not involve any 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.

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 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 NO LATER THAN AT 5:00 PM ON 05/03/2010

THIS RULE MAY BECOME EFFECTIVE ON: 05/10/2010

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

R277. Education, Administration.

R277-470. Charter Schools.

R277-470-1. Definitions.

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

B. "Charter schools" means schools acknowledged as charter schools by local boards of education under Section 53A-1a-515 and this rule or by the Board under Section 53A-1a-505.

C. "Charter school application" means the official chartering document by which a prospective charter school seeks recognition and funding under Section 53A-1a-505. The application includes the basic elements of the charter to be established between the charter school and the chartering board.

D. "Charter school deficiencies" means the following information:

(1) a charter school is not satisfying financial obligations as required by Section 53A-1a-505 in the charter school's written contractual agreement;

(2) a charter school is not providing required documentation following reasonable warning;

(3) compelling evidence of fraud or misuse of funds by charter school governing board members or employees.

E. "Charter school founding member" or "founding member" means an individual who had a significant role in the initial development of the charter school up until the first instructional day of school, the first year of operation, as submitted in writing to the State Charter School Board the first day of operation.

F. "Charter school governing board" means the board designated by the charter school to make decisions for the operation of the school similar to a local board of education.

G. "Days" means calendar days, unless specifically designated.

H. "Expansion" means a proposed ten percent increase of students or adding grade level(s) in an operating charter school at a single location.

I. "Local education agency (LEA)" means a local board of education, combination of school districts, other legally constituted local school authority having administrative control and direction of free public education within the state, or other entities as designated by the Board, and includes any entity with state-wide responsibility for directly operating and maintaining facilities for providing public education.

J. "Northwest Association of Accredited Schools (NAAS) accreditation" means the formal process for evaluation and approval under the Standards for Accreditation of the Northwest Association of Accredited Schools or the accreditation standards of the Board, available from the Utah State Office of Education Accreditation Specialist. Accreditation ensures that the credits/diploma a student earns is the result of a quality educational experience. The purpose of accreditation is to ensure excellence in education by holding schools accountable to rigorous standards and a process of continued improvement.

K. "Neighborhood or traditional school" for purposes of this rule, means a public, non-charter school.

L. "New charter school" as provided in Section 53A-21-401(5)(d) means any charter school through the first day of its second year with students, or a satellite school that requires a new location/campus.

M. "No Child Left Behind (NCLB)" means the federal law under the Elementary and Secondary Education Act, Title IX, Part A, 20 U.S.C. 7801.

N. "On-going funds" means funds that are appropriated annually by the Legislature with the expectation that the funds shall continue to be appropriated annually.

O. "Satellite school" means a charter school affiliated with an operating charter school having a common governing board and a similar program of instruction, but located at a different site or in a different geographical area. The parent school and all satellites shall be considered a single local education agency (LEA) for purposes of public school funding and reporting.

P. "State Charter School Board" means the board designated in Section 53A-1a-501.5.

Q. "Subaccount" means the Charter School Building Subaccount consisting of funds provided under 53A-21-401(5)(b).

R. "Subaccount Committee" means the committee established by the Superintendent under Section 53A-21-401(6).

S. "Superintendent" means the State Superintendent of Public Instruction as designated under 53A-1-301.

T. "Urgent facility need" as provided in Section 53A-21-401(5)(d) means an unexpected exigency that affects the health and safety of students such as:

(1) to satisfy an unforeseen condition that precludes a school's qualification for an occupancy permit; or

(2) to address an unforeseen circumstance that keeps the school from satisfying provisions of public safety, public health or public school code.

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

V. "Weighted Pupil Unit (WPU)" means the unit of measure that is computed in accordance with the Minimum School Program Act for the purpose of distributing revenue on a uniform basis for each pupil.

R277-470-4. Charter School Orientation and Training.

A. ~~[Beginning with the 2006-2007 school year, a]~~ All charter school applicants shall attend orientation/training sessions designated by the State Charter School Board.

B. Orientation meetings shall be scheduled at least quarterly and be available electronically, as determined by the State Charter School Board.

C. Charter schools and applicants that attend orientation/training sessions shall be eligible for additional funds, upon approval, in an amount to be determined by the State Charter School Board provided through federal charter school funds or a General Fund appropriation to the extent of funds available. Charter school applicants that attend training and orientation sessions may receive priority for approval from the State Charter School Board and the Board.

D. Orientation/training sessions shall provide information including:

(1) charter school implementation requirements;

(2) charter school statutory and Board requirements;

(3) charter school financial and data management requirements;

(4) charter school legal requirements;

(5) federal requirements for charter school funding; and

(6) other items as determined by the State Charter School

Board.

R277-470-5. New or Expanding Charter School Notification to Prospective Students and Parents.

A. All charter schools opening or expanding by at least ten percent of overall enrollment or adding one or more grade levels~~[after July 1, 2007]~~ shall notify all families consistent with the schools' outreach plans described in the charter agreements of:

(1) a new or expanding charter school's purpose, focus and governance structure, including names, qualifications, and contact information of governing board members;

(2) the number of new students that will be admitted into the school by grade;

(3) the proposed school calendar for the charter school including at a minimum the first and last days of school, scheduled holidays, pre-scheduled professional development days (no student attendance), and other scheduled non-school days;

(4) the charter school's timelines for acceptance or rejection of new students consistent with Section 53A-1a-506.5;

(5) a State-approved student charter school application (beginning with the 2008-09 school year);

(6) procedures for transferring to or from a charter school, together with applicable timelines; and

(7) provide for payment, if required, of a one-time fee per secondary school enrollment, not to exceed \$5.00, consistent with Section 53A-12-103.

B. Charter schools shall provide written notice of the information in R277-470-5A consistent with the school's outreach plan and at least 180 days before the proposed opening day of school.

C. Charter schools shall have an operative and readily accessible electronic website providing information required under R277-470-5A in place. The completed charter school website shall be provided to the State Charter School Board at least 180 days prior to the proposed opening day of school. The State Charter School Board shall require new charter schools to have websites that may be reviewed by the State Charter School Board prior to the schools posting the websites publicly.

R277-470-11. Charter Schools and NCLB Funds.

A. Charter schools that desire to receive NCLB funds shall comply with the requirements of R277-470-11.

B. To obtain its allocation of NCLB formula funds, a charter school shall complete all appropriate sections of the [~~Consolidated Utah Student Achievement Plan (CUSAP)~~]Utah Consolidated Application (UCA) and identify its economically disadvantaged students in the October upload of the Data Clearinghouse.

C. If the school does not operate a federal school lunch program, the school:

(1) shall determine the economically disadvantaged status for its students on the basis of criteria no less stringent than those established by the U.S. Department of Agriculture for identifying students who qualify for reduced price lunch for the fiscal year in question; or

(2) may use the Charter School Declaration of Household Income form provided by the USOE for this purpose.

D. A school which does not use the form shall maintain equivalent documentation in its records, which may be subject to audit.

R277-470-13. Charter School Oversight and Monitoring.

A. The State Charter School Board shall provide direct oversight to the state's board chartered schools, including:

(1) requiring that all charter schools shall be members of and accredited by NAAS;

(2) annual review of student achievement indicators for all schools, disaggregated for various student subgroups;

(3) quarterly review of summary financial records and disbursements and student enrollment;

(4) annual review conducted through site visits or random audits of personnel matters such as employee licensure and evaluations;

(5) regular review of other matters specific to effective charter school operations as determined by the USOE charter school staff; ~~and~~

(6) audits and investigations of claims of fraud or misuse of public assets or funds; and

(7) requiring that charter schools are in compliance with their charter agreement, as maintained by the USOE. It is presumed that the charter agreement maintained by the USOE is the final, official and complete agreement.

B. The Board retains the right to review or repeal charter school authorization based upon factors that may include:

(1) financial deficiencies or irregularities; or

(2) persistently low student achievement inconsistent with comparable schools; or

(3) failure of the charter school to comply with state law, Board rules, or directives; or

(4) failure to comply with currently approved charter commitments.

C. All charter schools shall amend their charters to include the following statement:

To the extent that any charter school's charter conflicts with applicable federal or state law or rule, the charter shall be interpreted and enforced to comply with such law or rule and all other provisions of the charter school shall remain in full force and effect.

D. District charter school authorizers shall:

(1) visit a charter school at least once during its first year of operation;

(2) visit a charter school as determined in the review process; and

(3) provide written reports to the charter schools after the visits.

R277-470-14. Approved Charter School Expansion.

A. The following shall apply to requests for expansion for approved and operating charter schools:

(1) The school satisfies all requirements of state law and Board rule.

(2) The approved Charter Agreement shall provide for an expansion consistent with the request; or

(3) The charter school governing board has submitted a formal amendment request to the State Charter School Board that provides documentation that:

(a) the school district in which the charter school is located has been notified of the proposed expansion in the same manner as required in Section 53A-1[s]a-505(1);

(b) the school can accommodate the expansion within existing facilities or that necessary structures will be completed, meeting all requirements of law and Board rule, by the proposed date of operation;

(c) the school currently satisfies all requirements of state law and Board rule including adequate insurance, adequate parental involvement, compliance with all fiscal requirements, and adequate services for all special education students at the school;

(d) students at the school are performing on standardized assessments at an acceptable level with stable scores or scores showing an upward trend;

(e) adequate qualified administrators and staff shall be available to meet the needs of the increased number of students at the time the expansion is implemented.

B. The charter school governing board shall file a request with the State Charter School Board for an expansion no later than April 1 two years prior to the date of the proposed implementation of the expansion.

C. Expansion requests shall be considered by the State Charter School Board as part of the total number of charter school students allowed under 53A-1a-502.5(1).

R277-470-15. Satellite School for Approved Charter Schools.

A. An existing charter school may submit an amendment request to the State Charter School Board for a satellite school no later than April 1 two years prior to the date of the proposed implementation of the satellite if the charter school fully satisfies the following:

(1) The school currently satisfies all requirements of state law and Board rule including adequate insurance, adequate parental involvement, compliance with all fiscal requirements, and adequate services for all special education students at the school;

(2) The school has operated successfully for at least three years;

(3) Students at the school are performing on standardized assessments at an acceptable level with stable scores or scores showing an upward trend;

(4) The proposed satellite school will provide educational services, assessment, and curriculum consistent with the services, assessment, and curriculum currently being offered at the existing charter school;

(5) The school shall be financially stable; there have been no repeat findings of deficiencies on required outside audits for at least two consecutive years;

(6) Adequate qualified administrators, including at least one onsite administrator, and staff are available to meet the needs of the proposed student population at the satellite site school;

(7) The school has had an audit by Charter School Section staff regarding performance of the current charter agreement, contractual agreements, and financial records; and

(8) The school provides any additional information or documentation requested by the Charter School Section staff or the Board.

(9) A satellite school that receives School LAND Trust funds shall have a School LAND Trust committee and satisfy all requirements for School LAND Trust committees consistent with R277-477.

B. The satellite school amendment request shall include the following:

(1) Written certification from the charter school governing board that the charter school currently satisfies all requirements of state law and Board rule;

(2) A detailed explanation of the governance structure for the satellite school, including appointed[;]_or elected [~~and parent~~] representation on the governing board, parental involvement and professional staff involvement in implementing the educational plan[~~]. The applicant charter school shall include at least two voting~~

~~parent members representing the parents of students at the satellite school on its governing board; at least one parent shall be elected by parents of students attending the satellite school];~~

(3) Information detailing the grades to be served, the number of students to be served and general information regarding the physical facilities anticipated to serve the school;

(4) A detailed financial plan for the satellite school;

(5) A signed acknowledgment by the charter school governing board certifying board members' understanding that a physical site for the building must be secured no later than January 1 of the year the satellite school is scheduled to open;

(a) the securing of the building site must be verified by a real estate closing document, signed lease agreement, or other contract indicating a right of occupancy pursuant to R277-470-7C;

(b) failure to secure a site by the required date may, at the discretion of the State Charter School Board, delay the opening of the satellite school for at least one academic year.

(6) Notification to both the school district in which the charter school is located and the school district of the proposed satellite school location in the same manner as required in Section 53A-1a-505(1);

(7) Written certification that no later than 15 days after securing a building site, the charter school governing board shall notify the school district in which the charter school satellite school is located of the school location, grades served, and anticipated enrollment by grade with a copy of the notification sent to the State Charter School Board; and

(8) A signed acknowledgment by the charter school governing board that the board understands the satellite school shall be held accountable for its own AYP report and disaggregated financial data and reports.

C. The approval of the satellite school by the State Charter School Board requires ratification by the State Board of Education and will expire 24 months following such ratification if a building site has not been secured for the satellite school.

D. A charter school may not apply for more than three satellite locations.

KEY: education, charter schools

Date of Enactment or Last Substantive Amendment:
[~~November 9, 2009~~]**2010**

Notice of Continuation: October 10, 2008

Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53A-1a-515; 53A-1a-505; 53A-1a-513; 53A-1a-502; 53A-1-401(3); 53A-1a-510; 53A-1a-509; 41-6-115; 53A-1a-506; 53A-21-401; 53A-1a-519; 53A-1a-520; 53A-1a-501.5; 53A-1-301; 53A-1a-502.5; 53A-1a-506.5; 53A-12-103; 53A-11-504; 53A-11-903; 53A-11-904; 53A-1a-511; 53A-1-302 and 303; 53A-17a;109; 53-8-211; 62A-4a-403; 53A-11-605

Education, Administration
R277-484
Data Standards

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33443

FILED: 03/09/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide changes to deadlines for data submission to make the rule consistent with a new U.S. Department of Education regulation that requires No Child Left Behind Adequate Yearly Progress (AYP) Reports for schools/LEAs (local education Agency) in program improvement to be released to the public 14 days prior to the beginning of a new school year.

SUMMARY OF THE RULE OR CHANGE: The amended rule changes deadlines.

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

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There are no anticipated costs or savings to the state budget. The deadline changes make the rule consistent with a new U.S. Department of Education regulation. The state will receive data consistent with the changed deadlines which does not result in any costs or savings.

◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local government. School districts/schools will now submit data consistent with the changed deadlines in this rule. Submitting data consistent with the changed deadlines does not result in any costs or savings.

◆ **SMALL BUSINESSES:** There are no anticipated costs or savings to small businesses. The changes to this rule apply to public school districts/schools and do not apply to businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings to persons other than small businesses, businesses, or local government entities. The changes to this rule apply to public school districts/schools.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. School districts/schools have complied with deadlines in the rule prior to the changes and will continue the same process with changed deadlines.

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

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

EDUCATION
ADMINISTRATION

250 E 500 S

SALT LAKE CITY, UT 84111-3272

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Carol Lear 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 NO LATER THAN AT 5:00 PM ON 05/03/2010

THIS RULE MAY BECOME EFFECTIVE ON: 05/10/2010

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

R277. Education, Administration.**R277-484. Data Standards.****R277-484-1. Definitions.**

A. "Annual Financial Report" means an account of LEA revenue and expenditures by source and fund sufficient to meet the reporting requirements specified in Section 53A-1-301(3)(d) and (e).

B. "Annual Program Report" means an account of LEA revenue and expenditures by source and program sufficient to meet the reporting requirements specified in Section 53A-1-301(3)(d) and (e).

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

D. "Computer Aided Credentials of Teachers in Utah System (CACTUS)" means the database maintained on all licensed Utah educators. The database includes information such as:

- (1) personal directory information;
- (2) educational background;
- (3) endorsements;
- (4) employment history;
- (5) professional development information;
- (6) completion of employee background checks; and
- (7) a record of disciplinary action taken against the educator.

E. "Data Clearinghouse File" means the electronic file of student level data submitted by LEAs to the USOE in the layout specified by the USOE. This definition is effective until July 1, 20[40]11.

F. "Data Warehouse" means the database of demographic information, course taking, and test results maintained by the USOE on all students enrolled in Utah schools.

G. "EDEN" means the Education Data Exchange Network, the mechanism by which state education agencies are mandated as of the 2008-09 school year to submit data to the U.S. Department of Education.

H. "ESEA" means the federal Elementary and Secondary Education Act, also known as the No Child Left Behind Act.

I. "LEA" means local education agency, which may be either a public school district or a charter school.

J. "MSP" means Minimum School Program, the set of state support K-12 public school funding programs.

K. "MST" means Mountain Standard Time.

L. "USOE" means Utah State Office of Education.

M. "Utah eTranscript and Record Exchange (UTREx)" means a system that allows individual detailed student records to be exchanged electronically among Utah public schools and LEAs and the USOE, and allows electronic transcripts to be sent to any participating post-secondary institution. This definition becomes effective on July 1, 20[+0]11.

N. "Year" means both the school year and the fiscal year for LEAs in Utah, which runs from July 1 through June 30.

O. "YICISIS" means the Youth In Custody Student Information System.

R277-484-3. Deadlines for Data Submission.

For the purpose of submission of student level data, each LEA shall participate in UTREx as of July 1, 20[+0]11. LEAs shall submit data to the USOE through the following reports by 5:00 p.m. MST on the date and in the format specified by the USOE:

A. February 28 - Community Development and Renewal Agency and/or Redevelopment Agency Taxing Entity Committee Representative List - Business Services.

B. June 15

(1) Immunization Status Report (to Utah Department of Health) - final;

(2) Safe School Incidents Report - for current year.

C. June 29 - CACTUS - final update for current year.

D. July 7

(1) Data Clearinghouse File - final comprehensive update for prior year - Data Assessment, and Accountability - effective until July 1, 2011;

(2) UTREx - final comprehensive update for prior year - Data Assessment, and Accountability - effective on July 1, 2011.

~~[D]E. July 15~~

~~(1) Adult Education - final report for prior year;~~

~~(2) Bus Driver Credentials Report - for current year - Business Services;~~

~~(3) Classified Personnel Report - for prior year - Business Services;~~

~~[(4) Data Clearinghouse File - final comprehensive update for prior year - Data Assessment, and Accountability - effective until July 1, 2010;~~

~~-(5) UTREx - final comprehensive update for prior year - Data Assessment, and Accountability - effective on July 1, 2010;~~

~~][[6]4) Driver Education Report - for prior year - Educator Quality;~~

~~[(7]5) ESEA Choice and Supplemental Services Report - for prior year;~~

~~[(8]6) Fee Waivers Report - for prior year;~~

~~[(9]7) Fire Drill Compliance Statement - for prior year;~~

~~[(+0]8) Home Schooled Students Report - for prior year;~~

~~[(+1]9) Teacher Benefits Report - for prior year;~~

~~[(+2]10) Pupil Transportation Statistics - for prior year;~~

~~(a) Bus Inventory Report;~~

~~(b) Year End Pupil Transportation Statistics Reports.~~

~~[E]E. September 15~~

~~(1) Membership Audit Report - for prior year;~~

~~(2) Adult Education - Financial Audit for prior year.~~

~~[F]G. October 1~~

~~(1) Annual Financial Report (AFR) - for prior year;~~

~~(2) Annual Program Report (APR) - for prior year.~~

~~[G]H. October 15~~

~~(1) Data Clearinghouse File - update as of October 1 for current year - effective until July 1, 20[+0]11;~~

~~[(+2) UTREx - update as of October 1 for current year - effective on July 1, 20[+0]11;~~

~~[(2]3) YICISIS - update as of October 1 for current year.~~

~~[H]I. November 1~~

~~(1) Enrollment and Transfer Student Documentation Audit Report - for current year;~~

~~(2) Immunization Status Report - for current year;~~

~~(3) Pupil Transportation Statistics for state funding;~~

~~(a) Schedule A1 (Miles, Minutes, Students Report) - projected for current year;~~

~~(b) Schedule B (Miscellaneous Expenditure Report) - for prior year;~~

~~(4) Negotiations report - for current year.~~

~~[I]J. November 15~~

~~(1) CACTUS - update for current year; and~~

~~(2) Free and Reduced Price Lunch Enrollment Survey - as of October 31 for current year.~~

~~[J]K. November 30 - Financial Audit Report - for prior year.~~

~~[K]L. December 15 - Data Clearinghouse File - update as of December 1 for current year - effective until July 1, 20[+0]11.~~

~~[L]M. December 15 - UTREx - update as of December 1 for current year - effective on July 1, 20[+0]11.~~

R277-484-4. Adjustments to Deadlines.

A. Deadlines that fall on a weekend or state holiday in a given year shall be moved to the date of the first workday after the date specified in Section 3 for that year.

B. An LEA may seek an extension of a deadline to ensure continuation of funding and provide more accurate input to allocation formulas by submitting a written request to the USOE. The request shall be received by the USOE State Director of School Finance and Statistics at least 24 hours before the specified deadline in Section 3 and include:

(1) The reason(s) why the extension is needed;

(2) The signatures of the LEA business administrator and the district superintendent or charter school director; and

(3) The date by which the LEA shall submit the report.

C. In processing the request for the extension, the USOE State Director of School Finance and Statistics shall:

(1) Take into consideration the pattern of LEA compliance with reporting deadlines and the urgency of the use which depends on the data to be submitted, consult with other USOE staff who have knowledge relevant to the situation of the LEA; and either

(2) Approve the request and allow the MSP fund transfer process to continue; or

(3) Recommend denial of the request and forward it the USOE Associate Superintendent for Business Services for a final decision on whether to stop the MSP fund transfer process.

D. If, after receiving an extension, the LEA fails to submit the report by the agreed date, the MSP fund transfer process shall be stopped and the procedure described in Section 8 shall apply.

E. Extensions shall apply only to the report(s) and date(s) specified in the request.

F. Exceptions - Deadlines for the following reports may not be extended:

(1) June 29 CACTUS Update;

(2) July ~~[+5]~~ Final Data Clearinghouse File - final comprehensive update for prior year- Data Assessment, and Accountability - effective until July 1, 20~~[+0]~~11;

(3) July ~~[+5]~~ UTREx - final comprehensive update for prior year - Data Assessment, and Accountability - effective on July 1, 20~~[+0]~~11;

(4) November 15 CACTUS - update for current year.

KEY: data standards, reports, deadlines, research data requests

Date of Enactment or Last Substantive Amendment: ~~[May 8, 2009]~~2010

Notice of Continuation: June 2, 2008

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-1-301(3)(d) and (e)

Environmental Quality, Air Quality R307-214 National Emission Standards for Hazardous Air Pollutants

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33427

FILED: 03/04/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Rule R307-214 incorporates by reference several sections of Title 40 of the Code of Federal Regulations (40 CFR) Parts 61 and 63. The version of the CFR for environmental regulations has been updated to July 1, 2009; therefore it is necessary to update Rule R307-214.

SUMMARY OF THE RULE OR CHANGE: The following is a list of changes to 40 CFR from July 1, 2007, to July 1, 2009, that affect Rule R307-214. Federal Register / Vol. 73, No. 65 / Thursday, April 3, 2008 / Page 18167. Action added a table identifying delegations for Arizona. Federal Register / Vol. 74, No. 95 / Tuesday, May 19, 2009 / Page 23326. Action modified a table identifying delegations for Arizona. Federal Register / Vol. 72, No. 246 / Wednesday, December 26, 2007 / Page 73197. Action added by reference citations for documents available for purchase that relate to Part 63. Federal Register / Vol. 72, No. 208 / Monday, October 29, 2007 / Page 61062. Action added test methods ASTM D6348-03, NCASI Method IM/CANMP-99.02 and NCASI

Method ISS/FP A105 applicable to Subpart DDDD. Federal Register / Vol. 72, No. 221 / Friday, November 16, 2007 / Page 64897. Action incorporated by reference ASTM D6348-99 for determination of gaseous organic compounds by GC/MS affecting CFR Title 40 Part 61, and Part 63 Subpart EEEE. Federal Register / Vol. 72, No. 248 / Friday, December 28, 2007 / Page 74111. Action added test methods ASTM D2216-05 for determination of soil moisture affecting Subpart A and ANSI/ASME PTC 19.10-1981 for flue and exhaust gas analyses affecting Subparts IIII, JJJJ, KKKKK, NNNN, OOOO, QQQQ, SSSS, PPPPP, YYYYY, GGGGGG, FFFFFFF, NNNNNN and Table 5 DDDDD. Federal Register / Vol. 73, No. 1 / Wednesday, January 2, 2008 / Page 252. Action added test method ANSI/ASME PTC 19.10-1981 affecting Subparts IIII, JJJJ, KKKKK, NNNN, OOOO, QQQQ, SSSS, PPPPP, YYYYY, GGGGGG, FFFFFFF, NNNNNN and Table 5 subpart DDDDD and Table 1 subpart ZZZZZ. Federal Register / Vol. 73, No. 6 / Wednesday, January 9, 2008 / Page 1759. Action inserted citations of documents available to States. Federal Register / Vol. 73, No. 7 / Thursday, January 10, 2008 / Page 1933. Action inserted citations of documents available to States. Federal Register / Vol. 73, No. 13 / Friday, January 18, 2008 / Page 3603. Action inserted citations of documents available to States. Federal Register / Vol. 73, No. 26 / Thursday, February 7, 2008 / Page 7218. Action inserted citations of documents available States. Federal Register / Vol. 73, No. 46 / Friday, March 7, 2008 / Page 12276. Action redesignated a few paragraph numberings. Federal Register / Vol. 73, No. 88 / Tuesday, May 6, 2008 / Page 24871. Action added address information for EPA Region VIII. Federal Register / Vol. 73, No. 63 / Tuesday, April 1, 2008 / Page 17256. Action specified equipment and certain operating parameters that make dry-to-dry machines applicable in Subpart M. Federal Register / Vol. 73, No. 63 / Tuesday, April 1, 2008 / Page 17257. Action required owners and operators to monitor temperature and pressure if a refrigerated condenser and carbon adsorber equipment is used. Federal Register / Vol. 73, No. 63 / Tuesday, April 1, 2008 / Page 17257. Action required reporting of monitoring results if refrigerated condenser and carbon adsorber is used. Federal Register / Vol. 73, No. 68 / Tuesday, April 8, 2008 / Page 18979. Action set standards for hazardous waste incinerators in affect until compliance with other standards are met. Federal Register / Vol. 73, No. 68 / Tuesday, April 8, 2008 / Page 18979. Action set standards for hazardous waste burning cement kilns. Federal Register / Vol. 73, No. 68 / Tuesday, April 8, 2008 / Page 18979. Action set standards for hazardous waste burning lightweight kilns. Federal Register / Vol. 73, No. 68 / Tuesday, April 8, 2008 / Page 18979. Action set standards and operating requirements for solid fuel boilers, liquid fuel boilers and hydrochloric acid production furnaces that burn hazardous waste. Federal Register / Vol. 73, No. 68 / Tuesday, April 8, 2008 / Page 18981. Action revised monitoring requirements. Federal Register / Vol. 73, No. 68 / Tuesday, April 8, 2008 / Page 18980. Action revised performance testing requirements. Federal Register / Vol. 73, No. 68 / Tuesday, April 8, 2008 / Page 18982. Action revised requirements pertaining to NIC. Federal Register / Vol. 73,

No. 68 / Tuesday, April 8, 2008 / Page 18982. Action revised notification requirements. Federal Register / Vol. 73, No. 68 / Tuesday, April 8, 2008 / Page 18982. Action added a definition for 1-Hour Average HCl-Equivalent Emission Rate and revised health-based compliance alternatives for total chlorine. Federal Register / Vol. 73, No. 68 / Tuesday, April 8, 2008 / Page 18983. Action revised standards for liquid fuel boilers that burn hazardous waste. Federal Register / Vol. 72, No. 208 / Monday, October 29, 2007 / Page 61062. Action revised introductory text affecting when existing affected sources have to comply with this subpart. Federal Register / Vol. 72, No. 208 / Monday, October 29, 2007 / Page 61063. Action removed Appendices B and C. Federal Register / Vol. 73, No. 79 / Wednesday, April 23, 2008 / Page 21830. Action revised work practice requirements for owners and operators of a transfer rack at a facility where the total actual annual loading volume is less than 800,000 gallons. Federal Register / Vol. 73, No. 79 / Wednesday, April 23, 2008 / Page 21830. Action revised requirements for emission sources not requiring control. Federal Register / Vol. 73, No. 79 / Wednesday, April 23, 2008 / Page 21830. Action revised the date when performance test and initial compliance demonstrations are required. Federal Register / Vol. 73, No. 79 / Wednesday, April 23, 2008 / Page 21830. Action revised emission limitations, operating limits, and work practice standards that must be met. Federal Register / Vol. 73, No. 79 / Wednesday, April 23, 2008 / Page 21831. Action revised requirements for performance test and design evaluations for existing, reconstructed, or new affected sources using nonflare control device to comply with emission limits. Federal Register / Vol. 73, No. 79 / Wednesday, April 23, 2008 / Page 21832. Action revised requirements for showing initial compliance for existing, reconstructed, or new affected sources. Federal Register / Vol. 73, No. 79 / Wednesday, April 23, 2008 / Page 21833. Action amended initial compliance requirements with work practice standards. Federal Register / Vol. 73, No. 13 / Friday, January 18, 2008 / Page 3603. Action revised explanation of the purpose of subpart ZZZZ and criteria for sources that will be subject to this subpart. Federal Register / Vol. 73, No. 13 / Friday, January 18, 2008 / Page 3604. Action revised and amended the parts of a plant that are covered by this subpart. Federal Register / Vol. 73, No. 13 / Friday, January 18, 2008 / Page 3604. Action amended and revised when compliance to this subpart is required. Federal Register / Vol. 73, No. 13 / Friday, January 18, 2008 / Page 3605. Action revised emission limitations and operating limitations for stationary RICE with a site rating of more than 500 brake HP located at a major source. Federal Register / Vol. 73, No. 13 / Friday, January 18, 2008 / Page 3605. Action added emission limitations on 4SLB stationary RICE with a site rating of greater than or equal to 250 brake HP and less than 500 HP located at a major source. Federal Register / Vol. 73, No. 13 / Friday, January 18, 2008 / Page 3605. Action amended the date for conducting initial performance tests or other initial compliance demonstration for stationary RICE with a site rating of more than 500 brake HP located at a major source. Federal Register / Vol. 73, No. 13 / Friday, January 18, 2008 / Page 3605. Action added requirements for "by what date"

initial performance tests and other initial compliance demonstrations had to be conducted for stationary RICE with a site rating of greater than or equal to 250 and less than or equal to 500 brake HP located at a major source. Federal Register / Vol. 73, No. 13 / Friday, January 18, 2008 / Page 3606. Action added a requirement to install a non-resettable hour meter prior to start up of new or reconstructed emergency 4SLB stationary RICE with a sited rating of greater than or equal to 250 and less than or equal to 500 brake HP at major sources. Federal Register / Vol. 73, No. 13 / Friday, January 18, 2008 / Page 3606. Action revised requirements in the demonstration of continuous compliance with emission limitations and operating limitations. Federal Register / Vol. 73, No. 13 / Friday, January 18, 2008 / Page 3606. Action revised what notifications have to be submitted. Federal Register / Vol. 73, No. 13 / Friday, January 18, 2008 / Page 3606. Action revised what parts of the General Provisions apply. Federal Register / Vol. 73, No. 13 / Friday, January 18, 2008 / Page 3607. Action revised emission limitations for existing, new, and reconstructed spark ignition, 4SRB stationary RICE greater than 500 HP at major sources. Federal Register / Vol. 73, No. 13 / Friday, January 18, 2008 / Page 3607. Action added definitions for "compression ignition", "gasoline", and "spark ignition"; removed definitions for "compression ignition engine and "spark ignition engine". Federal Register / Vol. 73, No. 13 / Friday, January 18, 2008 / Page 3608. Action revised emission limitations and operating limitations for new and reconstructed 2SLB and compression ignition stationary RICE greater than 500HP and 4SLB stationary RICE equal to or greater than 250 HP at major sources. Federal Register / Vol. 73, No. 13 / Friday, January 18, 2008 / Page 3609. Action revised requirements for performance tests. Federal Register / Vol. 73, No. 13 / Friday, January 18, 2008 / Page 3610. Action revised requirements of applicability to General Provisions. Federal Register / Vol. 73, No. 13 / Friday, January 18, 2008 / Page 7218. Action revised criteria establishing when a source is a major source based on emission and potential emission. Federal Register / Vol. 73, No. 13 / Friday, January 18, 2008 / Page 7218. Action revised work practice standards. Federal Register / Vol. 73, No. 13 / Friday, January 18, 2008 / Page 7218. Action revised operation and maintenance requirements. Federal Register / Vol. 73, No. 13 / Friday, January 18, 2008 / Page 7218. Action revised emission limitations. Federal Register / Vol. 73, No. 13 / Friday, January 18, 2008 / Page 7219. Action revised when subsequent performance test are required. Federal Register / Vol. 73, No. 13 / Friday, January 18, 2008 / Page 7219. Action revised test methods and other procedures that must be used to demonstrate initial compliance with emissions limitations. Federal Register / Vol. 73, No. 13 / Friday, January 18, 2008 / Page 7221. Action revised procedures that must be used to establish operating limits. Federal Register / Vol. 73, No. 13 / Friday, January 18, 2008 / Page 7221. Action revised how to demonstrate initial compliance with emission limitations. Federal Register / Vol. 73, No. 13 / Friday, January 18, 2008 / Page 7221. Action revised monitoring requirements. Federal Register / Vol. 73, No. 13 / Friday, January 18, 2008 / Page 7221. Action

revised the installation, operation, and maintenance requirements for monitors. Federal Register / Vol. 73, No. 13 / Friday, January 18, 2008 / Page 7222. Action revised how to demonstrate continuous compliance with the emission limitations. Federal Register / Vol. 73, No. 13 / Friday, January 18, 2008 / Page 7222. Action revised what notifications are required. Federal Register / Vol. 73, No. 13 / Friday, January 18, 2008 / Page 7222. Action added immediate start up, shutdown, and malfunction reporting requirements. Federal Register / Vol. 73, No. 13 / Friday, January 18, 2008 / Page 7222. Action revised what report must be kept. Federal Register / Vol. 73, No. 13 / Friday, January 18, 2008 / Page 7222. Action revised the definition of "deviation," "scrap preheater," and added definitions for "offblast," "onblast," and "total metal HAP." Federal Register / Vol. 73, No. 13 / Friday, January 18, 2008 / Page 7223. Action revised applicability of General Provisions. Federal Register / Vol. 72, No. 248 / Friday, December 28, 2007 / Page 73622. Part 63 was amended by adding subpart WWWWWW - National Emission Standards for Hospital Ethylene Oxide Sterilizers. Federal Register / Vol. 72, No. 248 / Friday, December 28, 2007 / Page 74111. Part 63 was amended by adding subpart YYYYYY - National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities. Federal Register / Vol. 73, No. 1 / Wednesday, January 2, 2008 / Page 252. Part 63 was amended by adding subpart ZZZZZZ - National Emission Standards for Hazardous Air Pollutants from Iron and Steel Foundries Area Sources. Federal Register / Vol. 73, No. 7 / Thursday, January 10, 2008 / Page 1933. Part 63 was amended by adding a new subpart BBBBBB - National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities. Federal Register / Vol. 73, No. 7 / Thursday, January 10, 2008 / Page 1945. Part 63 was amended by adding a new subpart CCCCCC - National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities. Federal Register / Vol. 73, No. 123 / Wednesday, June 25, 2008 / Page 35944. Subpart CCCCCC was amended to include revisions to the introductory text containing compliance dates of affected sources. Federal Register / Vol. 73, No. 123 / Wednesday, June 25, 2008 / Page 35944. Subpart CCCCCC was amended, revisions to Table 1 requiring the installation of pressure/vacuum (PV) vent valves. Federal Register / Vol. 72, No. 127 / Tuesday, July 3, 2007 / Page 36367. Action revised standards and compliance requirements for existing sources using batch copper converters. Federal Register / Vol. 72, No. 127 / Tuesday, July 3, 2007 / Page 36367. Action revised what General Provisions apply. Federal Register / Vol. 72, No. 127 / Tuesday, July 3, 2007 / Page 36367. Action specifies that a secondary copper smelter is a new affected source if its construction or reconstruction was commenced on or after October 6, 2006. Federal Register / Vol. 72, No. 135 / Monday, July 16, 2007 / Page 38899. Part 63 was amended by adding subpart LLLLLL - National Emission Standards for Hazardous Air Pollutants for Acrylic and Modacrylic Fibers Productions Area Sources. Federal Register / Vol. 73, No. 59 / Wednesday, March 26, 2008 /

Page 15928. Subpart LLLLLL was amended, revision to 63.11399 giving EPA authority to implement Subpart LLLLLL pursuant to 40 CFR part 63. Federal Register / Vol. 72, No. 135 / Monday, July 16, 2007 / Page 38904. Part 63 was amended by adding subpart MMMMMM. Federal Register / Vol. 72, No. 135 / Monday, July 16, 2007 / Page 38905. Part 63 was amended by adding subpart MMMMMM - National Emission Standards for Hazardous Air Pollutants for Carbon Black Production Area Sources. Federal Register / Vol. 73, No. 59 / Wednesday, March 26, 2008 / Page 15928. Subpart NNNNNN was amended, revisions to 63.11410 requiring inspections of interior of the electrostatic precipitator. No additional changes to Utah Rules. Federal Register / Vol. 73, No. 59 / Wednesday, March 26, 2008 / Page 15928. Subpart NNNNNN was amended, revisions to 63.11410 requiring inspections of interior of the electrostatic precipitator. No additional changes to Utah Rules. Federal Register / Vol. 72, No. 135 / Monday, July 16, 2007 / Page 38910. Part 63 was amended by adding subpart OOOOOO National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Fabrication Area Sources. Federal Register / Vol. 73, No. 59 / Wednesday, March 26, 2008 / Page 15929. The introductory text preceding Table 1 to Subpart OOOOOO was revised to require sources to comply with NESHAP General Provisions. Federal Register / Vol. 73, No. 59 / Wednesday, March 26, 2008 / Page 15928. Subpart OOOOOO was revised by changing determination of HAP auxiliary blowing agent formulation limit. Federal Register / Vol. 73, No. 59 / Wednesday, March 26, 2008 / Page 15929. Subpart OOOOOO was revised by setting forth compliance requirements for new and existing sources, certification of compliance. Federal Register / Vol. 73, No. 59 / Wednesday, March 26, 2008 / Page 15929. Subpart OOOOOO was revised by granting authority of implementation and enforcement to EPA. Federal Register / Vol. 72, No. 135 / Monday, July 16, 2007 / Page 38913. Part 63 was amended by adding subpart PPPPPP - National Emission Standards for Hazardous Air Pollutants for Lead Acid Battery Manufacturing Area Sources. Federal Register / Vol. 73, No. 59 / Wednesday, March 26, 2008 / Page 15929. Subpart PPPPPP was revised by waiving the requirement of performance testing under certain conditions. Federal Register / Vol. 73, No. 59 / Wednesday, March 26, 2008 / Page 15929. Subpart PPPPPP was revised, requiring initial notification of compliance. Federal Register / Vol. 73, No. 59 / Wednesday, March 26, 2008 / Page 15929. Subpart PPPPPP was amended, the notification deadline was extended. Federal Register / Vol. 73, No. 59 / Wednesday, March 26, 2008 / Page 15929. Subpart PPPPPP was revised, specifying that terms used in subpart PPPPPP are defined in CAA: 40 CFR 60.371. Federal Register / Vol. 73, No. 59 / Wednesday, March 26, 2008 / Page 15929. Subpart PPPPPP was revised, granting delegation of authority of implementation and enforcement to EPA. Federal Register / Vol. 72, No. 135 / Monday, July 16, 2007 / Page 38915. Part 63 was amended by adding subpart QQQQQQ - National Emission Standards for Hazardous Air Pollutants for Wood Preserving Area Sources. Federal Register / Vol. 73, No. 59 / Wednesday, March 26, 2008 / Page 15929. Subpart

QQQQQQ was revised; the introductory text preceding Table 1 was removed. Federal Register / Vol. 73, No. 59 / Wednesday, March 26, 2008 / Page 15929. Subpart QQQQQQ was revised, granting authority of implementation and enforcement to EPA. Federal Register / Vol. 72, No. 246 / Wednesday, December 26, 2007 / Page 73197. Part 63 was amended by adding subpart RRRRRR - National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing Area Sources. Federal Register / Vol. 72, No. 246 / Wednesday, December 26, 2007 / Page 73201. Part 63 was amended by adding subpart SSSSSS - National Emission Standards for Hazardous Air Pollutants for Glass Manufacturing Area Sources. Federal Register / Vol. 72, No. 246 / Wednesday, December 26, 2007 / Page 73207. Part 63 was amended by adding subpart TTTTTT - National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources. Federal Register / Vol. 73, No. 127 / Tuesday, July 1, 2008 / Page 37741. Part 63 was amended by adding subpart WWWWWW - National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations. Federal Register / Vol. 73, No. 142 / Wednesday, July 23, 2008 / Page 43000. Part 63 was amended by adding subpart XXXXXX - National Emission Standards for Hazardous Air Pollutants Area Source Standards for Nine Metal Fabrication and Finishing Source Categories. Federal Register / Vol. 73, No. 247 / Tuesday, December 23, 2008 / Page 78643. Part 63 was amended by adding subpart YYYYYY - National Emission Standards for Hazardous Air Pollutants for Area Sources: Ferroalloys Production Facilities. Federal Register / Vol. 74, No. 121 / Thursday, June 25, 2009 / Page 30393. Part 63 was amended by adding subpart ZZZZZZ - National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Aluminum, Copper, and Other Nonferrous Foundries.

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

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: Because these revisions do not create new requirements, no change in costs is expected for the state budget.
- ◆ LOCAL GOVERNMENTS: Because this revision does not create new requirements, no change in costs is expected for local governments.
- ◆ SMALL BUSINESSES: Because this revision does not create new requirements, no change in costs is expected for small businesses.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Because this revision does not create new requirements, no change in costs is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because this revision does not create new requirements, no change in costs is expected for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment does not create new requirements. Therefore, no additional costs are expected.

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:

- ◆ Kimberly Kreykes by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at kkreykes@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/03/2010

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

- ◆ 04/28/2010 01:00 PM, DEQ Building 2, 168 N 1950 W, Room 201, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 06/03/2010

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

R307. Environmental Quality, Air Quality.

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

R307-214-1. Pollutants Subject to Part 61[-Sources].

The provisions of Title 40 of the Code of Federal Regulations (40 CFR) Part 61, National Emission Standards for Hazardous Air Pollutants, effective as of July 1, 2009[7], are incorporated into these rules by reference. For [~~source categories~~]pollutant emission standards delegated to the State, references in 40 CFR Part 61 to "the Administrator" shall refer to the Executive Secretary.

R307-214-2. Sources Subject to Part 63[-Sources].

The provisions listed below of 40 CFR Part 63, National Emission Standards for Hazardous Air Pollutants for Source Categories, effective as of July 1, 2009[7, or later for those whose subsequent publication citation is included below], are incorporated into these rules by reference. References in 40 CFR Part 63 to "the Administrator" shall refer to the executive secretary, unless by federal law the authority is specific to the Administrator and cannot be delegated.

- (1) 40 CFR Part 63, Subpart A, General Provisions.
- (2) 40 CFR Part 63, Subpart B, Requirements for Control Technology Determinations for Major Sources in Accordance with 42 U.S.C. 7412(g) and (j).

- (3) 40 CFR Part 63, Subpart F, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry.
- (4) 40 CFR Part 63, Subpart G, National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.
- (5) 40 CFR Part 63, Subpart H, National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks.
- (6) 40 CFR Part 63, Subpart I, National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.
- (7) 40 CFR Part 63, Subpart J, National Emission Standards for Polyvinyl Chloride and Copolymers Production.
- (8) 40 CFR Part 63, Subpart L, National Emission Standards for Coke Oven Batteries.
- (9) 40 CFR Part 63, Subpart M, National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.
- (10) 40 CFR Part 63, Subpart N, National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.
- (11) 40 CFR Part 63, Subpart O, National Emission Standards for Hazardous Air Pollutants for Ethylene Oxide Commercial Sterilization and Fumigation Operations.
- (12) 40 CFR Part 63, Subpart Q, National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers.
- (13) 40 CFR Part 63, Subpart R, National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations).
- (14) 40 CFR Part 63, Subpart T, National Emission Standards for Halogenated Solvent Cleaning.
- (15) 40 CFR Part 63, Subpart U, National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins.
- (16) 40 CFR Part 63, Subpart AA, National Emission Standards for Hazardous Air Pollutants for Phosphoric Acid Manufacturing.
- (17) 40 CFR Part 63, Subpart BB, National Emission Standards for Hazardous Air Pollutants for Phosphate Fertilizer Production.
- (18) 40 CFR Part 63, Subpart CC, National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries.
- (19) 40 CFR Part 63, Subpart DD, National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations.
- (20) 40 CFR Part 63, Subpart EE, National Emission Standards for Magnetic Tape Manufacturing Operations.
- (21) 40 CFR Part 63, Subpart GG, National Emission Standards for Aerospace Manufacturing and Rework Facilities.
- (22) 40 CFR Part 63, Subpart HH, National Emission Standards for Hazardous Air Pollutants for Oil and Natural Gas Production.
- (23) 40 CFR Part 63, Subpart JJ, National Emission Standards for Wood Furniture Manufacturing Operations.
- (24) 40 CFR Part 63, Subpart KK, National Emission Standards for the Printing and Publishing Industry.
- (25) 40 CFR Part 63, Subpart MM, National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semicheical Pulp Mills.
- (26) 40 CFR Part 63, Subpart OO, National Emission Standards for Tanks - Level 1.
- (27) 40 CFR Part 63, Subpart PP, National Emission Standards for Containers.
- (28) 40 CFR Part 63, Subpart QQ, National Emission Standards for Surface Impoundments.
- (29) 40 CFR Part 63, Subpart RR, National Emission Standards for Individual Drain Systems.
- (30) 40 CFR Part 63, Subpart SS, National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process (Generic MACT).
- (31) 40 CFR Part 63, Subpart TT, National Emission Standards for Equipment Leaks- Control Level 1 (Generic MACT).
- (32) 40 CFR Part 63, Subpart UU, National Emission Standards for Equipment Leaks-Control Level 2 Standards (Generic MACT).
- (33) 40 CFR Part 63, Subpart VV, National Emission Standards for Oil-Water Separators and Organic-Water Separators.
- (34) 40 CFR Part 63, Subpart WW, National Emission Standards for Storage Vessels (Tanks)-Control Level 2 (Generic MACT).
- (35) 40 CFR Part 63, Subpart XX, National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations.
- (36) 40 CFR Part 63, Subpart YY, National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic MACT.
- (37) 40 CFR Part 63, Subpart CCC, National Emission Standards for Hazardous Air Pollutants for Steel Pickling-HCl Process Facilities and Hydrochloric Acid Regeneration Plants.
- (38) 40 CFR Part 63, Subpart DDD, National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production.
- (39) 40 CFR Part 63, Subpart EEE, National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors.
- (40) 40 CFR Part 63, Subpart GGG, National Emission Standards for Hazardous Air Pollutants for Pharmaceuticals Production.
- (41) 40 CFR Part 63, Subpart HHH, National Emission Standards for Hazardous Air Pollutants for Natural Gas Transmission and Storage.
- (42) 40 CFR Part 63, Subpart III, National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production.
- (43) 40 CFR Part 63, Subpart JJJ, National Emission Standards for Hazardous Air Pollutants for Group IV Polymers and Resins.
- (44) 40 CFR Part 63, Subpart LLL, National Emission Standards for Hazardous Air Pollutants for Portland Cement Manufacturing Industry.

- (45) 40 CFR Part 63, Subpart MMM, National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production.
- (46) 40 CFR Part 63, Subpart NNN, National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing.
- (47) 40 CFR Part 63, Subpart OOO, National Emission Standards for Hazardous Air Pollutants for Amino/Phenolic Resins Production (Resin III).
- (48) 40 CFR Part 63, Subpart PPP, National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production.
- (49) 40 CFR Part 63, Subpart QQQ, National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelters.
- (50) 40 CFR Part 63, Subpart RRR, National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production.
- (51) 40 CFR Part 63, Subpart TTT, National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting.
- (52) 40 CFR Part 63, Subpart UUU, National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units.
- (53) 40 CFR Part 63, Subpart VVV, National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works.
- (54) 40 CFR Part 63, Subpart AAAA, National Emission Standards for Hazardous Air Pollutants for Municipal Solid Waste Landfills.
- (55) 40 CFR Part 63, Subpart CCCC, National Emission Standards for Manufacturing of Nutritional Yeast.
- (56) 40 CFR Part 63, Subpart DDDD, National Emission Standards for Hazardous Air Pollutants for Plywood and Composite Wood Products.
- (57) 40 CFR Part 63, Subpart EEEE, National Emission Standards for Hazardous Air Pollutants for Organic Liquids Distribution (non-gasoline).
- (58) 40 CFR Part 63, Subpart FFFF, National Emission Standards for Hazardous Air Pollutants for Miscellaneous Organic Chemical Manufacturing.
- (59) 40 CFR Part 63, Subpart GGGG, National Emission Standards for Vegetable Oil Production; Solvent Extraction.
- (60) 40 CFR Part 63, Subpart HHHH, [—]National Emission Standards for Wet-Formed Fiberglass Mat Production.
- (61) 40 CFR Part 63, Subpart IIII, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Automobiles and Light-Duty Trucks.
- (62) 40 CFR Part 63, Subpart JJJJ, National Emission Standards for Hazardous Air Pollutants for Paper and Other Web Surface Coating Operations.
- (63) 40 CFR Part 63, Subpart KKKK, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Metal Cans.
- (64) 40 CFR Part 63, Subpart MMMM, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products.
- (65) 40 CFR Part 63, Subpart NNNN, [—]National Emission Standards for Large Appliances Surface Coating Operations.
- (66) 40 CFR Part 63, Subpart OOOO, National Emission Standards for Hazardous Air Pollutants for Fabric Printing, Coating and Dyeing Surface Coating Operations.
- (67) 40 CFR Part 63, Subpart PPPP, National Emissions Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products.
- (68) 40 CFR Part 63, Subpart QQQQ, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Wood Building Products.
- (69) 40 CFR Part 63, Subpart RRRR, National Emission Standards for Hazardous Air Pollutants for Metal Furniture Surface Coating Operations.
- (70) 40 CFR Part 63, Subpart SSSS, [—]National Emission Standards for Metal Coil Surface Coating Operations.
- (71) 40 CFR Part 63, Subpart TTTT, [—]National Emission Standards for Leather Tanning and Finishing Operations.
- (72) 40 CFR Part 63, Subpart UUUU, [—]National Emission Standards for Cellulose Product Manufacturing.
- (73) 40 CFR Part 63, Subpart VVVV, [—]National Emission Standards for Boat Manufacturing.
- (74) 40 CFR Part 63, Subpart WWWW, National Emissions Standards for Hazardous Air Pollutants for Reinforced Plastic Composites Production.
- (75) 40 CFR Part 63, Subpart XXXX, [—]National Emission Standards for Tire Manufacturing.
- (76) 40 CFR Part 63, Subpart YYYY, National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines.
- (77) 40 CFR Part 63, Subpart ZZZZ, National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.
- (78) 40 CFR Part 63, Subpart AAAAA, National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants.
- (79) 40 CFR Part 63, Subpart BBBB, National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing.
- (80) 40 CFR Part 63, Subpart CCCCC, National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks.
- (81) 40 CFR Part 63, Subpart DDDDD, National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters.
- (82) 40 CFR Part 63, Subpart EEEEE, National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries.
- (83) 40 CFR Part 63, Subpart FFFFF, National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing.
- (84) 40 CFR Part 63, Subpart GGGGG, National Emission Standards for Hazardous Air Pollutants for Site Remediation.
- (85) 40 CFR Part 63, Subpart HHHHH, National Emission Standards for Hazardous Air Pollutants for Miscellaneous Coating Manufacturing.

(86) 40 CFR Part 63, Subpart IIIII, National Emission Standards for Hazardous Air Pollutants for Mercury Emissions from Mercury Cell Chlor-Alkali Plants.

(87) 40 CFR Part 63, Subpart JJJJJ, National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing.

(88) 40 CFR Part 63, Subpart KKKKK, National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing.

(89) 40 CFR Part 63, Subpart LLLLL, National Emission Standards for Hazardous Air Pollutants for Asphalt Processing and Asphalt Roofing Manufacturing.

(90) 40 CFR Part 63, Subpart MMMMM, National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Fabrication Operations.

(91) 40 CFR Part 63, Subpart NNNNN, National Emission Standards for Hazardous Air Pollutants for Hydrochloric Acid Production.

(92) 40 CFR Part 63, Subpart PTTTT, National Emission Standards for Hazardous Air Pollutants for Engine Test Cells/Stands.

(93) 40 CFR Part 63, Subpart QQQQQ, [—]National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities.

(94) 40 CFR Part 63, Subpart RRRRR, National Emission Standards for Hazardous Air Pollutants for Taconite Iron Ore Processing.

(95) 40 CFR Part 63, Subpart SSSSS, National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing.

(96) 40 CFR Part 63, Subpart TTTTT, National Emission Standards for Hazardous Air Pollutants for Primary Magnesium Refining.

(97) 40 CFR Part 63, Subpart WWWW, National Emission Standards for Hospital Ethylene Oxide Sterilizers.

(98) 40 CFR Part 63, Subpart YYYYY, National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities.

(99) 40 CFR Part 63, Subpart ZZZZ, National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources.

(100) 40 CFR Part 63 Subpart BBBB National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities

(101) 40 CFR Part 63 Subpart CCCCC National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities.

(102) 40 CFR Part 63, Subpart DDDDD, National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources.

(103[98]) 40 CFR Part 63, Subpart EEEEE, National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting Area Sources.

(104[99]) 40 CFR Part 63, Subpart FFFFF, National Emission Standards for Hazardous Air Pollutants for Secondary Copper Smelting Area Sources.

(105[0]) 40 CFR Part 63, Subpart GGGGG, National Emission Standards for Hazardous Air Pollutants for Primary Nonferrous Metals Area Sources--Zinc, Cadmium, and Beryllium.

(106[+]) 40 CFR Part 63, Subpart LLLLLL, National Emission Standards for Hazardous Air Pollutants for Acrylic and Modacrylic Fibers Production Area Sources[~~published on July 16, 2007 at 72 FR 38864~~].

(107[2]) 40 CFR Part 63, Subpart MMMMMM, National Emission Standards for Hazardous Air Pollutants for Carbon Black Production Area Sources[~~published on July 16, 2007 at 72 FR 38864~~].

(108[3]) 40 CFR Part 63, Subpart NNNNNN, National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources: Chromium Compounds[~~published on July 16, 2007 at 72 FR 38864~~].

(109[4]) 40 CFR Part 63, Subpart OOOOO, National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Fabrication Area Sources[~~published on July 16, 2007 at 72 FR 38864~~].

(110[05]) 40 CFR Part 63, Subpart PTTTTT, National Emission Standards for Hazardous Air Pollutants for Lead Acid Battery Manufacturing Area Sources[~~published on July 16, 2007 at 72 FR 38864~~].

(111[06]) 40 CFR Part 63, Subpart QQQQQQ, National Emission Standards for Hazardous Air Pollutants for Wood Preserving Area Sources[~~published on July 16, 2007 at 72 FR 38864~~].

(112) 40 CFR Part 63, Subpart RRRRRR, National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing Area Sources.

(113) 40 CFR Part 63, Subpart SSSSSS, National Emission Standards for Hazardous Air Pollutants for Glass Manufacturing Area Sources.

(114) 40 CFR Part 63, Subpart TTTTTT, National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources.

(115) 40 CFR Part 63, Subpart WWWW, National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations.

(116) 40 CFR Part 63, Subpart XXXXXX, National Emission Standards for Hazardous Air Pollutants Area Source Standards for Nine Metal Fabrication and Finishing Source Categories.

(117) 40 CFR Part 63, Subpart YYYYYY, National Emission Standards for Hazardous Air Pollutants for Area Sources: Ferroalloys Production Facilities.

(118) 40 CFR Part 63, Subpart ZZZZZZ, National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Aluminum, Copper, and Other Nonferrous Foundries.

KEY: air pollution, hazardous air pollutant, MACT
Date of Enactment or Last Substantive Amendment: [January 11, 2008]2010
Notice of Continuation: January 11, 2008
Authorizing, and Implemented or Interpreted Law: 19-2-104(1)
(a)

Environmental Quality, Drinking Water
R309-515-6
Ground Water - Wells

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33462

FILED: 03/15/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Subsection R309-515-6(5)(b) is being amended to allow other qualified individuals, besides state engineers, to become authorized to witness the grouting of wells during construction and issue well seal certifications letters.

SUMMARY OF THE RULE OR CHANGE: This amendment to Subsection R309-515-6(5)(b) clarifies those who are authorized to witness the grouting of a well during construction, defines how an individual can become authorized, and states the requirements of the well certification letter.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: None--The State was compensated for the time state engineers performed a well grout witness.
- ◆ LOCAL GOVERNMENTS: None--This rule does not apply to local government.
- ◆ SMALL BUSINESSES: None--This rule does not apply to small businesses.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: None--This rule does not apply to other entities, except for well drillers, well consultants, and public water systems. It is not anticipated there will be a significant difference between what state engineers or other authorized individuals will charge for travel and hours to perform this function.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There should be no significant change to well drillers, well consultants, or public water systems by this rule amendment since state engineers or authorized individuals should charge a similar price for travel and hours to perform this function.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It is not anticipated that there will be any cost change for an authorized person to witness the grouting of a well during construction and to issue well seal certifications letters.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Bob Hart by phone at 801-536-0054, by FAX at 801-536-4211, or by Internet E-mail at bhart@utah.gov
- ◆ Ying-Ying Macauley by phone at 801-536-4188, by FAX at 801-536-4211, or by Internet E-mail at ymacauley@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/03/2010

THIS RULE MAY BECOME EFFECTIVE ON: 05/10/2010

AUTHORIZED BY: Ken Bousfield, Director

R309. Environmental Quality, Drinking Water.

R309-515. Facility Design and Operation: Source Development.

R309-515-6. Ground Water - Wells.

(1) Required Treatment.

If properly developed, water from wells may be suitable for culinary use without treatment. A determination as to whether treatment may be required can only be made after the source has been developed and evaluated.

(2) Standby Power.

Water suppliers, particularly community water suppliers, should assess the capability of their system in the event of a power outage. If gravity fed spring sources are not available, one or more of the system's well sources should be equipped for operation during power outages. In this event:

(a) To ensure continuous service when the primary power has been interrupted, a power supply should be provided through connection to at least two independent public power sources, or portable or in-place auxiliary power available as an alternative; and

(b) When automatic pre-lubrication of pump bearings is necessary, and an auxiliary power supply is provided, the pre-lubrication line should be provided with a valved by-pass around the automatic control, or the automatic control shall be wired to the emergency power source.

(3) The Utah Division of Water Rights.

The Utah Division of Water Rights (State Engineer's Office) regulates the drilling of water wells. Before the drilling of a well commences, the well driller must receive a start card from the State Engineer's Office. For public drinking water supply wells the rules of R655-4 still apply and must be followed in addition to these rules.

(4) Source Protection.

Public drinking water systems are responsible for protecting their sources from contamination. The selection of a well

location shall only be made after consideration of the requirements of R309-600. Sources shall be located in an area which will minimize threats from existing or potential sources of pollution.

If certain precautions are taken, sewer lines may be permitted within a public drinking water system's source protection zones at the discretion of the Executive Secretary. When sewer lines are permitted in protection zones both sewer lines and manholes shall be specially constructed as follows:

(a) sewer lines shall be ductile iron pipe with mechanical joints or fusion welded high density polyethylene plastic pipe (solvent welded joints shall not be accepted);

(b) lateral to main connection shall be shop fabricated or saddled with a mechanical clamping watertight device designed for the specific pipe;

(c) the sewer pipe to manhole connections shall be made using a shop fabricated sewer pipe seal ring cast into the manhole base (a mechanical joint shall be installed within 12 inches of the manhole base on each line entering the manhole, regardless of the pipe material);

(d) the sewer pipe shall be laid with no greater than 2 percent deflection at any joint;

(e) backfill shall be compacted to not less than 95 percent of maximum laboratory density as determined in accordance with ASTM Standard D-690;

(f) sewer manholes shall meet the following requirements:

(i) the manhole base and walls, up to a point at least 12 inches above the top of the upper most sewer pipe entering the manhole, shall be shop fabricated in a single concrete pour.

(ii) the manholes shall be constructed of reinforced concrete.

(iii) all sewer lines and manholes shall be air pressure tested after installation.

(5) Outline of Well Approval Process.

(a) Well drilling shall not commence until both of the following items are submitted and receive a favorable review:

(i) a Preliminary Evaluation Report on source protection issues as required by R309-600-13, and

(ii) engineering plans and specifications governing the well drilling, prepared by a licensed well driller holding a current Utah Well Drillers Permit if previously authorized by the Executive Secretary or prepared, signed and stamped by a licensed professional engineer or professional geologist licensed to practice in Utah.

(b) Grouting Inspection During Well Construction.

~~[An engineer from the Division, or the appropriate district engineer of the Department of Environmental Quality, an authorized representative of the State Engineer's Office, or an individual authorized by the Executive Secretary shall be contacted at least three days before the anticipated beginning of the well grouting procedure (see R309-515-6(6)(i)). The well grouting procedure shall be witnessed by one of these individuals or their designee.]~~
(i) Authorized Individuals

(A) The following individuals are authorized to witness the well sealing procedure for a public drinking water well:

(I) An engineer or a geologist from the Division of Drinking Water,

(II) A district engineer of the Department of Environmental Quality,

(III) An authorized representative of the Division of Water Rights, or

(IV) An individual having written authorization from the Executive Secretary and meeting the below listed criteria.

(B) At the time of the well sealing an individual, who is authorized per (i)(A)(IV), shall present to the well driller a copy of the letter authorizing him or her to witness a well sealing on behalf of the Division of Drinking Water. A copy of this letter shall be appended to the witness certification letter.

(C) At least three days before the anticipated well grouting the well driller shall arrange for an authorized witness listed in (i)(A) above to witness the procedure. (See R309-515-6(6)(i)).

(ii) Obtaining Authorization

(A) To be authorized per (i)(A)(IV) above to witness a well sealing procedure, an individual must have no relationship to the driller or the well's owner and have at least five years professional experience designing wells, supervising well drilling or other equivalent experience associated with well drilling or well sealing that are acceptable to the Executive Secretary.

(B) Individuals, desiring the Executive Secretary's authorization to witness a well grouting procedure, shall provide the following information to the Executive Secretary for review over his or her signature attesting to the correctness of the information:

(I) A detailed description of the applicant's experience with well drilling projects, including number of years of experience and type of work. Three references confirming this professional experience are required.

(II) Evidence of licensure as a professional engineer or professional geologist in Utah.

(III) No relationship may exist between a person authorized to witness well sealings and a well driller that would serve as the basis for suspicion of favoritism, leniency or punitive action in the performance of this task. Examples of such relationships would be: family; former long term employment; business partnerships, either formal or informal; etc. The Executive Secretary's decision, with right of appeal to the Drinking Water Board, shall be accepted relative to what constitutes a conflict of interest or a relationship sufficient to disqualify an applicant from all or specific witness opportunities.

(IV) An acknowledgement that he/she would not be acting as an agent or employee of the State of Utah and any losses incurred while acting as a witness would not be covered by governmental immunity or Utah's insurance.

(VI) Willingness to follow established protocols and attend such training events as may be required by the Executive Secretary.

(VII) Complete with a minimum 75% passing grade, an examination on water well drilling rules, as offered by the Division of Water Rights.

(C) The Executive Secretary may rescind the authorization if an individual fails to comply with the criteria or conditions of authorization listed above.

(iii) Well Seal Certification

The individual witnessing the well sealing procedure shall provide a signed letter to the Executive Secretary within 30 days of the well sealing including the following:

(A) Certification that the well sealing procedure met all the requirements of Rule R309-515-6(6)(i);

(B) The water right under which the well was drilled and the well driller's license number;

(C) The public water system name (if applicable);

(D) The latitude and longitude of the well and method used for its determination;

(E) The well head's approximate elevation;

(F) Casing diameter(s), length(s), and material(s);

(G) The size of the annulus between the borehole and casing;

(H) A description of the sealing process including the sealing material used, its volume, density, method of placement, and depth from surface; and

(I) The names and company affiliations of other individuals observing the sealing procedure including, but not limited to the well driller, the well owner, and/or a consultant.

(c) After completion of the well drilling the following information shall be submitted and receive a favorable review before water from the well can be introduced into a public water system:

(i) a copy of the "Report of Well Driller" as required by the State Engineer's Office which is complete in all aspects and has been stamped as received by the same;

(ii) a copy of the letter from the authorized individual described in R309-515-6(5)(b) above, indicating inspection and confirmation that the well was grouted in accordance with the well drilling specifications and the requirements of this rule;

(iii) a copy of the pump test including the yield vs. drawdown test as described in R309-515-6(10)(b) along with comments / interpretation by a licensed professional engineer or licensed professional geologist of the graphic drawdown information required by R309-515-6(b)(vi)(E);

(iv) a copy of the chemical analyses required by R309-515-4(5);

(v) documentation indicating that the water system owner has a right to divert water for domestic or municipal purposes from the well source;

(vi) a copy of complete plans and specifications prepared, signed and stamped by a licensed professional engineer covering the well housing, equipment and diversion piping necessary to introduce water from the well into the distribution system; and

(vii) a bacteriological analysis of water obtained from the well after installation of permanent equipment, disinfection and flushing.

(d) An Operation Permit shall be obtained in accordance with R309-500-9 before any water from the well is introduced into a public water system.

.....

(13) Well House Construction.

The use of a well house is strongly recommended, particularly in installations utilizing above ground motors.

In addition to applicable provisions of R309-540, well pump houses shall conform to the following:

(a) Casing Projection Above Floor.

The permanent casing for all ground water wells shall project at least 12 inches above the pump house floor or concrete apron surface and at least 18 inches above the final ground surface.

However, casings terminated in underground vaults may be permitted if the vault is provided with a drain to daylight sized to handle in excess of the well flow and surface runoff is directed away from the vault access.

(b) Floor Drain.

Where a well house is constructed the floor surface shall be at least six inches above the final ground elevation and shall be sloped to provide drainage. A "drain-to-daylight" shall be provided unless highly impractical.

(c) Earth Berm.

Sites subject to flooding shall be provided with an earth berm terminating at an elevation at least two feet above the highest known flood elevation or other suitable protection as determined by the Executive Secretary.

(d) Well Casing Termination at Flood Sites.

The top of the well casing at sites subject to flooding shall terminate at least 3 feet above the 100 year flood level or the highest known flood elevation, whichever is higher (refer to R309-515-6(6)(b)(vi)).

(e) Miscellaneous.

The well house shall be ventilated, heated and lighted in such a manner as to assure adequate protection of the equipment (refer to R309-540-5(2) (a) through (h)).

(f) Fencing.

Where necessary to protect the quality of the well water the Executive Secretary may require that certain wells be fenced in a manner similar to fencing required around spring areas.

(g) Access.

An access shall be provided either through the well house roof or sidewalls in the event the pump must be pulled for replacement or servicing the well.

KEY: drinking water, source development, source maintenance
Date of Enactment or Last Substantive Amendment: ~~February 15, 2009~~ 2010

Notice of Continuation: April 2, 2007

Authorizing, and Implemented or Interpreted Law: 19-4-104

**Governor, Economic Development,
 Pete Suazo Utah Athletic Commission
 R359-1-508
 Hepatitis B Surface Antigen (HBsAg)
 and Hepatitis C Virus (HCV) Antibody
 Testing**

**NOTICE OF PROPOSED RULE
 (Amendment)**

DAR FILE NO.: 33460

FILED: 03/11/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment changes the validity of hepatitis tests from 180 days to 1 year. However, the commission will be able change this period to protect the health of contestants and the public.

SUMMARY OF THE RULE OR CHANGE: This amendment changes the validity of hepatitis tests from 180 days to 1 year. However, the commission will still be able change this period to protect the health of contestants and the public.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63C-11-101 et seq.

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: The state is not responsible for any costs associated with hepatitis testing, so there are no anticipated costs or savings.
- ◆ LOCAL GOVERNMENTS: Local government is not responsible for any costs associated with hepatitis testing, so there are no anticipated costs or savings.
- ◆ SMALL BUSINESSES: Promoters generally do not pay for the contestant's hepatitis testing, so there are no anticipated costs and perhaps minimal savings.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Contestants may see up to a 50% reduction in the cost of providing current hepatitis test results.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Contestants may see up to a 50% reduction in the cost of providing current hepatitis test results.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: If adopted, this rule change will not have any significant cost impact on businesses, but may facilitate promoters in scheduling qualified contestants.

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

GOVERNOR
 ECONOMIC DEVELOPMENT,
 PETE SUAZO UTAH ATHLETIC COMMISSION
 324 S STATE ST
 STE 500
 SALT LAKE CITY, UT 84111
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Bill Colbert by phone at 801-538-8876, by FAX at 801-538-8888, or by Internet E-mail at bcolbert@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/03/2010

THIS RULE MAY BECOME EFFECTIVE ON: 07/01/2010

AUTHORIZED BY: Bill Colbert, Secretary, PSUAC

R359. Governor, Economic Development, Pete Suazo Utah Athletic Commission.

R359-1. Pete Suazo Utah Athletic Commission Act Rule.

R359-1-508. Hepatitis B Surface Antigen (HBsAg) and Hepatitis C Virus (HCV) Antibody Testing.

In accordance with Section 63C-11-317(d), contestants shall produce evidence of a negative test for HBsAg and HCV antibody as a condition to participation in a contest as follows:

(1) All contestants shall provide evidence in the form of a competent laboratory examination certificate verifying that the contestant is negative at the time of the weigh-in.

(2) The examination certificate shall certify that the HBsAg and HCV antibody testing was completed within one year~~[180 days]~~ prior to the contest. However, the period of test validity may be reduced by the vote of the majority of the commission to protect the health and welfare of the contestants and public.

(3) Any contestant whose HBV or HCV result is positive shall be prohibited from participating in a contest.

(4) In lieu of a negative HBsAg test result, a contestant may present laboratory testing evidence of immunity against Hepatitis B virus based on a positive hepatitis B surface antibody (anti-HBs) test result or of having received the complete hepatitis B vaccine series as recommended by the Advisory Committee on Immunization Practices.

KEY: licensing, boxing, unarmed combat, white-collar contests
Date of Enactment or Last Substantive Amendment: [~~October 28, 2009~~2010

Notice of Continuation: May 10, 2007

Authorizing, and Implemented or Interpreted Law: 63C-11-101 et seq.

Health, Administration
R380-210
 Health Care Facility Patient Safety
 Program

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 33425
FILED: 03/02/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to improve and streamline the current rule. A requirement for an independent audit of hospitals and ambulatory surgical centers of their medication safety program has been determined to be a cost

burden with limited results. Only one facility (rural) each three year period has had difficulty with their audit findings at a cost of approximately \$1,500 - \$2,000 per non-Joint Commission on the Accreditation of Healthcare Organization (JCAHO) facility. The problem areas are due to lack of resources in the rural community and this additional cost burden is not positively contributing to improved care.

SUMMARY OF THE RULE OR CHANGE: The changes delete Subsections R380-210-3(4) and R380-210-4(2) both of which read: Each facility shall have the implementation and accuracy of the internal patient safety identification processes required in R380-210-3(1) audited every three years by an independent auditor approved by the Department's Facility Licensing Committee.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-3-8 and Subsection 26-1-30(2)(a) and Subsection 26-1-30(2)(b) and Subsection 26-1-30(2)(d) and Subsection 26-1-30(2)(e) and Subsection 26-1-30(2)(g)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** None--This is currently a third party requirement and does not involve state government.

◆ **LOCAL GOVERNMENTS:** None--No local government involvement.

◆ **SMALL BUSINESSES:** There is an anticipated \$1,500 - \$2,000 cost savings every three years to non-Joint Commission Accredited hospitals and Ambulatory Surgical Centers in Utah. Any consulting business which provides this audit function to the hospitals would no longer be able to provide this service or to gain this revenue.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is an anticipated \$1,500 - \$2,000 cost savings every three years to non-Joint Commission Accredited hospitals and Ambulatory Surgical Centers in Utah. Any consulting individual who provides this audit function to the hospitals would no longer be able to provide this service or to gain this revenue.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The current audit requirement in this rule costs between \$1,500 - \$3,000 every 3 years for an independent audit of non-Joint Commission Accredited hospitals and Ambulatory Surgical Centers Medication Safety Programs. This rule has been in effect since 2001 with three rounds of implementation. Only one facility each audit cycle has not passed the initial audit. The facility was then placed on corrective action and has resolved its problems in 90 days. Some of the issues identified are related to lack of rural resources, training and expertise. The Medication Safety Work Group consisting of pharmacy experts from various hospital systems have determined that the audit section of this rule is not truly effective and should be eliminated. Facilities are still required to report medication-related deaths and permanent loss or harm to the Utah Department of Health through Rule R380-200.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change is positive for business by eliminating a regulatory requirement that has not proven effective.

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

HEALTH
ADMINISTRATION
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Iona Thraen by phone at 801-273-6643, by FAX at 801-273-4150, or by Internet E-mail at ithraen@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/03/2010

THIS RULE MAY BECOME EFFECTIVE ON: 05/10/2010

AUTHORIZED BY: David Sundwall, MD, Executive Director

R380. Health, Administration.

R380-210. Health Care Facility Patient Safety Program.

R380-210-3. Patient Injury Identification.

(1) Each facility shall implement processes to effectively identify and report to the Department the incidence of all:

(a) adverse drug events.

(2) Reporting to the Department may occur through established, statewide, electronic health care facility reporting systems managed by the Department.

(3) The report shall include codes applicable to the event from the current International Classification of Diseases Clinical Modification (ICD-CM) diagnosis coding, including codes for external cause of injury (E-codes) and codes for place of occurrence. [

~~(4) Each facility shall have the implementation and accuracy of the internal patient safety identification processes required in R380-210-3(1) audited every three years by an independent auditor approved by the Department's Facility Licensing Committee.]~~

R380-210-4. Patient Injury Reduction.

(1) Each facility shall implement processes that are effective in reducing the incidence of:

(a) adverse drug events. [

~~(2) Each facility shall have the implementation and effectiveness of the internal patient injury reduction processes required in R380-210-4(1) audited every three years by an independent auditor approved by the Department's Facility Licensing Committee.]~~

KEY: hospital, injury prevention, quality improvement, patient safety
Date of Enactment or Last Substantive Amendment: [~~October 15, 2004~~]2010
Notice of Continuation: October 10, 2006
Authorizing, and Implemented or Interpreted Law: 26-1-30(2)(a); 26-1-30(2)(b); 26-1-30(2)(d); 26-1-30(2)(e); 26-1-30(2)(g); 26-3-8

**Health, Health Systems Improvement,
 Licensing
 R432-950-16
 State Certification**

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 33426
 FILED: 03/03/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change was reviewed by the Health Facilities Committee and approved on 02/10/2010. This committee has representation from a broad cross-section of the entities affected by this rule. As an efficiency effort in 2003, the Bureau started renewing all licenses and certificates on a two-year cycle instead of every year. The licensing renewal rules were changed at that time, but the Mammography rule was not. This rule change is proposed to amend the Mammography rule in accordance with that practice to save providers and Bureau staff time and effort.

SUMMARY OF THE RULE OR CHANGE: The State certification for mammography facilities is a 24-month certification period by practice and has been that way since approximately 2003. This rule amendment will change the requirement in the rule for renewal of a mammography certificate from 12 to 24 months.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 21 and Title 26, Chapter 23

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This rule change will have no effect on state budgets since the 24-month certification period has already been in place for several years.
- ◆ **LOCAL GOVERNMENTS:** This rule change will have no effect on local government budgets since the 24-month certification period has already been in place for several years.

- ◆ **SMALL BUSINESSES:** This rule change will have no effect on small businesses since the 24-month certification period has already been in place for several years.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule change will have no effect on businesses, individuals, local governments, and person that are not small businesses since the 24-month certification period has already been in place for several years.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule change will have no effect on persons since the 24-month certification period has already been in place for several years.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change implements a 24-month cycle for recertification. Practice had already implemented this action. This will confirm the change that is positive for business.

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:
 ◆ Carmen Richins by phone at 801-538-9087, by FAX at 801-538-6024, or by Internet E-mail at carmenrichins@utah.gov
 ◆ Joel Hoffman by phone at 801-538-6279, by FAX at 801-538-6024, or by Internet E-mail at jhoffman@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/03/2010

THIS RULE MAY BECOME EFFECTIVE ON: 05/10/2010

AUTHORIZED BY: David Sundwall, MD, Executive Director

**R432. Health, Health Systems Improvement, Licensing.
 R432-950. Mammography Quality Assurance.
 R432-950-16. State Certification.**

- (1) No facility, person or governmental unit acting severally or jointly with any other person, may establish, conduct or maintain a mammography unit without first obtaining a state certificate from the Department.
- (2) An applicant for state certification shall file a Request for Agency Action/Certification Application with the Utah Department of Health on forms furnished by the Department.

(3) Each facility shall comply with all zoning, building and licensing laws, rules and ordinances and codes of the city and county in which the facility is located. The applicant shall submit the following to the Department:

(a) Verification of participation and quality control by the American College of Radiology for monitoring mammography services in the facility;

(b) Verification of licensure or certification of required personnel;

(c) Fees established by the Utah State Legislature pursuant to Section 63-38-3.

(4) The Department shall render a decision on the initial certification within 60 days of receipt of a completed application packet or within 6 months of date that the first component of an application packet was received.

(a) Upon verification of compliance with state certification requirements, the Department shall issue a provisional certificate.

(b) The Department shall issue a notice of agency decision under the procedures for informal adjudicative proceedings denying a state certification if the applicant is not in compliance with the applicable laws or rules. The notice shall state the reasons for denial.

(5) Certificate Contents and Provisions. The state certificate shall include the name of the mammography facility, owner, supervising physician, address, issue and expiration dates of the state certificate and the certificate number.

(b) The state certificate may be issued only to the owner and for the premises described in the application and shall not be assignable or transferable.

(c) Each state certificate is the property of the Department and shall be returned within five days if the certification is suspended, revoked, or if the operation of the facility is discontinued.

(d) The state certificate shall be prominently displayed where it can be easily viewed by the public.

(6) Certification periods shall be for ~~[12]~~24 months, and expire at midnight ~~[12]~~24 months from the date of issuance.

(a) A request for renewal and applicable fees shall be filed with the Department 15 days before the state certificate expires.

(b) Failure to make a timely renewal shall result in assessment of late fees as established by the Utah State Legislature pursuant to Section 26-21a-203.

(7) The owner shall submit a Request for Agency Action/ Application to amend or modify state certification status at least 30-days before any of the following proposed or anticipated changes occur:

- (a) Change in the name of the facility;
- (b) Change in the supervising physician;
- (c) Change in the owner of the facility.

(8) The owner who wants to cease operation shall complete the following:

(a) Notify the patients within 30 days before the effective date of closure.

(b) Make adequate provision for the safekeeping of records and notify the department where those records will be stored.

(c) Return the state certificate to the Department within five days after the facility ceases operation.

(9) The Department may issue a provisional state certificate to a facility as an initial certification and may issue a provisional state certification to a facility that does not fully comply with the requirements for a standard certification but has made acceptable progress towards meeting the requirements.

(a) In granting a provisional state certification, the Department must be assured that the lack of full compliance does not harm the health, safety, and welfare of the patients.

(b) A provisional state certificate is nonrenewable and shall be issued for no more than 6 months.

KEY: health facilities, mammography

Date of Enactment or Last Substantive Amendment: ~~October 19, 1995~~2010

Notice of Continuation: October 4, 2007

Authorizing, and Implemented or Interpreted Law: 26-21a-203

Natural Resources, Wildlife Resources R657-17 Lifetime Hunting and Fishing License

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 33451
FILED: 03/11/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Wildlife Board meetings conducted for taking public input and reviewing the division's big game program, which directly affects the Lifetime Hunting and Fishing License program.

SUMMARY OF THE RULE OR CHANGE: The proposed revisions to the above listed rule: 1) remove obsolete language relating to the paperless application process and questionnaires; 2) enable the division to use electronic forms of communication; and 3) make technical corrections for consistency and accuracy.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-19-17.5

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The reason for this rule amendment is to maintain consistency with all division application processes, so the amendment does not create a cost or savings impact to the state budget or the Division of Wildlife Resources' (DWR) budget. Although there may be some

additional programming costs the amendments will not create any cost or savings impact to the state budget or DWR's budget. Any additional work will be carried out with existing budget.

◆ **LOCAL GOVERNMENTS:** Since this amendment simply addresses a change in the process that a lifetime license holder chooses their region, this filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

◆ **SMALL BUSINESSES:** Since Lifetime Licenses are no longer available for purchase, DWR determines that this amendment does not create a cost or savings impact to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Since Lifetime Licenses are no longer available for purchase, DWR determines that this amendment does not create a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment removes obsolete language relating to the application and questionnaire process for a lifetime license holder and enables the division to use electronic forms of communication. DWR determines that there are no additional compliance costs for affected persons associated with this amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses.

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/03/2010

THIS RULE MAY BECOME EFFECTIVE ON: 05/10/2010

AUTHORIZED BY: James Karpowitz, Director

R657. Natural Resources, Wildlife Resources.

R657-17. Lifetime Hunting and Fishing License.

R657-17-3. Lifetime License Entitlement.

(1) (a) A permanent lifetime license card shall be issued to lifetime licensees in lieu of an annual hunting, and fishing license.

(b) The issuance of a permanent lifetime license card does not authorize a lifetime licensee to all hunting privileges. The lifetime licensee is subject to the requirements as provided in Subsection R657-17-1(2).

(2) Each year, a lifetime licensee who is eligible to hunt big game may receive without charge, a permit~~[-and tag]~~ for the region of their choice for one of the following general deer hunts:

- (i) archery buck deer;
- (ii) any weapon buck deer; or
- (iii) muzzleloader buck deer.

(3) Sales of lifetime hunting and fishing licenses may not be refunded, except as provided in Section 23-19-38.

(4) Lifetime hunting and fishing licenses are not transferable.

(5) Lifetime hunting and fishing licenses are no longer for sale as of March 1, 1994.

(6)(a) Lifetime license holders may participate in the Dedicated Hunter Program.

(b) Upon entering the Dedicated Hunter Program, the lifetime license holder agrees to forego any rights to receive a buck deer permit for the general archery, general season or general muzzleloader deer hunts as provided in Section 23-19-17.5 during enrollment in the Dedicated Hunter Program.

(7)(a) Lifetime license holders may obtain a general any weapon buck deer and bull elk combination permit.

(b) Upon obtaining a general any weapon buck deer and bull elk combination permit, the lifetime license holder foregoes any rights to receive a buck deer permit for the general archery, general any weapon or general muzzleloader deer hunts as provided in Section 23-19-17.5 during the year the general any weapon buck deer and bull elk combination permit is valid.

R657-17-4. General Deer Permits~~[-and Tags]~~.

(1)(a) The division shall send a reminder ~~[postcard]~~ notice to each lifetime licensee~~[-who is]~~ eligible to hunt big game~~[-]~~ prior to the beginning of the annual bucks, bulls and once-in-a-lifetime application period as prescribed in the proclamation of the Wildlife Board for taking big game.

(b) The lifetime licensee shall, prior to the end of the annual bucks, bulls and once-in-a-lifetime application period, complete and submit an online Lifetime Questionnaire through the division's web site.

(2)(a) Except as provided in Subsection (e) and Subsection (f), the division may not issue a permit to any lifetime licensee who was given ~~[reasonable]~~ notice of the deadline as provided in Subsection (1)(~~[b]~~a) and fails to submit a complete~~[-and accurate]~~ Lifetime Questionnaire to the division.

(b) If an error is found ~~[F]~~the division reserves the right to:

(i) contact the lifetime licensee to correct the error; or
 (ii) correct the lifetime licensee's choice of general deer permits ~~[without sending a correction letter].~~

(d) If the division is unable to ~~[contact the lifetime licensee and]~~correct the error, the lifetime licensee may not receive a permit, except as provided in Subsection (f).

(e) The director or his designee may issue a permit to a lifetime licensee who did not receive reasonable notice of the deadline as provided in Subsection (1)(a).

(f) If a lifetime licensee fails to submit a Lifetime Questionnaire by the deadline ~~[as]~~provided in Subsection (1)(b), the lifetime licensee may obtain an available general deer permit on the date these permits are made available over-the-counter to the general public.

(3) As used in this section "~~[reasonable]~~notice" means that a reminder was sent within a reasonable time before the deadline as provided in Subsection (1)(b) to the most recent address given to the division by the lifetime licensee.

(4) ~~The Division will provide [F]~~lifetime licensees ~~[shall receive a letter from the division]~~notification confirming the information received on the Lifetime Questionnaire.

(5) Lifetime licensees must notify the division of any change of mailing address, residency, address, telephone number, physical description, ~~[or]~~driver's license number or email address.

(6)(a) Lifetime licensees may apply for or obtain general deer preference points or permits through the big game general buck deer drawing as provided in Rule R657-~~[5]~~62 and the proclamation of the Wildlife Board for taking big game, provided the lifetime licensee waives their choice of general deer permits as provided in Subsection R657-17-3(2) and the region in which the lifetime licensee chooses to hunt.

(b) If a lifetime licensee ~~[applies for and]~~does not ~~[obtain]~~draw a general deer permit through the big game general buck deer drawing, the lifetime licensee may only obtain ~~[an available]~~a general deer permit ~~[on the date these permits are]~~when made available to the public for over-the-counter ~~[to the general public]~~purchase.

R657-17-5. Applying for Limited Entry Permits in the Bucks, Bulls and Once-In-A-Lifetime Drawing.

(1) A lifetime licensee may apply for a limited entry permit offered through the bucks, bulls and once-in-a-lifetime drawing using a bucks, bulls and once-in-a-lifetime application ~~[published by the division].~~

(2) Limited entry permit species and application procedures are provided in Rule R657-5 and the proclamation of the Wildlife Board for taking big game.

(3)(a) If the lifetime licensee applies for and is successful in obtaining a premium limited entry, limited entry, or cooperative wildlife management unit buck deer permit in the bucks, bulls and once-in-a-lifetime drawing, a general deer permit will not be issued.

(b) If the lifetime licensee does not draw a premium limited entry, limited entry, or cooperative wildlife management unit buck deer permit in the bucks, bulls and once-in-a-lifetime drawing, the general deer permit requested on the Lifetime Questionnaire shall be issued.

(4) Applying for or obtaining an antlerless deer, antlerless elk, or doe pronghorn permit does not affect eligibility for obtaining a general buck deer permit.

(5) All rules established by the Wildlife Board regarding the availability of big game permits in relation to obtaining general deer permits shall apply to lifetime licensees.

R657-17-8. Lost or Stolen Lifetime Hunting and Fishing License.

(1) If a lifetime hunting and fishing license is lost or stolen, a duplicate may be obtained from any division office ~~[:]~~ by:

~~[(2) The lifetime licensee shall:~~
~~(a) present a valid driver's license, identification card, birth certificate, or other form of proper identification;~~

~~(b) sign an affidavit stating the lifetime hunting and fishing license was lost or stolen; and]~~(a) providing verification of identity; and

~~[(e)]~~(b) [pay]paying a [duplicate]lifetime hunting and fishing license duplication fee.

KEY: wildlife, game laws, hunting and fishing licenses

Date of Enactment or Last Substantive Change: [March 10, 2009]2010

Notice of Continuation: November 21, 2005

Authorizing, and Implemented or Interpreted Law: 23-19-17.5; 23-19-40; 23-19-11

Natural Resources, Wildlife Resources **R657-53** Amphibian and Reptile Collection, Importation, Transportation, and Possession

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33449

FILED: 03/11/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule amendment is to clarify procedures, standards, and requirements for the collection, importation, transportation, and possession of amphibians and reptiles.

SUMMARY OF THE RULE OR CHANGE: The revisions to this rule clarify the restrictions for propagation of species listed as controlled in the state of Utah.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-14-18 and Section 23-14-19

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This rule amendment clarifies the restrictions for propagation of controlled species in the state of Utah. The Division of Wildlife Resources (DWR) determines that by modifying the provisions regarding amphibians and reptiles it does not create a cost or savings impact to the state budget or DWR's budget.

◆ **LOCAL GOVERNMENTS:** None--This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

◆ **SMALL BUSINESSES:** This rule amendment clarifies the propagation restrictions on species classified as controlled in Utah. DWR determines that by modifying the provisions regarding amphibians and reptiles it does not generate a cost or savings impact to small business.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule amendment clarifies the propagation restrictions on species classified as controlled in Utah. DWR determines that by modifying the provisions regarding amphibians and reptiles it does not generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule clarifies the restrictions for propagation of controlled species in Utah. The Division of Wildlife Resources (DWR) determines this amendment to the rule does not create an additional compliance cost to affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses.

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/03/2010

THIS RULE MAY BECOME EFFECTIVE ON: 05/10/2010

AUTHORIZED BY: James Karpowitz, Director

R657. Natural Resources, Wildlife Resources.**R657-53. Amphibian and Reptile Collection, Importation, Transportation and Possession.****R657-53-26. Propagation of Amphibians or Reptiles.**

(1) A person may propagate native amphibians or reptiles that are legally collected in Utah and possessed only as provided in Subsection (a) through (c).

(a) Certificates of registration are not issued for the propagation of any native amphibian or reptile collected in Utah and classified as prohibited for propagation except as provided in R657-53-19.

(b) A certificate of registration is required for propagating any native amphibian or reptile collected in Utah and classified as controlled for propagation, except as otherwise provided by the Wildlife Board.

(i) All progeny shall be marked as determined in the certificate of registration;

(ii) A report shall be submitted yearly as specified in the certificate of registration;

(iii) Records of the progeny as determined in the certificate of registration shall be kept for the life of the animal or time in possession; and

(iv) Progeny shall not count toward possession limits.

(c) A certificate of registration is required for propagating native amphibians or reptiles collected in Utah and classified as noncontrolled for propagation.

(i) A report shall be submitted yearly as specified in the certificate of registration;

(ii) Records of the progeny as determined in the certificate of registration shall be kept for the life of the animal or time in possession; and

(iii) Progeny shall not count toward possession limits.

(2) A person may propagate naturalized amphibians or reptiles that are legally collected in Utah and possessed only as provided in Subsection (a) through ([e]d).

(a) Certificates of registration are not issued for the propagation of any naturalized amphibian or reptile collected in Utah and classified as prohibited for propagation except as provided in R657-53-19.

(b) A certificate of registration is required for propagating any naturalized amphibian or reptile legally collected in Utah and classified as controlled for propagation.

(i) Records of the progeny shall be kept for the life of the animal or time in possession.

(c) A certificate of registration is not required for propagating any naturalized amphibian or reptile collected in Utah and classified as controlled for possession but classified as noncontrolled for propagation.

(i) Records of the progeny shall be kept for the life of the animal or time in possession; and

(ii) Progeny shall not count toward possession limits.

([e]d) A certificate of registration is not required for propagating naturalized amphibians or reptiles collected in Utah and classified as noncontrolled for propagation.

(i) Progeny shall not count toward possession limits.

(3) A person may propagate native amphibians or reptiles that are legally obtained from an instate captive source or imported into Utah and possessed only as provided in Subsection (a) through ([e]d).

(a) Certificates of registration are not issued for the propagation of any native amphibian or reptile imported into Utah and classified as prohibited for propagation except as provided in R657-53-19.

(b) A certificate of registration is ~~not~~ required for propagating any native amphibian or reptile legally obtained from an instate captive source or imported into Utah and classified as controlled for propagation.

(i) Records of the progeny shall be kept for the life of the animal or time in possession.

(c) A certificate of registration is not required for propagating any native amphibian or reptile imported into Utah and classified as controlled for possession but classified as noncontrolled for propagation.

(i) Records of the progeny shall be kept for the life of the animal or time in possession; and

(ii) Progeny shall not count toward possession limits.

(~~e~~d) A certificate of registration is not required for propagating native amphibians or reptiles imported into Utah and classified as noncontrolled for propagation.

(i) Records of the progeny shall be kept for the life of the animal or time in possession; and

(ii) Progeny shall not count toward possession limits.

(4) A person may propagate nonnative or naturalized amphibians or reptiles that are legally obtained from an instate captive source or imported into Utah and possessed only as provided in [Subsection]Subsections (a) through (~~e~~d).

(a) Certificates of registration are not issued for the propagation of any nonnative or naturalized amphibian or reptile imported into Utah and classified as prohibited for propagation except as provided in R657-53-19.

(b) A certificate of registration is required for propagating any nonnative or naturalized amphibian or reptile legally obtained from an instate captive source or imported into Utah and classified as controlled for propagation.

(i) Records of the progeny shall be kept for the life of the animal or time in possession.

(c) A certificate of registration is not required for propagating~~any~~ nonnative or naturalized amphibian or reptile imported into Utah and classified as controlled for possession but classified as noncontrolled for propagation.

(i) Records of the progeny shall be kept for the life of the animal or time in possession; and

(ii) Progeny shall not count toward possession limits.

(~~e~~d) A certificate of registration is not required for propagating nonnative or naturalized amphibians or reptiles imported into Utah and classified as noncontrolled for propagation.

(i) Progeny shall not count toward possession limits.

(5) Certificates of registration may be denied to an applicant who:

(a) is a non-resident of Utah;

(b) fails to provide and maintain suitable, disease-free facilities and to humanely hold and maintain amphibians or reptiles in good condition;

(c) has been judicially or administratively found guilty of violating the provisions of this rule;

(d) has been convicted of, pleaded no contest to, or entered into a plea in abeyance to any criminal offense that bears a reasonable relationship to the applicant's ability to safely and

responsibly collect, import, transport or possess amphibians or reptiles; or

(e) fails to maintain the propagation records and file the annual reports required in this section.

(6) Legally-obtained amphibians or reptiles and their progeny and descendants born in captivity, which are held in possession under the authority of a certificate of registration, remain property of the holder, but are subject to regulation by the division in accordance with the needs for public health, welfare, and safety, and impacts on wildlife.

KEY: wildlife, import restrictions, amphibians, reptiles

Date of Enactment or Last Substantive Amendment: [~~May 8, 2008~~2010

Notice of Continuation: June 2, 2008

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19; 23-20-3; 23-13-14

Natural Resources, Wildlife Resources R657-62 Drawing Application Procedures

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33450

FILED: 03/11/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Wildlife Board meetings conducted for taking public input and reviewing the division's drawing application process.

SUMMARY OF THE RULE OR CHANGE: This rule is being amended to outline the requirement for retention and forfeiture of bonus points, clarify bear pursuit permits and Dedicated Hunter Certificates of Registration, remove reference to "Merriam's" and "Rio Grande", remove the definition of "Immediate family", and make technical changes for rule consistency.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-14-18 and Section 23-14-19

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This amendment does not change the process currently in place by rule, it only clarifies the process for retention and forfeiture of bonus points as well as makes technical changes for consistency, therefore, the Division of Wildlife Resources (DWR) determines that these amendments will not create any cost or savings impact to the state budget or DWR's budget, since the changes will not

increase workload and can be carried out with existing budget.

◆ LOCAL GOVERNMENTS: Since this amendment only clarifies existing criteria that have already been set by rule into one inclusive rule and does not include any additional requirements, this filing does not create any direct cost or savings impact to local governments since they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

◆ SMALL BUSINESSES: This amendment will clarify current bonus point restrictions and make technical corrections therefore there are no additional requirements being added so it would not generate a cost or saving impact to small businesses.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This amendment will clarify current bonus point restrictions and make technical corrections therefore there are no additional requirements being added so it would not generate a cost or saving impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR determines that this amendment will not create a cost or savings impact to individuals who participate in hunting in Utah.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to this rule do not create an impact on businesses.

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

NATURAL RESOURCES
 WILDLIFE RESOURCES
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/03/2010

THIS RULE MAY BECOME EFFECTIVE ON: 05/10/2010

AUTHORIZED BY: James Karpowitz, Director

R657. Natural Resources, Wildlife Resources.

R657-62. Drawing Application Procedures.

R657-62-2. Definitions.

- (1) Terms used in this rule are defined in Section 23-13-2.
- ~~(2)~~(2) In addition:

(a) "Application" means a form required by the Division which must be completed by a person and submitted to the Division in order to apply for a hunting permit.

~~[(b) "Immediate family" means the landowner's lessee, or the landowner's or lessee's spouse, children, son-in-law, daughter-in-law, father, mother, father-in-law, mother-in-law, brother, sister, brother-in-law, sister-in-law, stepchildren, and grandchildren.~~

~~_____~~(e)(b) "Landowner" means any individual, family or corporation who owns property in Utah and whose name appears on the deed as the owner of eligible property or whose name appears as the purchaser on an executed contract for sale of eligible property.

~~[(d)](c)~~ "Limited entry hunt" means any hunt listed in the hunt tables published by the Wildlife Board and is identified as a premium limited entry hunt or limited entry hunt. "Limited entry hunt" does not include cougar pursuit or bear pursuit.

~~[(e)](d)~~ "Limited entry permit" means any permit obtained for a limited entry hunt,

including conservation permits, convention permits and sportsman permits.

~~[(f)](e)~~(i) "Valid application" means an application:

(A) for a permit to take a species for which the applicant is eligible to possess;

(B) for a permit to take a species regardless of estimated permit numbers;~~[-and]~~

~~_____~~(C) for a certificate of registration; and

~~[(E)](D)~~ containing sufficient information, as determined by the division, to process the application, including personal information, hunt information, and sufficient payment.

(i) Applications missing any of the items in Subsection (i) may be considered valid if the application is timely corrected through the application correction process.

~~[(g)](f)~~ "Waiting period" means a specified period of time that a person who has obtained a permit must wait before applying for the same permit type.

~~[(h)](g)~~ "Once-in-a-lifetime hunt" means any hunt listed in the hunt tables published by the Wildlife Board and is identified as once-in-a-lifetime, and does not include general or limited entry hunts.

~~[(i)](h)~~ "Once-in-a-lifetime permit" means any permit obtained for a once-in-a-lifetime hunt by any means, including conservation permits, sportsman permits, cooperative wildlife management unit permits and limited entry landowner permits.

R657-62-3. Scope of Rule.

(1) This rule sets forth the procedures and requirements for completing and filing applications to receive the following hunting permits and/or certificates of registrations:

- (a) Dedicated Hunter certificate of registrations;
- (b) limited-entry deer;
- (c) limited-entry elk;
- (d) limited-entry pronghorn;
- (e) once-in-a-lifetime;
- (f) public cooperative wildlife management unit;
- (g) general season deer and youth elk;
- (h) bear;
- (i) bear pursuit;
- ~~_____~~(j) antlerless big game;
- ~~_____~~(j)(k) sandhill crane;

(~~[k]~~) sharp-tail and sage grouse;

(~~[t]~~) ~~swan~~

(m) swan

(n) cougar;

(~~[h]~~) sportsman; and

(~~[e]~~) turkey.

R657-62-4. Residency Restrictions.

(1) Only a resident may apply for or obtain a resident permit or resident certificate of registration and only a nonresident may apply for or obtain a nonresident permit [-] or nonresident certificate of registration.

(2)(a) To apply for a resident permit or certificate of registration, a person must be a resident at the time of purchase.

(b) The posting date of the drawing shall be considered the purchase date of a permit or certificate of registration issued through a drawing.

R657-62-6. Applications.

(1)(a) Applications are available at the division's internet address, and must be completed and submitted online by the date prescribed in the respective proclamation of the Wildlife Board.

(b) The permit fees and handling fees must be paid with a valid debit or credit card.

(c) Any license~~[-]~~, permit or certificate of registration issued to a person is invalid where full payment is not remitted to and received by the division.

(d) A person who applies for or obtains a permit or certificate of registration must notify the division of any change in mailing address, residency, telephone number, email address, and physical description.

R657-62-7. Group Applications.

(1) When applying as a group all applicants in the group with valid applications and who are eligible to possess the permit or certificate of registration applied for shall receive a permit or certificate of registration where the group is successful in the drawing.

(2) Group members must apply for the same hunt choices, - except for dedicated hunter region choice in certificate of registration application.

(3) When applying as a group, if the available permit or certificate of registration quota~~[-available]~~ is not large enough to accommodate the group size, the group application will not be considered.

R657-62-8. Bonus [Point System] Points.

(1) Bonus points are used to improve odds for drawing permits.

(2)(a) A bonus point is awarded for:

(i) each valid unsuccessful application when applying for limited-entry permits; or

(ii) each valid application when applying for bonus points.

(b) Bonus points are awarded by species for;

(i) limited-entry deer including cooperative wildlife management unit buck deer and management buck deer;

(ii) limited-entry elk including cooperative wildlife management unit bull elk and management bull elk;

(iii) limited-entry pronghorn including cooperative wildlife management unit buck pronghorn;

(iv) once-in-a-lifetime species including cooperative wildlife management units;

(v) bear;

(vi) antlerless moose;

(vii) cougar; and

(viii) turkey

(3)(a) A person may not apply in the drawing for both a permit and a bonus point for the same species.

(b) A person may not apply for a bonus point if that person is ineligible to apply for a permit for the respective species.

(c) Group applications will not be accepted when applying for bonus points.

(d) A person may apply for bonus points only during the applicable drawing application for each species.

(4)(a) Fifty percent of the permits for each hunt unit will be reserved for applicants with the greatest number of bonus points.

(b) Based on the applicant's first choice, the reserved permits will be designated by a random drawing number to eligible applicants with the greatest number of bonus points for each species.

(c) If reserved permits remain, the reserved permits will be designated by a random number to eligible applicants with the next greatest number of bonus points for each species.

(d) The procedure in Subsection (c) will continue until all reserved permits are issued or no applications for that species remain.

(e) Any reserved permits remaining and any applicants who are not selected for reserved permits will be returned to the applicable drawing.

(5)(a) Each applicant receives a random drawing number for:

(i) each species applied for; and

(ii) each bonus point for that species.

(6) Bonus points are forfeited if a person obtains a permit through the drawing for that bonus point species including any permit obtained after the drawing.

(7) Bonus points are not forfeited if:

(a) a person is successful in obtaining a conservation permit, convention permit or sportsman permit;

(b) a person obtains a landowner or a cooperative wildlife management unit permit from a landowner; or

(c) a person obtains a poaching-reported reward permit.

(8) Bonus points are not transferable.

(9) Bonus points are averaged and rounded down when two or more applicants apply together on a group application.

(10)(a) Bonus points are tracked using social security numbers or division-issued customer identification numbers.

(b) The division shall retain electronic copies of applications from 1996 to the current drawings for the purpose of researching bonus point records.

(c) Any requests for researching an applicant's bonus point records must be submitted within the time frames provided in Subsection (b).

(d) Any bonus points on the division's records shall not be researched beyond the time frames provided in Subsection (b).

(e) The division may void or otherwise eliminate any bonus point obtained by fraud, deceit, misrepresentation, or in violation of law.

R657-62-9. Bonus Point Forfeiture.

(1) All bonus points accumulated for big game species shall be automatically forfeited upon failing to apply in three consecutive years for any big game permit or bonus point for which the applicant is eligible to receive.

(a) "Big game permit" means for purpose of this subsection any big game hunting permit that a bonus point may be awarded upon unsuccessful application or in lieu of a permit.

(b) Forfeiture may be imposed no sooner than March 1, 2012 after three consecutive years of failing to apply for a big game permit or bonus point.

R657-62-10. Preference Points.

(1) Preference points are used in the applicable drawings to ensure that applicants who are unsuccessful in the drawing will have first preference in the next year's drawing.

(2)(a) A preference point is awarded for:

(i) each valid, unsuccessful application of the first-choice hunt when applying for a general buck deer permit; or

(ii) each valid unsuccessful application when applying for an antlerless deer, antlerless elk, or doe pronghorn permit; or

(iii) each valid application when applying only for a preference point in the applicable drawings.

(b) Preference points are awarded by species for:

(i) general buck deer;

(ii) antlerless deer;

(iii) antlerless elk; and

(iv) doe pronghorn.

(3)(a) A person may not apply in the drawing for both a preference point and a permit for the species listed in (2)(b).

(b) A person may not apply for a preference point if that person is ineligible to apply for a permit.

(c) Preference points shall not be used when obtaining remaining permits.

(4) General buck deer preference points are forfeited if a person obtains a first-choice hunt general buck deer permit.

(5) an antlerless deer permit, an antlerless elk permit or doe pronghorn permit through the drawing.

(6) Preference points are not transferable.

(7) Preference points are averaged and rounded down when two or more applicants apply together on a group application.

(8)(a) Preference points are tracked using social security numbers or customer identification numbers.

(b) The division shall retain copies of electronic applications from 2000 to the current applicable drawings for the purpose of researching preference point records.

(c) Any requests for researching an applicant's preference point records must be submitted within the time frames provided in Subsection (b).

(d) Any preference points on the division's records shall not be researched beyond the time frames provided in Subsection (b).

(e) The division may eliminate any preference point obtained by fraud, deceit, misrepresentation, or in violation of law.

R657-62-[10-]11. Loyalty Points.

(1) Loyalty points are used in the dedicated hunter certificate of registration drawing to ensure that applicants who are unsuccessful in the drawing will have first preference in the next year's drawing.

(2) A loyalty point is awarded for:

(a) each valid unsuccessful application;

(b) each valid application when applying only for a loyalty point in the dedicated hunter drawing.

(c) successfully completing a three-year enrollment in the dedicated hunter program immediately proceeding the application period.

(3)(a) A person may not apply in the drawing for both a loyalty point and a certificate of registration.

(b) A person may not apply for a loyalty point if that person is ineligible to apply for a certificate of registration.

(c) Loyalty points may not be used when obtaining remaining certificates of registration after the dedicated hunter drawing.

(4) Loyalty points are forfeited if a person obtains a certificate of registration through the drawing.

(5)(a) Loyalty points are not transferable.

(b) Loyalty points shall only be applied to the Dedicated Hunter drawing.

(c) A person may not have more than one loyalty point at any time.

(d) Loyalty points are only valid through the end of the following application period.

(6) Loyalty points are averaged and rounded down to the nearest whole point when two or more applicants apply together on a group application.

(7)(a) Loyalty points are tracked using social security numbers or division-issued customer identification numbers.

(b) The division shall retain copies of electronic applications for three years for the purpose of researching loyalty point records.

(c) Any requests for researching an applicant's loyalty point records must be requested within the time frames provided in Subsection (b).

(d) Any loyalty points on the division's records shall not be researched beyond the time frames provided in Subsection (b).

(e) The division may eliminate any loyalty points earned that are obtained by fraud, deceit or misrepresentation.

R657-62-12. Corrections, Withdrawals and Resubmitting Applications.

(1)(a) If an error is found on the application, the applicant may be contacted for correction.

(b) The division reserves the right to correct or reject applications.

(2)(a) An applicant may withdraw their application from the permit or certificate of registration drawing by the date published in the respective proclamation of the Wildlife Board.

(b) An applicant may resubmit their application, after withdrawing a previous application, for the permit or certificate of registration drawing by the date published in the respective proclamation of the Wildlife Board.

(c) Handling fees, hunting or combination license fees and donations will not be refunded. Resubmitted applications will incur a handling fee.

(3) To withdraw an entire group application, all applicants must withdraw their individual applications.

R657-62-~~14~~13. Drawing Results.

Applicants ~~will~~ may be notified ~~[by mail or e-mail]~~ of drawing results by the date prescribed in the respective proclamation of the Wildlife Board.

R657-62-~~12~~14. License, Permit, Certificate of Registration and Handling Fees.

(1) Unsuccessful applicants will not be charged for a permit or certificate of registration.

(2) The handling fees and hunting or combination license fees are nonrefundable.

(3) All license, permit, certificate of registration and handling fees must be paid with a valid debit or credit card.

R657-62-~~13~~15. Permits Remaining After the Drawing.

(1) Any permits remaining after the drawing are available on the date published in the respective proclamation on a first-come, first-served basis from division offices, participating license agents and through the division's internet site.

R657-62-~~14~~16. Waiting Periods for Permits Obtained After the Drawing.

(1) Waiting periods do not apply to the purchase of remaining permits sold over the counter except as provided in Section 2.

(2) ~~[However, w]~~Waiting periods are incurred as a result of purchasing remaining permits after the drawing. ~~[Therefore, i]~~If a remaining permit is purchased in the current year, waiting periods will be in effect when applying in the drawing in following years.

R657-62-~~15~~17. Dedicated Hunter Certificates of Registration.

(1)(a) Applicants for a ~~[D]~~dedicated ~~[H]~~hunter ~~[Certificates]certificate of ~~[R]~~registration ~~[shall be issued pursuant to]~~ must meet all age requirements, proof of hunter education requirements and youth restrictions as provided in Rule R657-38.~~

(b) Each prospective participant must complete Dedicated Hunter program orientation course annually before submitting an application.

(2) Group applications are accepted. Up to four applicants may apply as a group.

R657-62-~~16~~18. Lifetime License Permits.

(1) Lifetime License permits shall be issued pursuant to Rule R657-17.

R657-62-~~17~~19. Big Game.

(1) Permit Applications

(a) Limited entry, Cooperative Wildlife Management Unit, Once-in-a-Lifetime, Management Bull Elk, Management Buck Deer, General Buck Deer, and Youth General Any Bull Elk permit applications.

(i) A person must possess or obtain a valid hunting or combination license to apply for or obtain a big game permit.

(ii) Applicants must meet all age requirements, proof of hunter education requirements and youth restrictions as provided in Rule R657-5.

(iii) A person may obtain only one permit per species of big game, including limited entry, cooperative wildlife management unit, once-in-a-lifetime, conservation, landowner and general permits, except antlerless permits as provided in the Antlerless Addendum and permits as provided in Rule R657-42.

(b) A resident may apply in the big game drawing for the following permits:

(i) only one of the following:

(A) buck deer - limited entry and cooperative wildlife management unit;

(B) bull elk - limited entry and cooperative wildlife management unit; or

(C) buck pronghorn - limited entry and cooperative wildlife management unit; and

(ii) only one once-in-a-lifetime permit, including once-in-a-lifetime cooperative wildlife management unit permits.

(c) A nonresident may apply in the big game drawing for the following permits:

(i) all of the following:

(A) buck deer -limited entry;

(B) bull elk - limited entry;

(C) buck pronghorn - limited entry; and

(D) all once-in-a-lifetime species.

(ii) Nonresidents may not apply for cooperative management units through the big game drawing.

(d) A resident or nonresident may apply in the big game drawing by region for:

(i) a statewide general archery buck deer permit; or

(ii) for general any weapon buck deer; or

(iii) for general muzzleloader buck deer.

(2) Youth

(a) For purposes of this section "youth" means any person 18 years of age or younger on the opening day of the general archery buck deer season.

(b) Youth applicants who apply for a general buck deer permit

(i) will automatically be considered in the youth drawing based upon their birth date.

(ii) 20% of general buck deer permits in each region are reserved for youth hunters.

(iii) may not apply as part of any group

(iv) Preference points shall be used when applying.

(c) Any reserved permits remaining and any youth applicants who were not selected for reserved permits shall be returned to the general buck deer drawing.

(3) Drawing Order

(a) Permits for the big game drawing shall be drawn in the following order:

(i) limited entry, cooperative wildlife management unit and management buck deer;

(ii) limited entry, cooperative wildlife management unit and management bull elk;

(iii) limited entry and cooperative wildlife management unit buck pronghorn;

(iv) once-in-a-lifetime;

(v) youth general buck deer;

- (vi) general buck deer and general buck/bull combo;
- (vii) youth general any bull elk.
- (b) Any person who draws one of the following permits is not eligible to draw a once-in-a-lifetime permit:
 - (i) limited entry, Cooperative Wildlife Management unit or management buck deer;
 - (ii) limited entry, Cooperative Wildlife Management unit or management bull elk; or
 - (iii) a limited entry or Cooperative Wildlife Management unit buck pronghorn.
- (c) If any permits listed in Subsection (a)(i) through (a) (iii) remain after the big game drawing after all choices have been evaluated separately for residents and nonresidents, a second evaluation will be done allowing cross-over usage of remaining resident and nonresident permit quotas.
 - (4) Groups
 - (a) Limited Entry
 - (i) Up to four people may apply together for limited entry deer, elk or pronghorn; or resident cooperative wildlife management unit permits.
 - (b) Group applications are not accepted for management buck deer or bull elk permits.
 - (c) Group applications are not accepted for Once-in-a-lifetime permits.
 - (d) General season
 - (i) Up to ten people may apply together for general deer permits
 - (ii) Up to two youth may apply together for youth general any bull elk permits.
 - (5) Waiting Periods
 - (a) Deer waiting period.
 - (i) Any person who draws or obtains a limited entry, management or cooperative wildlife management unit buck deer permit through the big game drawing process[;] may not apply for or receive any of these permits again for a period of two seasons.
 - (ii) A waiting period does not apply to:
 - (A) general archery, general any weapon, general muzzleloader, conservation, sportsman, poaching-reported reward permits; and dedicated hunter limited entry deer permits; or
 - (B) cooperative wildlife management unit or limited entry landowner buck deer permits obtained through the landowner.
 - (b) Elk waiting period.
 - (i) Any person who draws or obtains a limited entry, management or cooperative wildlife management unit bull elk permit through the big game drawing[;] process may not apply for or receive any of these permits for a period of five seasons.
 - (ii) A waiting period does not apply to:
 - (A) general archery, general any weapon, general muzzleloader, conservation, sportsman, poaching-reported reward permits; and dedicated hunter limited entry elk permits; or
 - (B) cooperative wildlife management unit or limited entry landowner bull elk permits obtained through the landowner.
 - (c) Pronghorn waiting period.
 - (i) Any person who draws or obtains a buck pronghorn or cooperative wildlife management unit buck pronghorn permit through the big game drawing may not apply for or receive any of these permits thereafter for a period of two seasons.
 - (ii) A waiting period does not apply to:

(A) conservation, sportsman, poaching-reported reward permits; or

(B) cooperative wildlife management unit or limited entry landowner buck pronghorn permits obtained through the landowner.

(d) Once-in-a-lifetime species waiting period.

(i) Any person who draws or obtains a permit for any bull moose, bison, Rocky Mountain bighorn sheep, desert bighorn sheep or Rocky Mountain goat may not apply for or receive an once-in-a-lifetime permit for the same species in the big game drawing or sportsman permit drawing.

(ii) A person who has been convicted of unlawfully taking a once-in-a-lifetime species may not apply for or obtain a permit for that species.

(e) Cooperative Wildlife Management Unit and landowner permits.

(i) Waiting periods and once-in-a-lifetime restrictions do not apply to purchasing limited entry landowner or cooperative wildlife management unit permits obtained through a landowner, except as provided in Subsection (ii).

(ii) Waiting periods are incurred and applied for the purpose of applying in the big game drawing as a result of obtaining a cooperative wildlife management unit bull moose permit through a landowner.

R657-62-[18-]20. Black Bear.

(1) Permit and Pursuit Applications.

(a) A person must possess or obtain a valid hunting or combination license in order to apply for or obtain a limited entry bear permit[;] or bear pursuit permit.

(b) A person may not apply for or obtain more than one bear permit within the same calendar year, except as provided in Subsection R657-33-26(4).

(c) Limited entry bear permits are valid only for the hunt unit and for the specified

season designated on the permit.

(d)(i) Applicants may select up to three hunt unit choices when applying for limited entry bear permits. Hunt unit choices must be listed in order of preference.

(ii) Applicants must specify in the application whether they want a limited entry bear permit or a limited entry bear archery permit[;] and/or bear pursuit permit.

(e) Any person obtaining a limited entry bear archery permit must also obtain a certificate of registration if intending to use bait as provided in Section R657-33-14.

(f) Applicants must meet all age requirements, proof of hunter education requirements and youth restrictions as provided in [~~Utah State Code~~]Sections 23-19-22.5, 23-19-11 and 23-20-20.

(2) Group applications are not accepted.

(3) Waiting periods.

(a) Any person who draws or purchases a limited entry bear permit valid for the current [~~season~~]year, may not apply for a permit thereafter for a period of two [~~seasons~~]years.

R657-62-[19-]21. Antlerless Species.

(1) Permit Applications.

(a) A person must possess or obtain a valid hunting or combination license in order to apply for or obtain an antlerless permit.

(b) Applicants must meet all age requirements, proof of hunter education requirements and youth restrictions as provided in Rule R657-5.

(c) A person may apply in the drawing for and draw the following permits, except as provided in Subsection (d):

- (i) antlerless deer;
- (ii) antlerless elk;
- (iii) doe pronghorn; and
- (iv) antlerless moose, if available.

(d) Any person who has obtained a buck pronghorn permit or a bull moose permit may not apply in the same year for a doe pronghorn permit or antlerless moose permit, respectively, except for permits remaining after the drawing as provided in R657-62-13.

(e) Applicants may select up to five hunt choices when applying for antlerless deer, antlerless elk and antlerless pronghorn.

(f) Applicants may select up to two hunt choices when applying for antlerless moose.

(g) Hunt unit choices must be listed in order of preference.

(h) A person may not submit more than one application in the antlerless drawing per species.

(2) Youth applications.

(a) For purposes of this section, "youth" means any person 18 years of age or younger on the opening day of the general archery buck deer season.

(b) Twenty percent of the antlerless deer, elk and doe pronghorn permits are reserved for youth hunters.

(c) Youth applicants who apply for an antlerless deer, elk, or doe pronghorn permit as provided in this Subsection, will automatically be considered in the youth drawing based upon their birth date.

(3) Drawing Order

(a) Permits are drawn in the order listed in the Antlerless Addendum to the Bucks, Bulls and Once-In-A-Lifetime proclamation of the Wildlife Board for taking big game.

(b) Any reserved permits remaining and any youth applicants who were not selected for reserved permits shall be returned to the antlerless drawing.

(c) If permits remain after all choices have been evaluated separately for residents and nonresidents, a second evaluation will be done allowing cross-over usage of remaining resident and nonresident permit quotas.

(4) Group Applications

(a) Up to four hunters can apply together for antlerless deer, antlerless elk and doe pronghorn

(b) Group applications are not accepted for antlerless moose.

(c) Youth hunters who wish to participate in the youth drawing must not apply as a group.

(5) Waiting Periods

(a) Antlerless moose waiting period.

(i) Any person who draws or obtains an antlerless moose permit or a cooperative wildlife management unit antlerless moose permit through the antlerless drawing process, may not apply for or receive an antlerless moose permit thereafter for a period of five seasons.

(ii) A waiting period does not apply to cooperative wildlife management unit antlerless moose permits obtained through the landowner.

R657-62-~~20~~- Sandhill Crane.

~~(1) Permit applications.~~

~~(a) A person may obtain only one Sandhill Crane permit each year.~~

~~(b) A person may not apply more than once annually.~~

~~(c) A hunting or combination license may be purchased before applying, or the hunting or combination license will be issued upon successful drawing results.~~

~~(d) Applicants must meet all age requirements, proof of hunter education requirements and youth restrictions as provided in Utah Code 23-19-24, 23-19-11 and 23-20-20.~~

~~(e) Applicants may select up to four hunt choices. Hunt unit choices must be listed in order of preference.~~

~~(2) Group Applications~~

~~(a) Up to four people may apply together.~~

~~(3) Waiting Periods do not apply.~~

R657-62-~~21~~-22. Sandhill Crane, Sharp-Tailed and Sage Grouse.

(1) Permit applications.

(a) A person may obtain only one Sandhill Crane permit each year.

~~(b)[(a)] A hunting or combination license [may be purchased before applying, or the hunting or combination license will be issued upon successful drawing results]is required to obtain a permit and may be purchased when applying.~~

~~[(b)c] Applicants must meet all age requirements, proof of hunter education requirements and youth restrictions as provided in Utah Code 23-19-24, 23-19-11 and 23-20-20.~~

~~[(e)d] Applicants may select up to four hunt choices. Hunt unit choices must be listed in order of preference.~~

(2) Group applications.

(a) Up to four people may apply together.

(3) Waiting Periods do not apply.

R657-62-~~22~~-23. Swan.

(1) Permit applications.

(a) A person may obtain only one swan permit each year.

(i) A person may not apply more than once annually.

~~(b) A Utah hunting or combination license [may be purchased before applying, or the hunting or combination license will be issued to the applicant upon successfully drawing a permit.]is required to obtain a permit and may be purchased when applying.~~

(c) The division shall issue no more than the number of swan permits authorized by the U.S. Fish and Wildlife Service each year.

(i) The division may withhold up to 1% of the authorized number of swan permits each year to correct division errors, which may occur during the drawing process.

(ii) Division errors may be corrected using the withheld swan permits in accordance with the Division Error Remedy Rule R657-50.

(iii) Withheld swan permits shall be used to correct division errors reported to or discovered by the division on or before the fifth day preceding the opening day of the swan hunt.

(iv) Withheld swan permits remaining after correcting any division errors shall be issued prior to the opening day of the swan hunt to the next person on the alternate drawing list.

(d) A person must complete a one-time orientation course before applying for a swan permit, except as provided under Subsection R657-9-~~7~~6(3)(b).

(i) Remaining swan permits available for sale shall be issued only to persons having previously completed the orientation course.

(e) Applicants must meet all age requirements, proof of hunter education requirements and youth restrictions as provided in Utah Code 23-19-24, 23-19-11 and 23-20-20.

(2) ~~Groups~~

~~(a)~~ Up to four people may apply together in a Group Application.

(3) Waiting period does not apply.

R657-62-~~23~~24. Cougar.

(1) Permit Applications

(a) A person must possess or obtain a valid hunting or combination license to apply for or obtain a cougar limited entry permit.

(b) A person may not apply for or obtain more than one cougar permit for the same year.

(c) Limited entry cougar permits are valid only for the limited entry management unit and for the specified season provided in the hunt tables of the proclamation of the Wildlife Board for taking cougar.

(d) Applicants may select up to three management unit choices when applying for limited entry cougar permits. Management unit choices must be listed in order of preference.

(e) If permits remain after all choices have been evaluated separately for residents and nonresidents, a second evaluation shall be done allowing cross-over usage of remaining resident and nonresident permit quotas.

(f) Any limited entry cougar permit purchased after the season opens is not valid until seven days after the date of purchase.

(g) Applicants must meet all age requirements, proof of hunter education requirements and youth restrictions as provided in Utah Code 23-19-22.5, 23-19-11 and 23-20-20.

(2) Group applications are not accepted.

(3) Waiting periods.

(a) Any person who draws or purchases a limited entry cougar permit valid for the current season may not apply for a permit thereafter for a period of three seasons.

(b) Waiting periods are not incurred as a result of purchasing cougar harvest objective permits.

R657-62-~~24~~25. Sportsman.

(1) Sportsman applications.

(a) One sportsman permit is offered to residents for each of the following species:

- (i) desert bighorn (ram);
- (ii) bison (hunter's choice);
- (iii) buck deer;
- (iv) bull elk;

(v) Rocky Mountain bighorn (ram);

(vi) Rocky Mountain goat (hunter's choice);

(vii) bull moose;

(viii) buck pronghorn;

(ix) black bear;

(x) cougar; and

(xi) wild turkey.

(b) Bonus points shall not be awarded or utilized when applying for or obtaining sportsman permits.

(2) Group applications are not accepted.

(3) Waiting Periods.

(a) Any person who applies for or obtains a Sportsman Permit is subject to all waiting periods and exceptions as applicable to the species pursuant to rule R657-41.

(b) Once-in-lifetime waiting periods ~~are applicable when applying for a sportsman permit~~.

(i) If you have obtained a once-in-a-lifetime permit through the sportsman drawing you are ineligible to apply for that once-in-a-lifetime species through the big game drawing.

(ii) If you have obtained a once-in-a-lifetime permit through the big game drawing you are ineligible to apply for that once-in-a-lifetime species through the sportsman drawing.

(c) Limited Entry waiting periods ~~are applicable when applying for a Sportsman permit~~.

(i) Waiting periods do not apply to Sportsman deer, elk, pronghorn, bear or cougar.

(ii) Waiting period will not be incurred for receipt of a Sportsman deer, elk, pronghorn, bear or cougar.

R657-62-~~25~~26. Turkey.

(1) Turkey applications.

(a) A person must possess a valid hunting or combination license in order to apply for or obtain a wild turkey permit.

(b) A person may obtain only one wild turkey permit each year, except a person may obtain wild turkey conservation permits in addition to obtaining one limited entry or remaining wild turkey permit.

~~(c) A person may not apply for wild turkey more than once annually.~~

~~(d)~~ Applicants may select up to five hunt choices when applying for limited entry turkey permits. Hunt unit choices must be listed in order of preference.

~~(e)~~ A turkey permit allows a person, using any legal weapon as provided in Section R657-54-7, to take one bearded turkey within the area and season specified on the permit.

(2) Group Applications are not accepted.

(3) Waiting period does not apply.

(4) Youth permits

(a) Up to 15 percent of the limited entry permits ~~authorized for taking Merriam's and Rio Grande turkeys~~ are available to youth hunters.

(b) For purposes of this section "youth" means any person who is ~~18~~15 years of age or younger on the posting date of the wild turkey drawing.

(c) Youth who apply for a turkey permit will automatically be considered in the youth permit drawing based on their birth date.

(d) Bonus points shall be used when applying for youth turkey permits.

(5) Landowner turkey permits shall be issued pursuant to rule R657-54.

KEY: wildlife, permits

Date of Enactment or Last Substantive Amendment: ~~April 21, 2009~~ 2010

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19

**Regents (Board of)
Administration
R765-604
New Century Scholarship**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 33461

FILED: 03/15/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule needs amending to meet legislated adjustments to qualifying standards for the New Century Scholarship, including a reduction in the limit from \$7,500 to \$5,000.

SUMMARY OF THE RULE OR CHANGE: The following changes are made by this amendment: 1) requirement of a 3.0 grade point average or completion of a rigorous math and science curriculum approved by the State Board of Regents with a 3.0 GPA; 2) application deadline of January 8; and 3) full-time enrollment required.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53B-8-105

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This amendment does not affect the state budget but rather state budget constraints require this amendment.

◆ **LOCAL GOVERNMENTS:** This rule does not affect any local government and therefore has no cost or savings associated with local governments.

◆ **SMALL BUSINESSES:** This rule does not affect any business and thus there are no costs or savings associated with any business.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule amendment affects the the potential number of applicants that could qualify for the New Century Scholarship. There is a \$2,500 reduction in the maximum dollar amount an

individual could receive but this rule does not impose costs on anyone.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for individuals as this is a scholarship program that is earned through completion of high school graduation requirements under the qualifying criteria for the scholarship.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no fiscal impacts on businesses.

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

REGENTS (BOARD OF)
ADMINISTRATION
BOARD OF REGENTS BUILDING, THE GATEWAY
60 SOUTH 400 WEST
SALT LAKE CITY, UT 84101-1284
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Ronell Crossley by phone at 801-321-7291, by FAX at 801-321-7299, or by Internet E-mail at rcrossley@utahsbr.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/03/2010

THIS RULE MAY BECOME EFFECTIVE ON: 05/10/2010

AUTHORIZED BY: William Sederburg, Commissioner

R765. Regents (Board of), Administration.

R765-604. New Century Scholarship.

R765-604-1. Purpose.

To provide policy and procedures for the administration of the New Century Scholarship which will be awarded to high school graduates who ~~have accelerated their education process and have completed~~ either complete the requirements for an associate degree with at least a 3.0 grade point average prior to September 1 of the same year they would normally graduate with their high school class[-], or who complete a rigorous math and science curriculum approved by the State Board of Regents with a 3.0 grade point average.

R765-604-3. Definitions.

- 3.1. "Program" - New Century Scholarship program.
- 3.2. "Awards" - New Century Scholarship funds which provide payment ~~[up to 75% of recipient's tuition costs]~~ as provided in this rule.
- 3.3. "SBR" - State Board of Regents.
- 3.4. "Reasonable progress" - A recipient must ~~[complete at least six semester credit hours]~~ be enrolled at least full-time (12 credit hours) during any semester for which he or she receives an

award. Effective for new 2010 recipients and continuing students starting Summer Semester 2010.

3.5. "Recipient" - A Utah resident who ~~[has accelerated his or her education process and]~~either: (1) completes the requirements for an associate degree with at least a 3.0 grade point average either prior to September 1 of the year he or she graduates from a Utah high school, or, if he or she graduates early or is home schooled, prior to the September 1 of the year in which he or she normally would have graduated with his or her class[-]; or (2) completes the rigorous math and science curriculum approved by the State Board of Regents with at least a 3.0 grade point average.

3.6. "High school graduation date" - The date when an applicant or recipient graduates from high school with his or her class, or if he or she graduates early or is home schooled, the date on which he or she normally would have graduated from high school with his or her class.

3.7. "Associate Degree" - An Associate of Arts, Associate of Science, or Associate of Applied Science degree, or equivalent academic requirements, as received from or verified by a regionally accredited Utah public college or university, provided that if the college or university does not offer the associate degree, the requirement can be met if the institution's registrar verifies that the student has completed academic requirements equivalent to an associate degree prior to the September 1 deadline.

3.8. "Math and Science Curriculum" - The rigorous math and science curriculum developed and approved by the State Board of Regents which, if completed, qualifies a high school student for a New Century Scholarship.

R765-604-4. Conditions of the Scholarship.

4.1. Program Terms - The program scholarship may be used at any 4-year public or private not-for-profit higher education institution in the state accredited by the Northwest Association of Schools and Colleges that offers baccalaureate programs. ~~[Depending on available funding, if used at an institution within the state system of higher education, the scholarship awards under this program are up to 75% of the actual tuition costs. If used at an institution not within the state system of higher education, the scholarship is up to 75% of the tuition costs at the institution, not to exceed 75% of the average tuition costs at the state system baccalaureate granting institutions. Each scholarship is valid for up to two years of full-time equivalent enrollment (60 semester credit hours) or until the requirements of a baccalaureate degree has been met, whichever is shorter. A student who has not used the award in its entirety within five years after his or her high school graduation date is ineligible to receive a program award.]~~

4.2. Applicant Qualification - To qualify for the award, an applicant must have either: (1) completed the requirements for an associate degree with at least a 3.0 college grade point average by September 1 of the year of his or her high school graduation date[-]; or (2) completed the approved math and science curriculum with at least a 3.0 grade point average by September 1 of the year of his or her high school graduation date.

4.3. Accredited College or University - The associate degree must be received from, or the approved math and science curriculum must be completed through, ~~[verification of completion of equivalent academic requirements must be received from-]~~ a regionally accredited Utah public institution, provided the institution's academic on-campus residency requirements, if any,

will not affect a student's eligibility for the scholarship if the institution's registrar's office verifies that the student has completed the necessary class credits for an associate degree or completed the approved math and science curriculum.

4.4. Eligible Institutions - The award may be used at any 4-year public or private not-for-profit higher education institution in the state accredited by the Northwest Association of Schools and Colleges that offers baccalaureate programs.

4.5. ~~[Dual]~~Enrollment at More Than One Institution - The award may be used at more than one of Utah's eligible institutions within the same semester.

4.6. Student Transfer - The award may be transferred to a different eligible Utah institution upon the request of the student.

R765-604-5. Application Procedures.

5.1. Application Contact - Qualifying students may apply for the award through the SBR office.

5.2. Support Documentation - Applicants must provide an official high school transcript[documentation] verifying their [recipient's]high school graduation date and ACT score where applicable, an official [copy of their-]college transcript, and if the student is enrolled at an institution which does not offer an associate degree or an institution that will not award the associate degree until the academic on-campus residency requirement has been met, the registrar must verify that the applicant has completed the equivalent academic requirements prior to September 1 of the year of the recipient's graduation date.

5.3. Application Deadlines - ~~[Applications and all support documentation must be received by the SBR office no later than thirty days prior to the date the applicant wishes the award to be forwarded to the applicant's eligible institution.]~~Beginning on or after January 1, 2010, applicants shall meet the following deadlines to qualify for an award:

5.3.1. An application shall be submitted on or before January 8 of the applicant's high school graduation year. A priority deadline may be established each year. Students who meet the priority deadline may be given first priority of consideration for awards.

5.3.2. All support documentation shall be submitted on or before October 15 following the applicant's high school graduation.

5.4. Incomplete Documentation - Applications or other submissions that have missing information or missing documents are considered incomplete, will not be considered, and may result in failure to meet a deadline.

R765-604-6. Amount of Awards and Distribution of Award Funds.

6.1. Amount of Awards -

6.1.1. For a student who graduates from high school in the 2009-10 school year:

6.1.1.1. If used at an institution within the state system of higher education, the amount of the [scholarship]award, depending on available funding, will be up to 75% of the [gross-]total cost of tuition based on the number of hours the student is enrolled[-]; or

6.1.1.2. If used at an institution not within the state system of higher education, the [scholarship]award, depending on available funding, will be up to 75% of the tuition costs at the institution, not to exceed 75% of the average tuition costs at the baccalaureate degree granting institutions within the state system of

higher education. [~~Tuition waivers, financial aid, or other scholarships will not affect the total award amount.~~]

6.1.2. For a student who graduates from high school in or after the 2010-11 school year, the total award is up to \$5,000, allocated semester-by-semester throughout whichever of the following time periods is the shortest:

6.1.2.1. Two years of full-time equivalent enrollment;

6.1.2.2. 60 credit hours; or

6.1.2.3. Until the student meets the requirements for a baccalaureate degree.

6.1.3. Tuition waivers, financial aid, or other scholarships will not affect the total award amount.

6.2. Tuition Documentation - The award recipient shall submit to SBR a copy of [~~the tuition invoice or~~] a class schedule verifying the number of hours enrolled. SBR will calculate the amount of the award based on the published tuition costs at the enrolled institution(s) and the availability of program funding.

6.3. Award Payable to Institution - The scholarship award will be made payable to the institution. The institution shall pay over to the recipient any excess award funds not required for tuition payments. Award funds should be used for higher education expenses including tuition, fees, books, supplies and equipment required for courses of instruction.

6.4. Added Hours after Award - The award will be increased up to 75% of the tuition costs of any hours added in the semester after the initial award has been made, depending on available funding. Recipient shall submit to SBR a copy of the tuition invoice or class schedule verifying the added hours before a supplemental award is made.

6.5. Dropped Hours after Award - If a student drops hours which were included in calculating the award amount, either the subsequent semester award will be reduced accordingly, or the student shall repay the excess award amount to SBR. If a recipient fails to complete a minimum of [~~six~~]twelve semester hours, [~~no award will be made for that semester, and a grade earned in a class completed in that semester, if any, will not be considered in evaluating the recipient's reasonable progress.~~]the scholarship may be revoked (see 7.1) unless the student needs fewer than twelve hours for completion of a degree. No award will be made for that semester, and a grade earned in a class completed in that semester, if any, will not be considered in evaluating the recipient's reasonable progress.

6.6. Funding Constraints of Awards - The SBR may limit or reduce awards, depending on the annual legislative appropriations and the number of qualified applicants.

R765-604-7. Time Constraints and Continuing Eligibility.

7.1. Reasonable Progress toward Degree Completion - [~~The SBR may cancel the scholarship if~~]In order to renew and award, the [student]recipient must [fails to]maintain reasonable progress toward degree completion by achieving a ["b average"]3.0 GPA each [for two consecutive]semester[s] [for which he or she has received award funds; or fails to make reasonable progress toward the completion of a baccalaureate degree.]and enrolling full-time (12 credit hours) each semester. If the recipient fails to maintain a 3.0 GPA or fails to enroll full-time, the award may be revoked.

7.1.1. Each semester, the recipient must submit to SBR a copy of his or her grades to verify that he or she is meeting the [the]required grade point average and is [making reasonable progress toward the completion of a baccalaureate degree]completing a minimum of twelve semester hours. These documents must be submitted by the following dates effective for new 2010 recipients and continuing students starting Summer Semester 2010.

7.1.1.1. Proof of enrollment for Fall Semester and proof of completion of the previous semester must be submitted by September 30.

7.1.1.2. Proof of enrollment for Spring Semester and proof of completion of the previous semester must be submitted by February 15.

7.1.1.3. Proof of enrollment for Summer Semester and proof of completion of the previous semester must be submitted by June 30.

7.1.1.4. Proof of enrollment if you are attending Brigham Young University during Winter Semester and proof of completion of the previous semester must be submitted by February 15.

7.1.1.5. Proof of enrollment if you are attending Brigham Young University during Spring Term and proof of completion of the previous semester must be submitted by May 30.

7.1.1.6. Proof of enrollment if you are attending Brigham Young University during Summer Term and proof of completion of the previous semester or term must be submitted by July 30.

7.1.2. If a recipient earns less than a 3.0 GPA in any single semester, the recipient must earn a 3.0 GPA or better the following semester to maintain eligibility for the award.

7.1.3. A recipient will not be required to enroll full-time if the recipient can complete the degree program with fewer credits.

7.2. No Awards after Five Years - The SBR will not make an award to a recipient for an academic term that begins more than five years after the recipient's high school graduation date.

7.3. No Guarantee of Degree Completion - A New Century Scholarship award does not guarantee that the recipient will complete his or her baccalaureate program within the recipient's scholarship eligibility period.

7.4. Awards Initiated Within Twelve Months of High School Graduation - An award recipient must enroll full-time at an eligible institution of higher education within twelve months of the recipient's high school graduation unless the recipient seeks and obtains an approved deferral or leave of absence from the SBR.

R765-604-8. Deferral or Leave of Absence.

8.1. Does Not Extend Time - A deferral or leave of absence will not extend the time limits of the scholarship. [~~The scholarship may only be used for academic terms which begin within five years after the recipient's high school graduation date.~~]

8.2. Deferrals or leaves of absence may be granted, at the discretion of the SBR, for military service, humanitarian/religious service, documented medical reasons, and other exigent reasons.

KEY: higher education, secondary education, scholarships

Date of Enactment or Last Substantive Amendment: [March 22, 2005]2010

Notice of Continuation: December 21, 2009

Authorizing, and Implemented or Interpreted Law: 53B-8-105

Transportation, Program Development **R926-7** Scenic Byways

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 33445

FILED: 03/09/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is being repealed so the regulations can be updated and reorganized into two new rules.

SUMMARY OF THE RULE OR CHANGE: The rule is being repealed so the regulations can be updated and reorganized into two new rules: Rule R926-13 Designated Scenic Byways, and Rule R926-14 Utah Scenic Byway Program Administration; Scenic Byways Designation, De-designation, and Segmentation Processes. (DAR NOTE: The proposed new Rule R926-13 is under DAR No. 33446, and the proposed new Rule R926-14 is under DAR No. 33447 in this issue, April 1, 2010, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-4-303

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The Department anticipates no cost or savings to the State budget associated with repeal of this rule. Any costs or savings will result from enactment of the new rules, Rules R926-13 and R926-14, and will be stated in the analysis for those rules.
- ◆ **LOCAL GOVERNMENTS:** The Department anticipates no cost or savings to local government associated with repeal of this rule. Any costs or savings will result from enactment of the new rules, Rules R926-13 and R926-14, and will be stated in the analysis for those rules.
- ◆ **SMALL BUSINESSES:** The Department anticipates no cost or savings to small businesses associated with repeal of this rule. Any costs or savings will result from enactment of the new rules, Rules R926-13 and R926-14, and will be stated in the analysis for those rules.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The Department anticipates no cost or savings associated with repeal of this rule to persons other than small businesses, businesses, or local government entities. Any costs or savings will result from enactment of the new rules, Rules R926-13 and R926-14, and will be stated in the analysis for those rules.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Department anticipates no cost or savings associated with repeal of this rule for affected persons. Any costs or savings

will result from enactment of the new rules, Rules R926-13 and R926-14, and will be stated in the analysis for those rules.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Department anticipates no impact on businesses associated with repeal of this rule. Any impact will result from enactment of the new rules, Rules R926-13 and R926-14, and will be stated in the analysis for those rules.

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

TRANSPORTATION
PROGRAM DEVELOPMENT
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY, UT 84119-5998
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ David Benard by phone at 801-965-4197, by FAX at 801-965-4338, or by Internet E-mail at dbenard@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/03/2010

THIS RULE MAY BECOME EFFECTIVE ON: 05/10/2010

AUTHORIZED BY: John Njord, Executive Director

R926. Transportation, Program Development.

~~**R926-7. Scenic Byways.**~~

~~**R926-7-1. Authority.**~~

~~_____ This rule establishes the procedures for administration of the scenic byway program; establish the criteria that a highway shall possess to be designated as a scenic byway; establish the process for nominating a highway to be designated as a state scenic byway; specifying the process for hearings to be conducted in the area of proposed designation prior to the highway being designated as a scenic byway; identifying the highways within the state as scenic byways; and establish the process and criteria for removing the designation of a highway as a scenic byway as required by Utah Code Ann. Section 72-4-303.2.~~

~~**R926-7-2. Definitions.**~~

- ~~_____ (1) "Committee" means the Utah State Scenic Byway Committee as defined in Utah Code Ann. Section 72-4-301.~~
- ~~_____ (2) "De-designation" means removing a current state scenic byway designation from an entire existing scenic byway.~~
- ~~_____ (3) "Department" means the Utah Department of Transportation.~~
- ~~_____ (4) "Governmental Body" means the elected governing board of a political subdivision, such as town, city, county or Association of Governments.~~
- ~~_____ (5) "Local Scenic Byway Committee" means the committee consisting of the Road Leader, and representatives from~~

nearby governmental bodies, agencies, tourism related groups and interested individuals which recommend and prioritize various projects and applications relating to a scenic byway. The Local Scenic Byway Committee promotes and preserves intrinsic values along the byway.

(6) "Quorum" has the meaning given in Utah Code Ann. Section 72-4-302.

(7) "Road Leader" means an individual recognized by the Local Scenic Byway Committee as chair. If a Local Scenic Byway Committee does not exist for a scenic byway, the Road Leader is an individual recognized by the Committee chair as the person to contact for applications and other administrative business for the state scenic byway.

(8) "Segmentation" means removing the state scenic byway designation from a portion of an existing scenic byway.

R926-7-3. Committee Administration.

(1) The committee shall meet annually, and as frequently as needed to conduct business to administer the State Scenic Byway program within the State of Utah. This business shall include, but not be limited to designating, de-designating and segmentation of state scenic byways; recommending applications recognizing National and All American Road recognition; prioritizing applications for Scenic Byway Discretionary funding, and other funding which may be available; and other business as may be needed to administer the scenic byway program.

(2) Committee membership shall be as required by Utah Code Annotated Section 72-4-303.2.

(3) The committee member's term of service shall be as follows:

(a) Representatives of State Agencies. Term of service will be indefinite, as determined by the identified agency.

(b) Representatives of Federal Agencies. Term of service will be indefinite, as determined by the identified agency.

(c) Utah Association of Governments. Term of service will be indefinite, as determined by the identified organization.

(d) Representatives of the Utah Travel Regions Associations, local government tourism representative, and the private sector representative. Term will be four years.

(4) Half of the initial appointments will be for two years, in order to stagger the terms. The members selected for the initial two year term will be selected by the state agencies.

(5) The Committee will meet annually in the second quarter of the calendar year. Additional Committee meetings may be called to conduct business necessary to administer the State Scenic Byway program.

(6) A poll by telephone or email may be taken of all members for the purpose of approving applications submitted for National Scenic Byway or All American Road recognition. All Committee members will be furnished poll results. A second poll will then be taken of the voting Committee members concerning submitting the applications, with the results determining if the application will be submitted. The results will be forwarded to all committee members, and reported at the next Committee meeting.

(7) A poll by telephone or email may be taken of all members for the purpose of prioritizing funding grant applications submitted for Scenic Byway Discretionary funds. All Committee members will be furnished poll results. A second poll will then be taken of the voting Committee members concerning prioritizing the

applications, with the results determining priorities of the applications to be submitted. The results will be forwarded to all committee members, and reported at the next Committee meeting.

R926-7-4. Criteria That A Highway Shall Have To Be Designated As A Scenic Byway.

(1) A road being considered for state scenic byway designation must comply with all of the following criteria:

(a) The nominated road must possess unusual, exceptional, or distinctive intrinsic qualities in at least two of the following categories:

(i) Scenic Quality. Scenic Quality is the heightened visual experience derived from the view of natural and manmade elements of the visual environment of the scenic byway corridor. The characteristics of the landscape are strikingly distinct and offer a pleasing and most memorable visual experience. All elements of the landscape landform, water, vegetation, and manmade development contribute to the quality of the corridor's visual environment. Everything present is in harmony and shares in the intrinsic qualities.

(ii) Natural Quality. Natural Quality applies to those features in the visual environment that are in a relatively undisturbed state. These features predate the arrival of human populations and may include geological formations, fossils, landform, water bodies, vegetation, and wildlife. There may be evidence of human activity, but the natural features reveal minimal disturbances.

(iii) Historic Quality. Historic Quality encompasses legacies of the past that are distinctly associated with physical elements of the landscape, whether natural or manmade, that are of such historic significance that they educate the viewer and stir an appreciation for the past. The historic elements reflect the actions of people and may include buildings, settlement patterns, and other examples of human activity. Historic features can be inventoried, mapped, and interpreted. They possess integrity of location, design, setting, material, workmanship, feeling, and association.

(iv) Cultural Quality. Cultural Quality is evidence and expressions of the customs or traditions of a distinct group of people that are still currently practiced. Cultural features include but are not limited to crafts, music, dance, rituals, festivals, speech, food, special events, and vernacular architecture.

(v) Archeological Quality. Archeological Quality involves those characteristics of the byway corridor that are physical evidence of historic or prehistoric human life or activity that are visible and capable of being inventoried and interpreted. The byway corridor's archeological interest, as identified through ruins, artifacts, structural remains, and other physical evidence have scientific significance that educate the viewer and stir an appreciation for the past.

(vi) Recreational Quality. Recreational Quality involves outdoor recreational activities directly associated with and dependent upon the natural and cultural elements of the corridor's landscape. The recreational activities provide opportunities for active and passive recreational experiences. They include but are not limited to downhill skiing, rafting, boating, fishing, and hiking. The recreational activities may be seasonal, but the quality and importance of the recreational activities as seasonal operations must be well recognized.

~~_____ (vii) The nominated road must be a planned or existing route. In the case of a planned route, legal public access, safety standards and pavement must be guaranteed at completion of construction.~~

~~_____ (viii) American Association of State Highway and Transportation Officials (AASHTO) safety standards for federal aid primary or secondary roads or highways will guide evaluation of road safety.~~

~~_____ (ix) The nominated road must have strong local support and the proponents must demonstrate this support and coordination.~~

~~_____ (x) The nominated road must accommodate recreational vehicles or provisions should be made for travel by recreational vehicles.~~

~~_____ (xi) The nominated road need not lead to or provide connection to other road networks. It may be dead-ended, or provide only a single outlet for traffic.~~

~~_____ (xii) The nominated road need not be open during the winter months. Seasonal road closures shall be clearly posted.~~

~~_____ (xiii) The nominated road may include portions of the Interstate Highway System.~~

~~_____ (xiv) only if the IHS component is a small part of the overall nominated scenic byway and is included primarily for continuity of travel.~~

~~R926-7-5. Process For Nominating A Highway To Be Designated A Scenic Byway.~~

~~_____ (1) It is the intent of this criteria to be restrictive in nature so as to limit the number of designated state scenic byways in order to maintain the quality and integrity of the Scenic Byway system.~~

~~_____ (2) Responsibility for state scenic byway designation shall be that of the Committee.~~

~~_____ (3) Nominations shall be forwarded by a local governmental body, such as a town, city, county, or Association of Government.~~

~~_____ (4) Nomination application will demonstrate the nominated road meets the criteria to be qualify as a state scenic byway.~~

~~_____ (5) The committee will act on a byway related application only after public hearings have been held and after receiving minutes which include names and addresses of people making comments; a detailed summary of comments made; and proof of public notification have been received.~~

~~_____ (6) The nomination will be considered by the Committee after a presentation by the nominating sponsor group, either at the byway location, or at a Committee meeting. The Committee will vote on proposed designations at the next Committee meeting. Results will be reported to the nomination sponsor.~~

~~R926-7-6. Process For Hearings To Be Conducted In The Area Of Proposed Designation Prior To The Highway Being Designated As A Scenic Byway.~~

~~_____ (1) The required public hearings may be held separately, or as an identifiable agenda item of a regular meeting of a governmental body.~~

~~_____ (2) Notice of Local Public Hearing. The following is the minimum required public notification of the hearing to be held in conjunction with a proposed change of the status of a scenic byway:~~

~~_____ (a) Written notice sent by US Mail to each of the following at least seven (7) days prior to the hearing:~~

~~_____ (i) Local scenic byway Road Leader, as identified by the Committee chair;~~

~~_____ (ii) Potentially impacted local governments, communities or counties in the area;~~

~~_____ (iii) The Association of Governments that serves the impacted area.~~

~~_____ (iv) The hearing shall be advertised in locally published newspapers a minimum of seven (7) days, but not more than fourteen (14) days prior to the hearing. If there are no local newspapers in the area, applicants must post notice of the public hearing for the same period in public places throughout the impacted area. Locations of such postings are to be furnished to the committee with the submitted application.~~

~~_____ (v) Committee shall be invited to attend the public hearings.~~

~~_____ (vi) Topics to be presented at Public Hearings: At a minimum, the following topics are to be presented at each public hearing.~~

~~_____ (vii) The impact on outdoor advertising.~~

~~_____ (viii) The potential impact of traffic volumes.~~

~~_____ (ix) Potential impact of land use along byway.~~

~~R926-7-7. Highways Within The State Designated As Scenic Byways.~~

~~_____ (1) The following roads are designated as state scenic byways:~~

~~_____ (a) Logan Canyon Scenic Byway. US-89, beginning at 1500 East in Logan and running to the Utah/Idaho State Line.~~

~~_____ (b) Bear Lake Scenic Byway. State Route 30, beginning at US-89, and running to East Shore Road in Laketown.~~

~~_____ (c) Ogden River Scenic Byway. State Route 39, beginning at Valley Drive, near the mouth of Ogden Canyon, and running to the eastern Wasatch-Cache Forest boundary near highway Reference Post 48; and State Route 158 from SR-39, and running to County Road 3468; and the County Road 3468, from SR-158, running to SR-39.~~

~~_____ (d) Big Cottonwood Canyon Scenic Byway. State Route 190, beginning at SR-210, and running to the end of the Brighton Loop.~~

~~_____ (e) Little Cottonwood Canyon Scenic Byway. State Route 210, beginning at SR-209, and running to the end of state maintenance, near Alta.~~

~~_____ (f) Provo Canyon Scenic Byway. US-189, beginning at SR-52, and running to SR-113, near Charleston; and SR-113, from US-189 running to US-40 in Heber City.~~

~~_____ (g) Mirror Lake Scenic Byway. State Route 150, beginning at SR-32 in Kamas, and running to the Utah/Wyoming State Line.~~

~~_____ (h) Flaming Gorge-Uintas Scenic Byway. US-191, beginning at US-40 in Vernal, and running to the Utah/Wyoming State Line; State Route 44, from US-191, running to SR-43 in Manila; and SR-43, from SR-44, running to the Utah/Wyoming state line.~~

~~_____ (i) Indian Canyon Scenic Byway. US-191, beginning at US-6 near Helper, and running to US-40 in Duchesne.~~

~~_____ (j) The Energy Loop, Huntington and Eccles Canyons Scenic Byway. State Route 31, beginning at US-89 in Fairview, and running to SR-10 in Huntington; and State Route 264, from SR-31,~~

running to SR-96; and SR-96, from SR-264, and running to US-6 near Colton.

(k) ~~Nebo Loop Scenic Byway. State Route 115, beginning at I-15 and running to SR-198; State Route 198, from SR-115 running to 600 East in Payson; and along County Road 2822 (600 East) and National Forest Road 015 running to SR-132 in Juab County.~~

(l) ~~Upper Colorado River Scenic Byway. State Route 128, beginning at US-191 near Moab, and running to I-70 West Cisco interchange.~~

(m) ~~Potash-Lower Colorado River Scenic Byway. State Route 279, beginning at the end of SR-279 near the Potash Plant and running to US-191.~~

(n) ~~Indian Creek Scenic Byway. State Route 211, beginning at US-191 and running to County Road 2432; and County Road 2432 from SR-211 running to the Canyonlands National Park Visitor Center.~~

(o) ~~Bicentennial-Trail of The Ancients Scenic Byway. State Route 95, beginning at SR-24, and running to US-191; State Route 275, from US-95 and running to Natural Bridges National Monument; and US-191 from Center Street in Blanding running to SR-162; and SR-162 from US-191 running to the Utah/Colorado state line.~~

(p) ~~Monument Valley to Bluff Scenic Byway. US-163, beginning at the Utah/Arizona State Line running to US-191; and US-191 from US-163 running to the Cottonwood Wash Bridge in Bluff.~~

(q) ~~Capitol Reef Country Scenic Byway. State Route 24, beginning at SR-72 in Loa, and running to SR-95 in Hanksville.~~

(r) ~~Highway 12, A Journey Through Time Scenic Byway. State Route 12, beginning at US-89 near Panguitch, and running to SR-24 near Torrey.~~

(s) ~~Markaquant High Plateau Scenic Byway. State Route 14, beginning at SR-130 and running to US-89.~~

(t) ~~Cedar Breaks Scenic Byway. State Route 148, beginning at SR-14, through Cedar Breaks National Monument, running to SR-143.~~

(u) ~~Brian Head-Panguitch Lake Scenic Byway. State Route 143, beginning at I-15 South Parowan Interchange, and running to US-89 in Panguitch.~~

(v) ~~Beaver Canyon Scenic Byway. State Route 153, beginning at SR-160 in Beaver, and running to the end of pavement near Elk Meadows.~~

(w) ~~Mt. Carmel Scenic Byway. US-89, beginning at the Kanab north city limit (approximately Highway Reference Post 65), and running to SR-12.~~

(x) ~~Zion Park Scenic Byway. State Route 9, beginning I-15 and running to US-89.~~

(y) ~~Kolob Fingers Road Scenic Byway. The National Park Service Road, beginning at I-15, and running to the Kolob Canyon Overlook.~~

(z) ~~Dead Horse Point Mesa Scenic Byway. State Route 313, from US-191 running to Dead Horse Point State Park; and the Island in the Sky Road, from SR-313 running to Grandview Point.~~

(aa) ~~Fish Lake Scenic Byway. State Route 25 and County Roads 2554 and 3268, beginning at SR-24, and running to SR-72.~~

(bb) ~~Dinosaur Diamond Scenic Byway. Interstate 70, from the Colorado State Line running to Cisco Exit 214; the County~~

Road 1714 through Cisco, from I-70 running to SR-128; SR-128, from the Cisco Road running to US-191 near Moab; US-191, from SR-128 running to I-70 at Crescent Junction; I-70, from US-191 at Crescent Junction running to US-6 near Green River; US-6, from I-70 running to US-191 near Helper; US-191, from US-6 near Helper running to US-40 in Duchesne; US-40, from US-191 in Duchesne to the Colorado State Line.

~~R926-7-8. Process And Criteria For Removing The Designation Of A Highway As A Scenic Byway.~~

(1) ~~The Committee may dedesignate or segment a Scenic Byway if the intrinsic values for which it was designated have become significantly degraded and no longer meet the requirements for which it was originally designated, or the segment was included for continuity of travel.~~

(2) ~~Requests for segmentation or de-designation of state scenic byways shall be submitted by a governmental body along or adjacent to the scenic byway. The request shall be submitted to the Committee Chair. Each request shall include discussion of the following:~~

(a) ~~Organizations (local scenic byway committee, community, county or association of governments) submitting an application for designation, segmentation or de-designation of a scenic byway must hold public hearings for the purpose of receiving the public's views and to respond to questions and concerns expressed. The actual number of hearings will be determined by the Committee Chair, and will be located to collect a broad base of public comments throughout the length of the proposed Scenic Byway changes.~~

(b) ~~Specific reasons for segmentation or de-designation. Reasons may include, but are not limited to:~~

(c) ~~Segment or byway is no longer consistent with the state's criteria for selection as a scenic byway;~~

(i) ~~Failure to maintain or enhance intrinsic values for which the scenic byway was designated;~~

(ii) ~~Degradation of the intrinsic values for which the scenic byway was selected;~~

(iii) ~~Segment of byway is not representative of the intrinsic values for which the scenic byway was designated, but was included primarily for connectivity;~~

(iv) ~~State scenic byway designation has become a liability to the corridor.~~

(v) ~~Upon receipt of the request for segmentation or de-designation, the committee chair will add the request to the agenda of the next Utah Scenic Byways Committee meeting.~~

(d) ~~The committee will review the request at the next Committee meeting and discuss at least the following:~~

(i) ~~reasons for segmentation or de-designation.~~

(ii) ~~Whether segmentation or de-designation of the scenic byway will significantly degrade the statewide scenic byway system;~~

(iii) ~~Whether segmentation or de-designation is an attempt to evade FHWA rules, regulations or requirements. Requests to segmentation or de-designate all or part of a scenic byway for the purpose to evade FHWA rules, regulations or requirements will not be considered.~~

(iv) ~~Following discussion of the request, the committee will vote on the request for segmentation or de-designation. The~~

result to the vote will be forwarded to the requesting governmental body.

~~(v) Upon segmentation or de-designation approval, the Utah Travel Council, UDOT and other interested agencies will be notified of the change in designation, and will be requested to modify reference of the segment in materials identifying scenic byways to reflect the change in scenic byway status.~~

~~KEY: transportation, scenic byways, highways
Date of Enactment or Last Substantive Amendment: September 15, 2005
Authorizing, and Implemented or Interpreted Law: 72-4-301~~

Transportation, Program Development **R926-13** Designated Scenic Byways

NOTICE OF PROPOSED RULE

(New Rule)
DAR FILE NO.: 33446
FILED: 03/09/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the new Rule R926-13 is to identify and update the official list of state scenic byways and to separate it from the processes of the scenic byway program (which are to be included in Rule R926-14.) Currently, both the list and the processes are contained in Rule R926-7, which is proposed to be repealed. (DAR NOTE: The proposed repeal of Rule R926-7 is under DAR No. 33445, and the proposed new Rule R926-14 is under DAR No. 33447 in this issue, April 1, 2010, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: Rule R926-13 contains the official list of state scenic byways as designated by the Utah State Scenic Byway Committee, including approved alignments and limits, as previously listed in Rule R926-7. The list has been updated to include new byways that have been designated by the committee since Rule R926-7 was enacted. A second list is included, describing which of the state scenic byways have also been given either National Scenic Byway or All-American Road status.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63G-3-201 and Section 72-4-303

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** Since the lists contained in Rule R926-13 constitute a catalog of actions previously taken by the Utah State Scenic Byway Committee and its predecessors, there are no additional costs or savings to the state budget related to this rule.

◆ **LOCAL GOVERNMENTS:** Since the lists contained in Rule R926-13 constitute a catalog of actions previously taken by the Utah State Scenic Byway Committee and its predecessors, there are no additional costs or savings to local governments related to this rule.

◆ **SMALL BUSINESSES:** Since the lists contained in Rule R926-13 constitute a catalog of actions previously taken by the Utah State Scenic Byway Committee and its predecessors, there are no additional costs or savings to small businesses related to this rule.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Since the lists contained in Rule R926-13 constitute a catalog of actions previously taken by the Utah State Scenic Byway Committee and its predecessors, there are no additional costs or savings to persons other than small businesses, businesses, or local government entities related to this rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since the lists contained in Rule R926-13 constitute a catalog of actions previously taken by the Utah State Scenic Byway Committee and its predecessors, there are no additional costs or savings to affected persons related to this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Since the lists contained in Rule R926-13 constitute a catalog of actions previously taken by the Utah State Scenic Byway Committee and its predecessors, there are no additional costs or savings to businesses related to this rule.

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

TRANSPORTATION
PROGRAM DEVELOPMENT
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY, UT 84119-5998
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ David Benard by phone at 801-965-4197, by FAX at 801-965-4338, or by Internet E-mail at dbenard@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/03/2010

THIS RULE MAY BECOME EFFECTIVE ON: 05/10/2010

AUTHORIZED BY: John Njord, Executive Director

R926. Transportation, Program Development.

R926-13. Designated Scenic Byways.

R926-13-1. Purpose.

The purpose of this rule is to identify the following:

(1) The specific highways currently designated as state scenic byways.

(2) The definition of the limits of the individual scenic byways for all purposes related to that designation, including, but not limited to, grant and funding availability, and applicable outdoor advertising regulations.

(3) The specific state scenic byways within the State of Utah currently having also been designated by the National Scenic Byways Program of the Federal Highway Administration as either National Scenic Byways or All-American Roads.

R926-13-2. Authority.

The provisions of this rule are authorized by the following grants of rulemaking authority and provisions of Utah Code: Title 63G, Chapter 3; and the Designation of Highways Act, Title 72, Chapter 4.

R926-13-3. Definitions.

Terms used in this rule are defined in Title 72, Chapter 4 and in Rule 926-7A. The following additional term is defined for this rule:

(1) "FAS" (with corresponding four-digit number) is a designation given by the department to identify local roadways off the state highway system that are part of the federal aid secondary system because they are functionally classified as minor collectors or higher.

R926-13-4. Highways Within the State That Are Designated as State Scenic Byways.

The following roads are designated as state scenic byways (date of designation is April 9, 1990 unless otherwise specified):

(1) Logan Canyon Scenic Byway. US Route 89, beginning at 1500 East in Logan and running to the intersection of SR-30 in Garden City.

(a) Designated April 9, 1990.

(b) Shortened June 13, 2002 when designated a National Scenic Byway and the portion of US-89 from Garden City to the Utah/Idaho State Line was transferred to the Bear Lake Scenic Byway.

(2) Bear Lake Scenic Byway. US Route 89, beginning at the Utah/Idaho state line and running to SR-30; and State Route 30, beginning at US-89, and running to East Shore Road in Laketown.

(a) Designated April 9, 1990 as Laketown Scenic Byway.

(b) Extended and renamed June 13, 2002 to include the portion of US-89 originally included in the state designation of the Logan Canyon Scenic Byway that was excluded when that byway was designated a National Scenic Byway.

(3) Ogden River Scenic Byway. State Route 39, beginning at Valley Drive, near the mouth of Ogden Canyon, and running to the eastern Wasatch-Cache Forest boundary near highway milepost 48; and State Route 158 from SR-39, and running to County Road FAS-3468; and the County Road FAS-3468, from SR-158, running to SR-39.

(4) Big Cottonwood Canyon Scenic Byway. State Route 190, beginning at SR-210, and running to the end of the Brighton Loop.

(5) Little Cottonwood Canyon Scenic Byway. State Route 210, beginning at SR-209, and running to the end of state maintenance, near Alta.

(6) Provo Canyon Scenic Byway. US Route 189, beginning at SR-52, and running to SR-113, near Charleston; and State Route 113, from US-189 running to US-40 in Heber City.

(a) Designated April 9, 1990

(b) Realigned onto SR-113 from the eastern portion of US-189 February 25, 2003.

(7) Mirror Lake Scenic Byway. State Route 150, beginning at SR-32 in Kamas, and running to the Utah/Wyoming State Line.

(8) Flaming Gorge-Uintas Scenic Byway. US Route 191, beginning at US-40 in Vernal, and running to the Utah/Wyoming State Line; State Route 44, from US-191, running to SR-43 in Manila; and State Route 43, from SR-44, running to the Utah/Wyoming state line.

(9) Indian Canyon Scenic Byway. US Route 191, beginning at US-6 near Helper, and running to US-40 in Duchesne.

(10) The Energy Loop: Huntington and Eccles Canyons Scenic Byway. State Route 31, beginning at US-89 in Fairview, and running to SR-10 in Huntington; State Route 264, from SR-31, running to SR-96; and State Route 96, from SR-264, and running to US-6 near Colton.

(11) Nebo Loop Scenic Byway. State Route 115, beginning at I-15 and running to SR-198; State Route 198, from SR-115 running to 600 East in Payson; and along County Road FAS-2822 (600 East) and National Forest Road 015 running to SR-132 in Juab County.

(12) Upper Colorado River Scenic Byway. State Route 128, beginning at US-191 near Moab, and running to I-70 West Cisco interchange.

(13) Potash-Lower Colorado River Scenic Byway. State Route 279, beginning at the southwest end of SR-279 near the Potash Plant and running to US-191.

(14) Indian Creek Scenic Byway. State Route 211, beginning at US-191 and running to County Road FAS-2432; and County Road FAS-2432 from SR-211 running to the Canyonlands National Park Visitor Center.

(15) Bicentennial Highway Scenic Byway. State Route 95, beginning at SR-24, and running to US-191.

(16) Trail of The Ancients Scenic Byway. State Route 95, beginning at SR-275, and running to US-191; State Route 275, from SR-95 and running to Natural Bridges National Monument; US Route 191 from Center Street in Blanding running to SR-162 in Bluff; and State Route 162 from US-191 running to the Utah/Colorado state line.

(a) Designated February 7, 1994 on SR-275 and on US-191 between Blanding and SR-262.

(b) Extended June 6, 2001 to take in the eastern portion of the Bicentennial Highway Scenic Byway between SR-275 and US-191, to include US-191 between SR-262 and Bluff, and to include SR-162.

(17) Monument Valley to Bluff Scenic Byway. US Route 163, beginning at the Utah/Arizona State Line running to US-191; and US Route 191 from US-163 running to the Cottonwood Wash Bridge in Bluff.

(18) Capitol Reef Country Scenic Byway. State Route 24, beginning at SR-72 in Loa, and running to SR-95 in Hanksville.

(19) Highway 12, A Journey Through Time Scenic Byway. State Route 12, beginning at US-89 near Panguitch, and running to SR-24 near Torrey.

(20) Markagunt High Plateau Scenic Byway. State Route 14, beginning at SR-130 and running to US-89.

(21) Cedar Breaks Scenic Byway. State Route 148, beginning at SR-14, through Cedar Breaks National Monument, running to SR-143.

(22) Brian Head-Panguitch Lake Scenic Byway. State Route 143, beginning at I-15 South Parowan Interchange, and running to US-89 in Panguitch.

(23) Beaver Canyon Scenic Byway. State Route 153, beginning at SR-160 in Beaver, and running to the end of pavement near Elk Meadows.

(24) Mt. Carmel Scenic Byway. US Route 89, beginning at the Kanab north city limit (approximately highway milepost 65), and running to SR-12.

(25) Zion Park Scenic Byway. State Route 9, beginning at I-15 and running to US-89.

(26) Kolob Fingers Road Scenic Byway. The National Park Service Road, beginning at I-15, and running to the Kolob Canyon Overlook.

(27) Dead Horse Mesa Scenic Byway. State Route 313, from US-191 running to Dead Horse Point State Park; and the Island in the Sky Road FAS-1708, from SR-313 running to Grandview Point.

(a) Designated May 16, 2002.

(28) Fishlake Scenic Byway. State Route 25 and County Roads FAS-2554 and FAS-3268, beginning at SR-24, and running to SR-72.

(a) Designated April 9, 1990, on SR-25 between SR-24 and Johnson Valley Reservoir.

(b) Extended August, 1992, between Johnson Valley Reservoir and SR-72 to comprise the southern portion of the Gooseberry/Fremont Road Scenic Backway.

(29) Dinosaur Diamond Prehistoric Highway Scenic Byway. Interstate 70, from the Utah/Colorado state line running to Cisco Exit 214; the County Road FAS-1714 through Cisco, from I-70 running to SR-128; State Route 128, from the Cisco Road running to US-191 near Moab; US Route 191, from SR-128 running to I-70 at Crescent Junction; Interstate 70, from US-191 at Crescent Junction running to US-6 near Green River; US Route 6, from I-70 running to US-191 near Helper; US Route 191, from US-6 near Helper running to US-40 in Duchesne; US Route 40, from US-191 in Duchesne to the Utah/Colorado state line.

(a) Dinosaur Diamond Prehistoric Highway designated in Title 72, Chapter 4, Section 204 in 1998.

(b) Scenic byway route established with National Scenic Byway designation differs from special highway designation in that it includes County Road FAS-1714 and I-70 east of Cisco and does not at this time include those portions located on SR-10, on SR-155, or on US-191 south of SR-128.

(30) Great Salt Lake Legacy Parkway Scenic Byway. State Route 67, beginning at I-215 and running to I-15. Designated May 16, 2002.

R926-13-5. Highways Within the State That Are Designated as National Scenic Byways or All-American Roads.

The following roads are designated by the National Scenic Byways Program as National Scenic Byways or All-American Roads:

(1) Flaming Gorge-Uintas National Scenic Byway.

(a) Comprised of the Flaming Gorge-Uintas State Scenic Byway.

(b) Designated National Scenic Byway June 9, 1998.

(2) Nebo Loop National Scenic Byway.

(a) Comprised of the Nebo Loop State Scenic Byway.

(b) Designated National Scenic Byway June 9, 1998.

(3) The Energy Loop: Huntington and Eccles Canyons National Scenic Byway.

(a) Comprised of the Energy Loop: Huntington and Eccles Canyons State Scenic Byway.

(b) Designated National Scenic Byway June 15, 2000.

(4) Logan Canyon National Scenic Byway.

(a) Comprised of the Logan Canyon State Scenic Byway.

(b) Designated National Scenic Byway June 13, 2002.

(5) Dinosaur Diamond Prehistoric Highway National Scenic Byway.

(a) Comprised of the Dinosaur Diamond Prehistoric Highway Scenic Byway.

(b) Also comprises the Indian Canyon State Scenic Byway and the Upper Colorado River State Scenic Byway (excluding the portion of SR-128 between I-70 and County Road FAS-1714)

(c) Designated NSB June 13, 2002.

(6) Scenic Byway 12 All-American Road.

(a) Comprised of the Highway 12, A Journey Through Time State Scenic Byway.

(b) Designated All-American Road June 13, 2002.

(7) Trail of the Ancients National Scenic Byway.

(a) Comprised of the Trail of the Ancients State Scenic Byway, the Monument Valley to Bluff State Scenic Byway, and both sections of the Trail of the Ancients State Scenic Backway (SR-261 starting at US-163 and running to SR-95, the east-west portion of SR-262, and the reservation roads starting at SR-262 and running easterly to the Utah/Colorado State Line near Hovenweep National Monument (comprising the portion of FAS-2416 between SR-262 and FAS-2426, former FAS-2417, and FAS-2422)).

(b) Designated National Scenic Byway September 22, 2005.

(c) In addition to the above description, the America's Byways tourist maps also show the portion of US-191 between Blanding and Monticello as part of the Trail of the Ancients. This is done for purposes of travel continuity along the byway, but this portion is not officially designated by the committee as part of the state scenic byway system and so is not subject to byways regulations and restrictions.

(8) Utah's Patchwork Parkway National Scenic Byway.

(a) Comprised of Brian Head-Panguitch Lake State Scenic Byway.

(b) Designated National Scenic Byway October 16, 2009.

KEY: transportation, scenic byways, highways
Date of Enactment or Last Substantive Amendment: 2010
Authorizing, and Implemented or Interpreted Law: 72-4-303; 63G-3-201

Transportation, Program Development
R926-14
 Utah Scenic Byway Program
 Administration; Scenic Byways
 Designation, De-designation, and
 Segmentation Processes

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 33447

FILED: 03/09/2010

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The primary purpose of new Rule R926-14 is to reenact the provisions of Rule R926-7, proposed to be repealed, and amend the original language to align with legislation of H.B. 272 in the 2009 General Session, which amended Title 72, Chapter 4. A secondary purpose is to separate the scenic byway processes from the official list of scenic byways which will be included in Rule R926-13. Amendments to the scenic byway processes are typically driven by actions of the Legislature or those internal to the department, whereas amendments to the lists are driven by actions of the Utah Scenic Byway Committee or by the Federal Highway Administration. (DAR NOTE: The proposed repeal of Rule R926-7 is under DAR No. 33445, and the proposed new Rule R926-13 is under DAR No. 33446 in this issue, April 1, 2010, of the Bulletin. H.B. 272 (2009) is found at Chapter 393, Laws of Utah 2009, and was effective 05/12/2009.)

SUMMARY OF THE RULE OR CHANGE: Rule R926-14 addresses the administration of the Utah Scenic Byway program authorized in Title 72, Chapter 4, specifies the criteria needed for a roadway corridor to be considered for designation as a state scenic byway, and outlines the processes for designation as a state scenic byway, nomination as a National Scenic Byway or All-American Road, de-designation, and segmentation.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63G-3-201 and Section 72-4-301 and Section 72-4-301.5 and Section 72-4-302 and Section 72-4-303 and Section 72-4-304

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** The Department anticipates no new cost or savings to the state budget resulting from adoption of this rule. Continuing impacts of scenic byways include incidental costs for installation and maintenance of scenic byway signs and updating state maps.

♦ **LOCAL GOVERNMENTS:** The Department anticipates no new cost or savings to local government resulting from adoption of this rule. Continuing impacts of scenic byways include local governments on the byways becoming eligible for byway-related grants. They also potentially see increases of sales tax revenue from increased tourism along the byway, but would not see increases in revenues from billboards as new installations are prohibited.

♦ **SMALL BUSINESSES:** The Department anticipates no new cost or savings to small businesses resulting from adoption of this rule. Continuing impacts of scenic byways include tourist-related businesses that typically benefit from a scenic byway designation, but businesses located off the route may be impacted by the limits on offsite advertising. Opportunities for outdoor advertising businesses are limited by scenic byway designations.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** As this rule outlines internal processes of the Utah Scenic Byway Committee, there are no costs or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule outlines internal processes of the Utah Scenic Byway Committee and does not exact compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Department anticipates no new fiscal impact on businesses resulting from adoption of this rule. Continuing impacts of scenic byways include tourist-related businesses that typically benefit from a scenic byway designation. Businesses located off the route may be impacted by the limits on offsite advertising. New opportunities for outdoor advertising businesses are limited by scenic byway designations.

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

TRANSPORTATION
 PROGRAM DEVELOPMENT
 CALVIN L RAMPTON COMPLEX
 4501 S 2700 W
 SALT LAKE CITY, UT 84119-5998
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ David Benard by phone at 801-965-4197, by FAX at 801-965-4338, or by Internet E-mail at dbenard@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/03/2010

THIS RULE MAY BECOME EFFECTIVE ON: 05/10/2010

AUTHORIZED BY: John Njord, Executive Director

R926. Transportation, Program Development.

R926-14. Utah Scenic Byway Program Administration; Scenic Byways Designation, De-designation, and Segmentation Processes.

R926-14-1. Purpose.

The purpose of this rule is to establish the following:

- (a) administration of the Utah Scenic Byway program;
- (b) the criteria that a highway shall possess to be considered for designation as a state scenic byway;
- (c) the process for nominating a highway to be designated as a state scenic byway;
- (d) the process for nominating an existing state scenic byway to be considered for designation as a National Scenic Byway or All-American Road;
- (e) the process and criteria for removing the designation of a highway as a scenic byway or segmentation of a portion thereof; and
- (f) the requirements for public hearings to be conducted regarding proposed changes to the scenic byway status of corridor, and related notifications.

R926-14-2. Authority.

The provisions of this rule are authorized by the following grants of rulemaking authority and provisions of Utah Code: Title 63G, Chapter 3; and the Designation of Highways Act, Title 72, Chapter 4.

R926-14-3. Definitions.

Terms used in this rule are defined in Title 72, Chapter 4. The following additional terms are defined for this rule:

- (1) "All-American Road" means a scenic byway designation made at the national level for state scenic byways that significantly meet criteria for multiple qualities out of the six defined intrinsic qualities.
- (2) "America's Byways" means the brand utilized by the National Scenic Byways Program for promotion of the National Scenic Byways and All American Roads.
- (3) "Committee" or "State Committee" means the Utah State Scenic Byway Committee as defined in Title 74, Chapter 4 and does not refer to any local scenic byway committee, herein defined.
- (4) "Corridor management plan" means a written document prepared by the local scenic byway committee in accordance with federal policies that specifies the actions, procedures, controls, operational practices, and administrative strategies necessary to maintain the intrinsic qualities of a scenic byway.
- (5) "De-designation" means removing a current state scenic byway designation by the committee from an entire existing scenic byway.

(6) "Department" means the Utah Department of Transportation.

(7) "Designation" means selection of a roadway by the committee as a state scenic byway or selection of an existing state scenic byway by the U.S. Secretary of Transportation as one of America's Byways.

(8) "Federal policies" means those rules outlining the National Scenic Byway Program and that set forth the criteria for designating roadways as National Scenic Byways or All-American Roads, specifically the FHWA Interim Policy.

(9) "Governmental Body" means the elected governing board of a political subdivision, such as a town, city, county, tribal government or Association of Governments.

(10) "Grant" means discretionary funding available on a competitive basis to designated scenic byways from the Federal Highway Administration through the National Scenic Byways Program.

(11) "Intrinsic quality" means scenic, historic, recreational, cultural, archaeological, or natural features that are considered representative, unique, irreplaceable, or distinctly characteristic of an area. The National Scenic Byways Program further defines each of these qualities.

(12) "Local Scenic Byway Committee" means the committee consisting of the local byway coordinator and representatives from nearby governmental bodies, agencies, tourism related groups and interested individuals that recommends and prioritizes various projects and applications relating to a scenic byway. The local scenic byway committee promotes and preserves intrinsic values along the byway.

(13) "Local Byway Coordinator" means an individual recognized by the local scenic byway committee as chair. If a local scenic byway committee does not exist for a scenic byway, the local byway coordinator is an individual recognized by the state committee chair as the person to contact for applications and other administrative business for the state scenic byway.

(14) "National Scenic Byway" means a scenic byway designation made at the national level for byways that significantly meet criteria for at least one quality out of the six defined intrinsic qualities.

(15) "National Scenic Byways Program" or "NSBP" means a program provided by the Federal Highway Administration to promote the recognition and enjoyment of America's memorable roads.

(16) "State Scenic Byway" means a Utah roadway corridor that has been duly designated by the committee for its intrinsic qualities.

(17) "Status" refers to the current designation of a scenic byway, i.e., state scenic byway, National Scenic Byway, All-American Road, undesignated roadway, segmented scenic byway or de-designated scenic byway.

R926-14-4. Utah State Scenic Byway Committee Organization and Administration.

(1) The authorization of the committee, its membership, administration, powers, and duties are defined in Title 72, Chapter 4.

(2) The committee shall meet annually, at a minimum, or as frequently as needed to administer the State Scenic Byway program within the State of Utah. This business shall include, but not be limited to designating, de-designating and segmenting of state scenic byways; recommending considerations for National and All-American Road recognition to the Legislature, recommending applications to the NSBP; prioritizing applications for Scenic Byway Discretionary funding and other funding that may be available; and other business as may be needed to administer the scenic byway program.

(3) The committee will meet in the second quarter of the calendar year. Additional committee meetings may be called to conduct business necessary to administer the state scenic byway program.

(6) A poll by telephone or email may be taken of all members for the purpose of approving applications submitted for National Scenic Byway or All-American Road recognition. All committee members will be furnished poll results. A second poll will then be taken of the voting committee members concerning submitting the applications, with the results determining if the application will be submitted. The results will be forwarded to all committee members, and reported at the next committee meeting.

(7) A poll by telephone or email may be taken of all members for the purpose of prioritizing the funding of grant applications submitted for Scenic Byway Discretionary funds and other available funds. All committee members will be furnished poll results. A second poll will then be taken of the voting committee members concerning prioritizing the applications, with the results determining priorities of the applications to be submitted. The results will be forwarded to all committee members, and reported at the next committee meeting.

R926-14-5. Criteria Required of a Highway to Be Considered for Designation as a State Scenic Byway.

(1) A road being considered for state scenic byway designation must meet all of the following criteria:

(a) the nominated road must possess at least two unusual, exceptional, or distinctive intrinsic qualities, as defined;

(b) the nominated road may be either a planned or existing route and in the case of a planned route, legal public access, safety standards and all-weather pavement must be guaranteed at completion of construction;

(c) roadway safety on the nominated road must be evaluated against and guided by American Association of State Highway and Transportation Officials (AASHTO) safety standards for federal aid primary or secondary roads;

(d) the nominated road must have strong local support for byway designation and the proponents must demonstrate this support and coordination;

(e) the nominated road must accommodate recreational vehicles or provisions should be made for travel by recreational vehicles;

(f) the nominated road need not lead to or provide connection to other road networks; it may be dead-ended, or provide only a single outlet for traffic;

(g) the nominated road need not be open during the winter months, but seasonal road closures must be clearly posted, shown on applicable maps, and specified in any promotional literature; and

(h) the nominated road may include portions of the Interstate Highway System, but only if the Interstate component is a small part of the mileage of the overall nominated scenic byway and is included primarily for continuity of travel.

(2) It is the intent of these criteria to be restrictive in nature so as to limit the number of designated state scenic byways in order to maintain the quality and integrity of the scenic byway system.

R926-14-6. Process for Nominating a Highway to Be Designated a State Scenic Byway.

(1) Nominations for a corridor to be designated a state scenic byway shall be forwarded to the committee by a local governmental body.

(2) The nomination application must demonstrate how the nominated road meets the criteria to qualify as a state scenic byway.

(3) The committee will act on a byway-related application only after the responsible organization has held public hearings and submitted minutes of the hearings, including names and addresses of people making comments, a detailed summary of comments made, and proof of public notification.

(4) The committee will consider the nomination after review of the application and after a presentation by the nominating sponsor group, either at the byway location, or at a committee meeting. The committee will vote on proposed designations at the next committee meeting. The committee will report the results of the vote to the nomination sponsor.

(5) Individual communities along the byway corridor that do not support the designation of the byway within the limits of their community have the statutory right, as prescribed in Title 72, Chapter 4, to opt out of any new byway designation through official action of their legislative body, but they become ineligible for byway grants and promotional considerations by doing so.

(6) Upon approval by the committee of a scenic byway nomination, the committee shall notify the Utah Office of Tourism, the department and other interested agencies of the new designation and of the approved alignment and limits of the designated corridor.

(a) The committee will make a request to these agencies that they modify reference of the segment, to reflect the change in scenic byway status, on maps and in materials and website applications identifying scenic byways.

R926-14-7. Process for Nominating a Highway to Be Designated a National Scenic Byway or All-American Road.

In addition to state recognition, state scenic byways may be nominated to the National Scenic Byways Program so that they may be recognized as a byway of national significance through designation as a National Scenic Byway or All-American Road.

(1) Local scenic byway committees shall notify the state committee of their intent to apply for National Scenic Byway or All-American Road status and the state committee shall in turn notify the Legislature of this intent.

(2) Local scenic byway committees desiring national designation are required by the National Scenic Byways Program to prepare nomination applications, adhering to the criteria outlined in applicable federal policies.

(a) A corridor management plan for the byway will be required by the NSBP to be prepared before a nomination application will be considered. The required information and criteria to be included in the corridor management plan are outlined in the federal policies.

(b) The NSBP will issue a call for applications, at which time the local scenic byway committee may submit a nomination application as long as the state scenic byway has been approved for consideration in accordance with the requirements of Title 72, Chapter 4.

(3) Local scenic byway committees are to confer with the state committee during the preparation of a corridor management plan and will submit their nomination applications to the committee for review prior to submitting to the NSBP.

(4) The committee will refer all considerations for America's Byways designations to the Legislature for approval, along with the recommendation of the committee. As required in Title 72, Chapter 4, Legislative approval must be obtained before any application for nomination may be submitted to the NSBP.

(5) Upon approval by the NSBP of a National Scenic Byway nomination, the committee shall notify the Utah Office of Tourism, the department and other interested agencies of the new designation and of any differences in alignment or limits as related to existing state scenic byway designations.

(a) The committee will make a request to these agencies that they modify reference of the segment, to reflect the change in scenic byway status, on maps and in materials and website applications identifying scenic byways.

R926-14-8. Process and Criteria for Removing the Designation of a Highway as a Scenic Byway or Segmentation of a Portion Thereof.

(1) The committee may de-designate a scenic byway if the intrinsic values for which the corridor was designated have become significantly degraded and no longer meet the requirements for which it was originally designated.

(2) The committee may also remove designation on a localized segment of a designated byway if the intrinsic values within the segment have become degraded or if the segment being considered was included for continuity of travel along the designated corridor, does not in and of itself contain the intrinsic values for which the corridor was designated, and the segmentation has strong community-based support.

(3) De-designated corridors and communities or parcels segmented out of the scenic byway designation are no longer subject to byways-related regulations and are no longer eligible for byways-related grants and promotional considerations.

(4) Committee processes for de-designation or segmentation may be initiated by the committee itself or by request from a governmental body.

(5) Alternatively, segmentation of specific parcels or portions of a scenic byway may be considered directly by the legislative body of a county, city, or town where the segmentation is proposed, as provided in Title 72, Chapter 4. The same public hearing requirements are followed for local legislative actions as are stipulated herein for committee actions.

(6) Requests to the committee for segmentation or de-designation of state scenic byways shall be submitted by a governmental body along or adjacent to the scenic byway corridor. Each request shall include discussion of the specific reasons for segmentation or de-designation. Reasons may include, but are not limited to:

(a) segment or corridor is no longer consistent with the state's criteria for selection as a scenic byway;

(b) failure to have maintained or enhanced intrinsic values for which the scenic byway was designated;

(c) degradation of the intrinsic values for which the scenic byway was selected;

(d) segment of byway is not representative of the intrinsic values for which the scenic byway was designated and was included primarily for connectivity; or

(e) state scenic byway designation has become a liability to the corridor.

(7) Upon receipt of the request for segmentation or de-designation, the committee chair will add the request to the agenda of the next committee meeting.

(8) The committee will review the request at the next committee meeting and discuss at least the following:

(a) reasons for segmentation or de-designation;

(b) whether segmentation or de-designation of the scenic byway will significantly degrade the statewide scenic byway system; and

(c) whether segmentation or de-designation is an attempt to evade applicable rules, regulations or requirements.

(9) The committee will act on a byway segmentation or de-designation request only after the responsible organization has held public hearings and submitted minutes of the hearings, including names and addresses of people making comments, a detailed summary of comments made, and proof of public notification.

(10) Following discussion of the request, the committee will vote on the request for segmentation or de-designation. The committee will then forward the result of the vote to the requesting governmental body.

(11) Upon approval or disapproval of a de-designation or segmentation request, the acting body, whether the committee or the local legislative body, shall notify the Utah Office of Tourism, the department and other interested agencies of the action taken.

(a) In the case of approval of a de-designation or segmentation, the acting body will make a request to these agencies that they modify reference of the segment, to reflect the change in scenic byway status, on maps and in materials and website applications identifying scenic byways.

(b) In the case where the committee approves the de-designation of a scenic byway that had also been designated as a National Scenic Byway, the committee will inform the National Scenic Byway Program of the decision and make a request to the NSBP that they modify reference of the segment, to reflect the change in scenic byway status, on maps and in materials and website applications identifying scenic byways.

(c) In the case of a local legislative action on a segmentation request, the legislative body shall also notify the committee and the local byway coordinator of the action taken.

(12) Appeals to the committee concerning local legislative actions are handled as provided in Title 72, Chapter 4.

R926-14-9. Local Government Consent.

Consent of affected local governments along the byway corridor is required by Title 72, Chapter 4 for any change in scenic byway status.

R926-14-10. Requirements for Public Hearings to Be Conducted Regarding Changes to Status of a State Scenic Byway and Related Notifications.

(1) Whenever changes to the scenic byway status of a corridor or of a segment thereof are considered, one or more public hearings must be held for the purpose of receiving the public's views and to respond to questions and concerns expressed before action is taken.

(a) The organization initiating the request for change in status is responsible for arrangement, notification, and execution of the hearing(s). The responsible organization may be:

(i) an organization (local scenic byway committee, community, county or association of governments) submitting an application or request to the committee;

(ii) the committee, in the case of a process initiated by the committee itself; or

(iii) a local legislative body considering a segmentation request.

(b) The hearing(s) shall be held in the area affected by the proposed status changes.

(c) Multiple hearings in varied locations may be appropriate, based on the length of the corridor or the affected area within the corridor. The committee chair will review and approve the number and locations of hearings as proposed by the nominating

organization to ensure collection of a broad base of public comments throughout the length of the corridor where the scenic byway status changes are proposed.

(d) The responsible organization shall invite the state committee and the local scenic byway committee to attend the public hearing(s).

(2) The required public hearing(s) may be held separately, or as an identifiable agenda item of a regular meeting of a governmental body.

(3) Notification of all public hearings shall be made as required by the laws governing the responsible organization.

(4) At a minimum, the following information related to the proposed change in status is to be addressed at each public hearing:

(a) the impact on outdoor advertising;

(b) the potential impact of traffic volumes;

(c) the potential impact of land use along the byway;

(d) the potential impact on grant eligibility; and

(e) the potential impact on the local tourist industry.

(5) The responsible organization shall keep minutes of the hearing, including a detailed summary of comments and the names and addresses of those making comments and shall make these available to the committee, along with proof of required notifications.

KEY: transportation, scenic byways, highways

Date of Enactment or Last Substantive Amendment: 2010

Authorizing, and Implemented or Interpreted Law: 63G-3-201, 72-4-301, 72-4-301.5, 72-4-302, 72-4-303, 72-4-304

End of the Notices of Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended 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 upon filing.

NOTICES are governed by Section 63G-3-305.

Community and Culture, History **R212-11** Historic Preservation Tax Credit

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 33448
FILED: 03/10/2010

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 59-7-609 and 59-10-108.5 allow for a historic preservation tax credit by the Utah State Tax Commission and provide for certain duties of the Division of State History and the State Historic Preservation Office with respect to the implementation of these sections. Section 9-8-205 provides that the Board of State History and the Division shall make rules to direct the division director in carrying out his or her duties.

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 THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is needed to: 1) ensure an orderly process of review of historic preservation tax credit projects by the Division of State History and the State Historic Preservation Office; 2) to allow for appeal and judicial review of decisions; and 3) to ensure that all rehabilitation work on

historic preservation tax credit projects meets the Secretary of the Interior's "Standards for Rehabilitation."

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

COMMUNITY AND CULTURE
HISTORY
300 RIO GRANDE
SALT LAKE CITY, UT 84101-1182
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Lynette Lloyd by phone at 801-533-3553, by FAX at 801-533-3567, or by Internet E-mail at lynettelloyd@utah.gov

AUTHORIZED BY: Philip Notarianni, Director

EFFECTIVE: 03/10/2010

Environmental Quality, Air Quality **R307-103** Administrative Procedures

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 33428
FILED: 03/04/2010

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: The Utah Administrative

Procedures Act (UAPA), Subsection 63G-4-102(6), allows state administrative agencies to enact rules "affecting or governing adjudicative proceedings," so long as the rules are adopted according to the Utah Administrative Rulemaking Act and conform to the requirements of UAPA. Rule R307-103 establishes administrative procedures that are tailored to DAQ's administrative needs and the needs of those affected by the agency's actions. The procedures in Rule R307-103 ensure consistency in the Division's administrative actions and give constitutional due process and fair notice to the regulated community and the public of their and DAQ's roles and responsibilities in the agency's actions.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-103 sets forth administrative processes for the Division of Air Quality and the regulated community to ensure constitutional due process for the regulated community and the public, and should be continued.

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:
 ♦ Joel Karmazyn by phone at 801-536-4423, by FAX at 801-536-4099, or by Internet E-mail at jkarmazyn@utah.gov

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

EFFECTIVE: 03/04/2010

Environmental Quality, Air Quality
R307-201
 Emission Standards: General
 Emission Standards

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
 DAR FILE NO.: 33429
 FILED: 03/04/2010

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-2-104(1)(b) allows the Air Quality Board to make rules "establishing air quality standards." Standards are needed to ensure that emissions of air pollution do not harm public health.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Standards are needed to ensure that emissions of air pollution do not harm public health. This rule outlines the standards and should be continued.

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:
 ♦ Joel Karmazyn by phone at 801-536-4423, by FAX at 801-536-4099, or by Internet E-mail at jkarmazyn@utah.gov

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

EFFECTIVE: 03/04/2010

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

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
 DAR FILE NO.: 33430
 FILED: 03/04/2010

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS

ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-2-104(1)(a) allows the Air Quality Board to make rules "...regarding the control, abatement, and prevention of air pollution from all sources..." Rule R307-202 sets forth the conditions under which burning of yard clippings is allowed, forbids burning at community waste disposal sites, and the burning of trash or garbage. Rule R307-202 does not regulate fireplaces or outdoor grills.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-202 is necessary to specify time windows when local officials may allow burning for yard cleanup, and to set forth the kinds of burning for which permits are not needed; and should be continued. In addition, Rule R307-202 is a component of Utah's State Implementation Plan, and cannot be deleted without EPA approval.

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:
 ♦ Joel Karmazyn by phone at 801-536-4423, by FAX at 801-536-4099, or by Internet E-mail at jkarmazyn@utah.gov

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

EFFECTIVE: 03/04/2010

Environmental Quality, Air Quality **R307-203**

Emission Standards: Sulfur Content of Fuels

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 33431
 FILED: 03/04/2010

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: Rule R307-203 establishes the maximum amount of sulfur that may be contained in coal and oil burned in industrial processes and residential heating, thus holding down the emissions of sulfur dioxide from these processes. Subsection 19-2-104(1)(a) authorizes the Air Quality Board to make rules "...regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminant source."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Sulfur dioxide is harmful to human health, which is the basis for EPA's listing of sulfur dioxide as a principal pollutant. Without this rule, users could burn coal or oil with higher sulfur content, thus emitting more sulfur dioxide into the atmosphere. In addition, Rule R307-203 is a component of Utah's State Implementation Plan, and cannot be deleted without EPA approval.

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:
 ♦ Joel Karmazyn by phone at 801-536-4423, by FAX at 801-536-4099, or by Internet E-mail at jkarmazyn@utah.gov

AUTHORIZED BY: Bryce Bird , Planning Branch Manager

EFFECTIVE: 03/04/2010

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

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 33432
FILED: 03/04/2010

AUTHORIZED BY: Bryce Bird , Planning Branch Manager

EFFECTIVE: 03/04/2010

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-2-104(1)(a) allows the Air Quality Board to make rules "...regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminant source." Rule R307-204 protects the public health by controlling the release and impact of particulate pollution associated with prescribed and controlled fires in the State of Utah. Rule R307-204 also describes the operational procedures to follow when prescribed fires, wildland fires, or wildland fire use events take place on specific lands in Utah owned or managed by state and federal land management agencies. Rule R307-204 does not apply to agricultural activities specified in Section 19-2-114.

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 THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-204 protects the public health by controlling the release and impact of particulate pollution associated with prescribed and controlled fires in the State of Utah. Under Rule R307-204, prescribed fires requiring a burn plan cannot be ignited and wildland fire use events cannot be managed before the executive secretary of the Air Quality Board (AQB) approves or conditionally approves the burn request. Smoke has also become the dominant public complaint, further supporting the need for this regulation. Therefore, this rule should be continued.

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:

♦ Joel Karmazyn by phone at 801-536-4423, by FAX at 801-536-4099, or by Internet E-mail at jkarmazyn@utah.gov

Environmental Quality, Air Quality **R307-205** Emission Standards: Fugitive Emissions and Fugitive Dust

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 33433
FILED: 03/04/2010

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: The Air Quality Board is required by Subsection 19-2-101(2) to "...achieve and maintain levels of air quality which will protect human health and safety,...." In addition, Subsection 19-2-104(1)(a) allows the Board to make rules "...regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminant source...." Also, Subsection 19-2-109(2)(a) allows the Board to "...establish emission control requirements by rule that in its judgment may be necessary to prevent, abate, or control air pollution that may be statewide or may vary from area to area, taking into account varying local conditions." Finally, Subsection 19-2-104(3)(e) allows the Board to "...prepare and develop a comprehensive plan or plans for the prevention, abatement, and control of air pollution in this state." Rule R307-205 protects the public health by reducing emissions from industries, gravel pits, constructions sites, haul trucks, mines, and tailings ponds, as authorized by the above statutes.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-205 reduces emissions from industries, gravel pits, constructions sites, haul trucks, mines,

and tailings ponds. In addition, dust complaints make up a significant portion of complaints received by the Division of Air Quality. Therefore, this rule should be continued.

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:
 ♦ Joel Karmazyn by phone at 801-536-4423, by FAX at 801-536-4099, or by Internet E-mail at jkarmazyn@utah.gov

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

EFFECTIVE: 03/04/2010

Environmental Quality, Air Quality **R307-206**

Emission Standards: Abrasive Blasting

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 33434
 FILED: 03/04/2010

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: Rule R307-206 sets forth performance standards and maximum concentration of contaminants allowed in the air for operations that clean or prepare a surface by forcefully propelling a stream of abrasive material against the surface. Subsection 19-2-104(1)(a) allows the Air Quality Board to make rules "...regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminant source."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule protects the health of citizens when abrasive blasting operations are underway and should be continued. In addition, this rule is a component of Utah's State Implementation Plan.

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:
 ♦ Joel Karmazyn by phone at 801-536-4423, by FAX at 801-536-4099, or by Internet E-mail at jkarmazyn@utah.gov

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

EFFECTIVE: 03/04/2010

Environmental Quality, Air Quality **R307-207**

Emission Standards: Residential Fireplaces and Stoves

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 33435
 FILED: 03/04/2010

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: Rule R307-207 establishes visible emission from residential solid fuel burning devices and fireplaces. The Air Quality Board is required by Subsection 19-2-101(2) to "...achieve and maintain levels of air quality which will protect human health and safety..." In addition, Subsection 19-2-104(1)(a) allows the Board to make rules "...regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminant source...."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received since enactment of this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-207 establishes visible emission standards necessary to control PM10 throughout Utah. In addition, this rule is a component of Utah's State Implementation Plan. Therefore, this rule should be continued.

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:
 ♦ Joel Karmazyn by phone at 801-536-4423, by FAX at 801-536-4099, or by Internet E-mail at jkarmazyn@utah.gov

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

EFFECTIVE: 03/04/2010

**Insurance, Administration
 R590-164
 Uniform Health Billing Rule**

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
 DAR FILE NO.: 33453
 FILED: 03/11/2010

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 31A-22-614.5 requires all insurers that offer health insurance to use a uniform claim form and uniform billing and claim codes adopted by the commissioner in accordance with the Utah Administrative Rulemaking Act. In Subsection R590-164-4(A), the rule sets

the electronic claim forms to be used uniformly, and Section R590-164-6 sets the standards for electronic data interchange transaction between providers of health services and health insurers.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has received only one written comment in the past five years dealing with this rule. The comment was to the effect that the writer agreed with the changes the department was making in the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is required by law, Section 31A-22-614.5. This rule eliminates the need for each insurer to create their own billing form that health providers are required to complete and file with the insurer before they can receive reimbursement for their services. Uniformity in health billing forms reduces confusion, processing time and cost. It should be noted that the organization that sets the standards has representation from major insurance carriers and health care providers. Before adopting standards they are exposed to the insurance industry and medical organizations for their input. As many as 700 responses have been received regarding a change in standards. Ninety percent of medical billings in Utah are sent electronically, exceeding the national average. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 INSURANCE
 ADMINISTRATION
 ROOM 3110 STATE OFFICE BLDG
 450 N MAIN ST
 SALT LAKE CITY, UT 84114-1201
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Jilene Whitby by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 03/11/2010

**Natural Resources, Wildlife Resources
 R657-15
 Closure of Gunnison, Cub and Hat Islands**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 33439
FILED: 03/09/2010

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Section 23-21a-3, the Wildlife Board and Division of Wildlife Resources are authorized to provide for the management of Gunnison, Cub, and Hat Islands for the protection and perpetuation of the American white pelican.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The division has not received any written comments regarding this rule. Any comments received in opposition to the rule are resolved using existing policies and procedures or the issue is placed on the Regional Advisory Council's and Wildlife Board's agenda for review and discussion during the process for taking public input. The public is welcome to view the Regional Advisory Council minutes, Wildlife Board minutes and administrative record for this rule at the Division of Wildlife Resources.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule places restrictions of access on, around and over these islands. This protection from disturbance will ensure the continued use of these areas and result in successful brood rearing by the birds. The other habitat needs of these colonial nesting waterbirds are being met and their populations are healthy at this time. Therefore, this rule should be continued.

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

AUTHORIZED BY: James Karpowitz, Director

EFFECTIVE: 03/09/2010

**Natural Resources, Wildlife Resources
R657-21
Cooperative Wildlife Management Units
for Small Game and Waterfowl**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 33438
FILED: 03/09/2010

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Section 23-23-3, the Wildlife Board is authorized to provide rules applicable to cooperative wildlife management units organized for the hunting of small game and waterfowl.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Division of Wildlife Resources and the Wildlife Board have not received written comments supporting or opposing this rule. However, during Regional Advisory Council and Wildlife Board public meetings, the Division has received verbal comment, both in support and opposition to Rule R657-21. Any comments received in opposition to the rule are resolved using existing policies and procedures or the issue is placed on the Regional Advisory Council's and Wildlife Board's agenda for review and discussion during the process for taking public input. The public is welcome to view the Regional Advisory Council minutes, Wildlife Board minutes and administrative record for this rule at the Division of Wildlife Resources.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-21 provides the procedures, standards, and requirements for the establishment of a cooperative wildlife management unit. The provisions adopted in this rule are effective in providing the standards and requirements for establishing cooperative wildlife management units and providing adequate protection to landowners who open their lands for hunting and provide additional hunting opportunities. Continuation of this rule is necessary for continued success of this program.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

AUTHORIZED BY: James Karpowitz, Director

EFFECTIVE: 03/09/2010

**Transportation, Operations,
Construction
R916-4
Construction Manager/General
Contractor Contracts**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 33452
FILED: 03/11/2010

**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 63G-6-207(3) authorizes the Utah Department of Transportation to make rules governing the procurement of highway construction or improvement. Section 63G-6-501 authorizes the Department to adopt rules to use the Construction Manager/General Contractor method of construction contracting management.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received written comments from interested persons during and since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuation of this rule is needed in order to govern the procurement of highway construction or improvement using the Construction Manager/General Contractor method of construction contracting management.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TRANSPORTATION
OPERATIONS, CONSTRUCTION
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:
♦ David Benard by phone at 801-965-4197, by FAX at 801-965-4338, or by Internet E-mail at dbenard@utah.gov

AUTHORIZED BY: John Njord, Executive Director

EFFECTIVE: 03/11/2010

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

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their rules effective and enforceable after publication in the Utah State Bulletin. In the case of Proposed Rules or Changes in Proposed Rules with a designated comment period, the law permits an agency to file a notice of effective date any time after the close of comment plus seven days. In the case of Changes in Proposed Rules with no designated comment period, the law permits an agency to file a notice of effective date on any date including or after the thirtieth day after the rule's publication date. If an agency fails to file a Notice of Effective Date within 120 days from the publication of a Proposed Rule or a related Change in Proposed Rule the rule lapses and the agency must start the rulemaking process over.

Notices of Effective Date are governed by Subsection 63G-3-301(12), 63G-3-303, and Sections R15-4-5a and 5b.

Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal & Reenact

REP = Repeal

Commerce

Securities

No. 33316 (AMD): R164-4-9. Exemptions from Licensing

Requirements for Certain Investment Advisers

Published: 02/01/2010

Effective: 03/11/2010

Environmental Quality

Air Quality

No. 33251 (AMD): R307-101-3. Version of Code of Federal

Regulations Incorporated by Reference

Published: 01/01/2010

Effective: 03/04/2010

Drinking Water

No. 32978 (NEW): R309-511. Hydraulic Modeling

Requirements

Published: 10/01/2009

Effective: 03/11/2010

No. 32978 (CPR): R309-511. Hydraulic Modeling

Requirements

Published: 02/01/2010

Effective: 03/11/2010

Health

Community and Family Health Services, Children with
Special Health Care Needs

No. 33134 (AMD): R398-2-7. Penalty for Violation of Rule

Published: 11/15/2009

Effective: 03/15/2010

Community and Family Health Services, Chronic Disease

No. 33138 (AMD): R384-100-10. Penalties

Published: 12/01/2009

Effective: 03/15/2010

Community and Family Health Services, Immunization

No. 33181 (AMD): R396-100-9. Penalties

Published: 12/15/2009

Effective: 03/15/2010

Epidemiology and Laboratory Services, Environmental
Services

No. 33210 (AMD): R392-100-2. Incorporation by Reference

Published: 12/15/2009

Effective: 03/15/2010

No. 33211 (AMD): R392-101-9. Penalties

Published: 12/15/2009

Effective: 03/15/2010

No. 33212 (AMD): R392-400-17. Penalty

Published: 12/15/2009

Effective: 03/15/2010

No. 33213 (AMD): R392-700-11. Enforcement and Penalties

Published: 12/15/2009

Effective: 03/15/2010

Epidemiology and Laboratory Services, Epidemiology

No. 33182 (AMD): R386-702-11. Penalties

Published: 12/15/2009

Effective: 03/15/2010

No. 33183 (AMD): R386-705-101. Penalties

Published: 12/15/2009

Effective: 03/15/2010

No. 33185 (AMD): R386-800-8. Penalties for Violation

Published: 12/15/2009

Effective: 03/15/2010

Epidemiology and Laboratory Services, Laboratory
Improvement

No. 33218 (AMD): R444-14-8. Penalties

Published: 12/15/2009

Effective: 03/15/2010

NOTICES OF RULE EFFECTIVE DATES

Epidemiology and Laboratory Services; HIV/AIDS,
Tuberculosis Control/Refugee Health
No. 33188 (AMD): R388-804-9. Penalty for Violation
Published: 12/15/2009
Effective: 03/15/2010

Health Systems Improvement, Emergency Medical Services
No. 33240 (AMD): R426-2-7. Statutory Penalties
Published: 01/01/2010
Effective: 03/15/2010

No. 33244 (AMD): R426-5-11. Statutory Penalties
Published: 01/01/2010
Effective: 03/15/2010

No. 33245 (AMD): R426-7-5. Penalty for Violation of Rule
Published: 01/01/2010
Effective: 03/15/2010

No. 33246 (AMD): R426-12-1400. Penalties
Published: 01/01/2010
Effective: 03/15/2010

No. 33247 (AMD): R426-14-600. Penalties
Published: 01/01/2010
Effective: 03/15/2010

No. 33248 (AMD): R426-15-700. Penalties
Published: 01/01/2010
Effective: 03/15/2010

No. 33249 (AMD): R426-16-3. Penalty for Violation of Rule
Published: 01/01/2010
Effective: 03/15/2010

Insurance
Administration
No. 33317 (AMD): R590-160. Administrative Proceedings
Published: 02/01/2010
Effective: 03/10/2010

No. 33321 (NEW): R590-256. Health Benefit Plan Internet
Portal Solvency Rating
Published: 02/01/2010
Effective: 03/10/2010

Labor Commission
Boiler and Elevator Safety
No. 33300 (NEW): R616-4. Coal Mine Safety
Published: 02/01/2010
Effective: 03/11/2010

Public Service Commission
Administration
No. 32881 (NEW): R746-312. Electrical Interconnection
Published: 09/01/2009
Effective: 04/30/2010

No. 32881 (CPR): R746-312. Electrical Interconnection
Published: 01/01/2010
Effective: 04/30/2010

Transportation
Preconstruction, Right-of-Way Acquisition
No. 33311 (REP): R933-4. Bus Shelters and Bus Benches
Published: 02/01/2010
Effective: 03/10/2010

End of the Notices of Rule Effective Dates Section

**RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)**

The Rules Index is a cumulative index that reflects all effective changes to Utah's administrative rules. The current Index lists changes made effective from January 2, 2010, including notices of effective date received through March 15, 2010. 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 is not included in this issue of the Utah State Bulletin. The release of eRules version 2.0 has introduced different functionality with regards to the index; this functionality has yet to be fully tested. Persons interested in alternative methods of acquiring the same information should visit "Researching Administrative Rules" at: <http://www.rules.utah.gov/research.htm>

Questions regarding the index and the information it contains should be addressed to 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/>).
