

# UTAH STATE BULLETIN

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The Portable Document Format (PDF) version of the *Bulletin* is the official version. The PDF version of this issue is available at <http://www.rules.utah.gov/publicat/bulletin.htm>. Any discrepancy between the PDF version and other versions will be resolved in favor of the PDF version.

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, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3764. 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)* of the same volume and issue number. The *Digest* is available by e-mail subscription or online. Visit <http://www.rules.utah.gov/publicat/digest.htm> for additional information.

Division of Administrative Rules, Salt Lake City 84114

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# EXECUTIVE DOCUMENTS

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Under authority granted by the Utah Constitution and various federal and state statutes, the Governor periodically issues **EXECUTIVE DOCUMENTS**, which can be categorized as either Executive Orders, Proclamations, and Declarations. Executive Orders set policy for the executive branch; create boards and commissions; provide for the transfer of authority; or otherwise interpret, implement, or give administrative effect to a provision of the Constitution, state law or executive policy. Proclamations call special or extraordinary legislative sessions; designate classes of cities; publish states-of-emergency; promulgate other official formal public announcements or functions; or publicly avow or cause certain matters of state government to be made generally known. Declarations designate special days, weeks or other time periods; call attention to or recognize people, groups, organizations, functions, or similar actions having a public purpose; or invoke specific legislative purposes (such as the declaration of an agricultural disaster).

The Governor's Office staff files **EXECUTIVE DOCUMENTS** that have legal effect with the Division of Administrative Rules for publication and distribution.

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## Calling the Sixty-First Legislature Into the Fifth Extraordinary Session, Utah Proclamation No. 2015-5E

### PROCLAMATION

**WHEREAS**, since the close of the 2015 General Session of the 61st Legislature of the State of Utah, certain matters have arisen which require immediate legislative attention; and

**WHEREAS**, Article VII, Section 6 of the Constitution of the State of Utah provides that the Governor may, by proclamation, convene the Senate into Extraordinary Session; and

**NOW, THEREFORE**, I, Gary R. Herbert, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and Laws of the State of Utah, do by this Proclamation call the Senate only of the 61st Legislature of the State of Utah into the Fifth Extraordinary Session at the Utah State Capitol in Salt Lake City, Utah, on the 15th day of July 2015, at 4:00 p.m., for the following purpose:

For the Senate to consent to appointments made by the Governor to positions within state government of the State of Utah since the close of the 2015 General Session of the Legislature of the State of Utah.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the Utah State Capitol in Salt Lake City, Utah, this 13th day of July 2015.

(State Seal)

**Gary R. Herbert**  
Governor

ATTEST:

**Spencer J. Cox**  
Lieutenant Governor

2015/05/3



## NOTICES OF PROPOSED RULES

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A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between July 02, 2015, 12:00 a.m., and July 15, 2015, 11:59 p.m. are included in this, the August 01, 2015, 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 (example). Deletions made to existing rules are struck out with brackets surrounding them (~~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 usually printed. If a **PROPOSED RULE** is too long to print, the Division of Administrative Rules may include only the **RULE ANALYSIS**. A copy of each rule that is too long to print is available from the filing agency or from the Division of Administrative Rules.

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least August 31, 2015. 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 November 29, 2015, 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 OR A CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

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, R15-4-5a, R15-4-9, and R15-4-10.

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

**Environmental Quality, Drinking Water**  
**R309-550-10**  
**Facility Design and Operation:**  
**Transmission and Distribution Pipelines**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 39508

FILED: 07/13/2015

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this amendment is to amend Section R309-550-10, Water Hauling, to reflect current Division of Drinking Water practice, which requires all public water systems, community and non-community, to submit proposals for water hauling to the director for approval. The current rule only requires non-community water systems to submit proposals for water hauling to the director for approval.

**SUMMARY OF THE RULE OR CHANGE:** The changes amend Section R309-550-10, Water Hauling, to require all public water systems to submit proposals for water hauling to the director of the Division of Drinking Water for approval. The current rule only requires non-community water systems to submit proposals for water hauling to the director. The amended rule would require community water systems and non-community water systems to obtain the director's approval to haul water.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 19, Chapter 4, Subsection 104(1)(a)(ii)

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** The proposed amendment should entail no costs or savings to the state budget. In practice, all public water systems submit proposals for water hauling to the director of the Division of Drinking Water for review and approval. The proposed amendment would simply codify current practice.

◆ **LOCAL GOVERNMENTS:** The proposed amendment should entail no costs or savings to local governments. In practice, all public water systems submit proposals for water hauling to the director of the Division of Drinking Water for review and approval. The proposed amendment would simply codify current practice.

◆ **SMALL BUSINESSES:** The proposed amendment should entail no costs or savings to small businesses. The rule only has the potential to affect small businesses as customers of public water systems or operators of public water systems. Since the proposed amendment codifies current practice concerning water hauling by public water systems, no new costs or savings will result. Also, a very small percentage of public water systems haul water.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendment should entail no costs or savings to persons other than small businesses, businesses, or local government entities. It would only affect such persons as customers or operators of public water systems. Since the proposed amendment would result in no new costs or savings for public water systems, it would result in no costs or savings to those persons.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Because the proposed amendment only codifies current practice as it relates to water hauling by public water systems, there are no new affected persons and therefore, no new compliance costs.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The proposed amendment would have no impact on businesses. The rule itself only applies to public water systems and would therefore only affect businesses as customers or operators of public water systems. Since the proposed amendment simply codifies existing practice related to water hauling by a very small minority of public water systems, it would have no new fiscal impacts.

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

ENVIRONMENTAL QUALITY  
DRINKING WATER

THIRD FLOOR

195 N 1950 W

SALT LAKE CITY, UT 84116-3085

or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Bernie Clark by phone at 801-536-0092, or by Internet E-mail at [bernieclark@utah.gov](mailto:bernieclark@utah.gov)

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/31/2015**

**THIS RULE MAY BECOME EFFECTIVE ON: 09/07/2015**

**AUTHORIZED BY: Ken Bousfield, Director**

**R309. Environmental Quality, Drinking Water.**

**R309-550. Facility Design and Operation: Transmission and Distribution Pipelines.**

**R309-550-10. Water Hauling.**

Proposals for water hauling shall be submitted to, and approved by, the Director.

(1) Community Water Systems.

Water hauling is not an acceptable permanent source for drinking water distribution in Community Water Systems.

(2) Non-Community Systems.

The Director may allow water hauling for Non-Community Public Water Systems by special approval if:

(a) consumers can not otherwise be supplied with good quality drinking water; or,

(b) the nature of the development, or ground conditions, are such that the placement of a pipe distribution system is not justified.

~~[ Proposals for water hauling shall be submitted to, and approved by, the Director.~~

] (3) Emergencies.

Water hauling may be a temporary means of providing drinking water in an emergency. Water systems shall notify the Division as soon as possible of such emergencies.

**KEY: drinking water, transmission and distribution pipelines, connections, water hauling**

**Date of Enactment or Last Substantive Amendment: [November 10, 2014]2015**

**Notice of Continuation: March 13, 2015**

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

## Environmental Quality, Water Quality R317-101 Utah Wastewater Project Assistance Program

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39512

FILED: 07/15/2015

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Maintain compliance with Titles I, II, V, and VI of the Federal Water Pollution Control Act (FWPCA) as it was amended by the Water Resources Reform and Development Act of 2014 (WRRDA). Additional changes are to make the rule similar in format to other division rules, correct citations, and to improve the readability of the rule.

**SUMMARY OF THE RULE OR CHANGE:** The changes consist of: 1) including the maximization of the potential for efficient use, reuse, recapture, and conservation of water and for energy conservation to the maximum extent practicable in the cost effective analysis; 2) including consideration of unemployment data and population growth in determining an affordable sewer rate for a community; 3) alphabetizing the definitions section; 4) removal of "Board" from the definitions section because it is defined in Rule R317-1; 5) addition of "Executive Secretary" to the definitions section; 6) moving the definition of "Cost Effective Analysis" to the definitions section; 7) revising the name "Water Conservation and Management Plan" to "Water Conservation Plan" to be consistent with Utah Code and Division of Water Resources administrative rules; 8) issuing construction permits is now a duty of the director; 9) resolutions to amend sewer ordinance

and user fee rate structures are also acceptable forms of these documents; 10) improve the description of how plans of operations relate to hiring qualified staff and the asset management needed to properly operate treatment works and sewerage systems; 11) it is necessary that new facilities have a plan of operation, but existing facilities that are merely expanding, repairing, or replacing systems, already have such management systems in place, but it is not necessary to develop an entirely new manual if the new facilities are merely expanding, repairing, or replacing existing systems when amendments to existing manuals may be an acceptable alternative; 12) requiring applicants for financial assistance for onsite wastewater systems to obtain bids is a best practice; 13) correcting references to sections and subsections of state rules; 14) correcting references to the United States Code; 15) correcting references to the Utah Code; 16) correcting references to definitions, programs, acronyms, and entities; and 17) general improvement of readability.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** FWPCA of 2014, 6 U.S.C. Section 5002 and FWPCA of 2014, 6 U.S.C. Section 602(b)(13) and Section 11-8-2 and Title 19, Chapter 5 and Title 73, Chapter 10C

### ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The change that affects the definition of "Cost Effective Analysis" is not anticipated to affect the amount of money that the Water Quality Board (WQB) will either loan or grant to a project. Maximization of efficient use, reuse, recapture, and conservation of water and of energy conservation was already a best engineering practice for the water industry and hence, an implied requirement in the consideration of alternatives for projects. This change makes it an explicit requirement for consideration. The change that requires the inclusion of unemployment data and population growth trends is not anticipated to affect the amount of money that the WQB will either loan or grant to a project. Currently, the WQB considers a community's median adjusted gross household income (MAGI) as the primary metric of an affordable sewer rate, which is used to establish project financing terms. If a community has high unemployment, it is likely that community will also have a low MAGI such that under the proposed rule amendment the community would receive equally favorable financing terms as before. Negative, low, and rapid population growth projections from GOMB data are already considered in the financial models for bonding that the WQB uses. Other changes to the rule have no monetary effect on the state budget.

◆ **LOCAL GOVERNMENTS:** The change that affects the definition of "Cost Effective Analysis" is not anticipated to affect the amount of money that the WQB will either loan or grant to a project. Maximization of efficient use, reuse, recapture, and conservation of water and of energy conservation was already a best engineering practice for the water industry and hence, an implied requirement in the consideration of alternatives for projects. This change makes it an explicit requirement for consideration. The change that

requires the inclusion of unemployment data and population growth trends is not anticipated to affect the amount of money that the WQB will either loan or grant to a project. Currently, the WQB considers a community's MAGI as the primary metric of an affordable sewer rate, which is used to establish project financing terms. If a community has high unemployment, it is likely that community will also have a low MAGI such that under the proposed rule amendment the community would receive equally favorable financing terms as before. Negative, low, and rapid population growth projections from GOMB data are already considered in the financial models for bonding that the WQB uses. Other changes to the rule have no monetary effect on local government.

♦ **SMALL BUSINESSES:** The WRRDA changes do not affect small businesses because SRF funds are limited to use for assistance of bodies politic. The only change that could affect small business is the change that requires applicants for financial assistance for onsite wastewater systems to obtain bids. If a small business applying for this type assistance had not received bids for the work, requiring them to solicit for bids could potentially save the small business money. This change ensures the best value and use of state funds for those small businesses receiving financial assistance through this program.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The WRRDA changes do not affect persons other than small businesses, businesses, or local government entities because SRF funds are limited to use for assistance of bodies politic. The only change that could affect persons other than small businesses, businesses, or local government entities is the change that requires applicants for financial assistance for onsite wastewater systems to obtain bids. If these other persons applying for this type assistance had not received bids for the work, requiring them to solicit for bids could potentially save them money. This change ensures the best value and use of state funds for those other persons receiving assistance through this program.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no anticipated additional compliance costs for the affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The changes to Rule R317-101 are not anticipated to have any fiscal impacts on businesses.

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

ENVIRONMENTAL QUALITY  
WATER QUALITY  
THIRD FLOOR  
195 N 1950 W  
SALT LAKE CITY, UT 84116  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Judy Etherington by phone at 801-536-4344, by FAX at 801-536-4301, or by Internet E-mail at jetherington@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/31/2015

THIS RULE MAY BECOME EFFECTIVE ON: 09/07/2015

AUTHORIZED BY: Walter Baker, Director

### **R317. Environmental Quality, Water Quality.**

#### **R317-101. Utah Wastewater Project Assistance Program.**

##### **R317-101-1. Statutory Authority.**

The authority for the Department of Environmental Quality acting through the Utah Water Quality Board to issue loans to political subdivisions to finance all or part of wastewater project costs and to enter into [u]credit enhancement agreements[u], [u]interest buy-down agreements[u], and Hardship Grants is provided in Sections 11-8-2 and 73-10c-4 [u>Title 73, Chapter 10b and Title 73, 10e].

##### **R317-101-2. Definitions[~~and Eligibility~~].**

"Cost Effective Analysis" means an analysis of feasible project alternatives capable of meeting state and federal water quality and public health requirements. The cost effective analysis shall be certified by the political subdivision and it shall include:

A. monetary costs including the present worth or equivalent annual value of all capital costs;

B. operation, maintenance, and replacement costs;

C. fiscal sustainability, e.g., the cost of replacement of the project; and

D. maximizes the potential for efficient use, reuse, recapture, and conservation of water and for energy conservation to the maximum extent practicable.

"Credit Enhancement Agreement" means any agreement entered into between the Board, on behalf of the State, and a political subdivision, for the purpose of providing methods and assistance to political subdivisions to improve the security for and marketability of wastewater project obligations.

"Eligible Project Costs" means project costs that meet the financial assistance requirements established by the Board.

"Executive Secretary" means the Executive Secretary of the Water Quality Board.

"Financial Assistance" means a project loan, bond purchase, credit enhancement agreement, interest buy-down agreement or hardship grant.

"Hardship Grant" means a grant of monies to a political subdivision, individual, corporation, association, state of federal agency or other private entity that meets the wastewater project loan considerations or nonpoint source eligibility criteria whose project is determined by the Board to not be economically feasible unless grant assistance is provided. A hardship grant may be authorized in the following forms:

A. A Planning Advance is required to be repaid at a later date, unless deemed otherwise by the Board, to help meet project costs

incident to planning to determine the economic, engineering and financial feasibility of a proposed project.

B. A Design Advance is required to be repaid at a later date, to help meet project costs incident to design including, but not limited to, surveys, preparation of plans, working drawings, specifications, investigations and studies.

C. A Project Grant is not required to be repaid.

"Interest Buy-Down Agreement" means any agreement entered into between the Board, on behalf of the State, and a political subdivision, for the purpose of reducing the cost of financing incurred by a political subdivision on bonds issued by the political subdivision for project costs.

"Nonpoint Source (NPS) Project" means a facility, system, practice, study, activity or mechanism that abates, prevents or reduces the pollution of water of this state by a nonpoint source.

"Principal Forgiveness" means a loan wherein a portion of the loan amount is forgiven (not required to be repaid) upon closing the loan.

"Project Costs" means the cost of acquiring and constructing any project and include: the cost of acquisition and construction of any facility or any modification, improvement, or extension of such facility; any cost incident to the acquisition of any necessary property, easement or right of way; engineering or architectural fees, legal fees, fiscal agent's and financial advisors' fees; any cost incurred for any preliminary planning to determine the economic and engineering feasibility of a proposed project; costs of economic investigations and studies, surveys, preparation of designs, plans, working drawings, specifications and the inspection and supervision of the construction of any facility; interest accruing on loans made under this program during acquisition and construction of the project; and any other cost incurred by the political subdivision, the Board or the Department of Environmental Quality, in connection with the issuance of obligation of the political subdivision to evidence any loan made to it under the law.

"Political Subdivision" means any county, city, town, improvement district, metropolitan water district, water conservancy district, special service district, drainage district, irrigation district, separate legal or administrative entity created under the Interlocal Cooperation Act or any other entity constituting a political subdivision under the laws of Utah.

"Wastewater Project" means a sewer, storm or sanitary sewage system, sewage treatment facility, lagoon, sewage collection facility and system and related pipelines and all similar systems, works and facilities necessary or desirable to collect, hold, cleanse or purify any sewage or other polluted waters of this State; and a study, pollution prevention activity, or pollution education activity that will protect waters of this state.

"Wastewater Project Obligation" means, as appropriate, any bond, loan, note or other obligation of a political subdivision issued to finance all or part of the cost of acquiring, constructing, expanding, upgrading or improving a wastewater project.

A. Board means Utah Water Quality Board.

B. Political Subdivision means any county, city, town, improvement district, metropolitan water district, water conservancy district, special service district, drainage district, irrigation district, separate legal or administrative entity created under the Interlocal Cooperation Act or any other entity constituting a political subdivision under the laws of Utah.

C. Wastewater Project means a sewer, storm or sanitary sewage system, sewage treatment facility, lagoon, sewage collection facility and system and related pipelines and all similar systems, works and facilities necessary or desirable to collect, hold, cleanse or purify any sewage or other polluted waters of this State; and a study, pollution prevention activity, or pollution education activity that will protect waters of this state.

D. Project Costs include the cost of acquiring and constructing any project including, without limitation: the cost of acquisition and construction of any facility or any modification, improvement, or extension of such facility; any cost incident to the acquisition of any necessary property, easement or right of way; engineering or architectural fees, legal fees, fiscal agent's and financial advisors' fees; any cost incurred for any preliminary planning to determine the economic and engineering feasibility of a proposed project; costs of economic investigations and studies, surveys, preparation of designs, plans, working drawings, specifications and the inspection and supervision of the construction of any facility; interest accruing on loans made under this program during acquisition and construction of the project; and any other cost incurred by the political subdivision, the Board or the Department of Environmental Quality, in connection with the issuance of obligation of the political subdivision to evidence any loan made to it under the law.

E. Wastewater Project Obligation means, as appropriate, any bond, note or other obligation of a political subdivision issued to finance all or part of the cost of acquiring, constructing, expanding, upgrading or improving a wastewater project.

F. Credit Enhancement Agreement means any agreement entered into between the Board, on behalf of the State, and a political subdivision, for the purpose of providing methods and assistance to political subdivisions to improve the security for and marketability of wastewater project obligations.

G. Interest Buy-Down Agreement means any agreement entered into between the Board, on behalf of the State, and a political subdivision, for the purpose of reducing the cost of financing incurred by a political subdivision on bonds issued by the subdivision for project costs.

H. Financial Assistance means a project loan, credit enhancement agreement, interest buy-down agreement or hardship grant.

I. Hardship Grant means a grant of monies to a political subdivision, individual, corporation, association, state or federal agency or other private entity that meets the wastewater project loan considerations or NPS eligibility criteria whose project is determined by the Board to not be economically feasible unless grant assistance is provided. A hardship grant may be authorized in the following forms:

1. A Planning Advance which will be required to be repaid at a later date, unless deemed otherwise by the Board, to help meet project costs incident to planning to determine the economic, engineering and financial feasibility of a proposed project.

2. A Design Advance which will be required to be repaid at a later date, to help meet project costs incident to design including, but not limited to, surveys, preparation of plans, working drawings, specifications, investigations and studies.

3. A Project Grant which will not be required to be repaid.

J. Nonpoint Source Project means a facility, system, practice, study, activity or mechanism that abates, prevents or reduces the pollution of water of this state by a nonpoint source.

~~K. Principal Forgiveness means a loan wherein a portion of the loan amount is "forgiven" upon closing the loan.~~

**R317-101-3. Application and Project Initiation Procedures.**

The following procedures must normally be followed to obtain financial assistance from the Board:

A. It is the responsibility of the applicant to obtain the necessary financial, legal and engineering counsel to prepare an effective and appropriate financial assistance agreement, including cost effectiveness evaluations of financing methods and alternatives, for consideration by the Board.

B. A completed application form, project engineering report as appropriate, and financial capability assessment are submitted to the Board. Any comments from the local health department or association of governments should accompany the application.

C. The staff prepares an engineering and financial feasibility report on the project for presentation to the Board.

D. The Board [~~"A"]authorizes[""] financial assistance for the project on the basis of the feasibility report prepared by the staff, designates whether a loan, credit enhancement agreement, interest buy-down agreement, hardship grant or any combination thereof, is to be entered into, and approves the project schedule [~~(["see Section R317-101-14"])~~]. The Board shall authorize a hardship grant only if it determines that other financing alternatives are unavailable or unreasonably expensive to the applicant. If the applicant seeks financial assistance in the form of a loan of amounts in the security account established pursuant to Title 73, Chapter 10c, which loan is intended to provide direct financing of projects costs, then the Board shall authorize such loan only if it determines that credit enhancement agreements, interest buy-down agreements and other financing alternatives are unavailable or unreasonably expensive to the applicant or that a loan represents the financing alternative most economically advantageous to the state and the applicant; provided, that for purposes of this paragraph and for purposes of Subsection 73-10c-4(2), the term "loan" shall not include loans issued in connection with interest buy-down agreements as described in Section R317-101-12 hereof or in connection with any other interest buy-down arrangement.~~

E. Planning Advance Only - The applicant requesting a Planning Advance must attend a preapplication meeting, complete an application for a Planning Advance, prepare a plan of study, and submit a draft contract for planning services.

F. Design Advance Only - The applicant requesting a design advance must have completed an engineering plan which meets program requirements and submitted a draft contract for design services.

G. The project applicant must demonstrate public support for the project.

H. Political subdivisions which receive assistance for a wastewater project under these rules must agree to participate annually in the Municipal Wastewater Planning Program (MWPP).

I. Political subdivisions which receive assistance under these rules and which own a culinary water system must complete and submit a Water Conservation [~~and Management~~] Plan, per Section 73-10-32.

J. The project applicant's engineer prepares a preliminary design report, as appropriate, outlining detailed design criteria for submission to the Board.

K. Upon approval of the preliminary design report by the Board, the applicant's engineer completes the plans, specifications, and contract documents for review by the Board.

L. For financial assistance mechanisms when the applicant's bond is purchased by the Board, the project applicant's bond documentation, including an opinion from legal counsel experienced in bond matters that the wastewater project obligation is a valid and binding obligation of the political subdivision, must be submitted to the Assistant Attorney General for preliminary approval and the applicant shall publish a Notice of Intent to issue bonds in a newspaper of general circulation pursuant to Section 11-14-~~201~~[~~21~~]. For financial assistance mechanisms when the applicant's bond is not purchased by the Board, the applicant shall submit a true and correct copy of an opinion from legal counsel experienced in bond matters that the wastewater project obligation is a valid and binding obligation of the political subdivision.

M. Hardship Grant - The Board executes a grant agreement setting forth the terms and conditions of the grant.

N. The Director[~~Board~~] issues a Construction Permit[~~]~~ and Plan Approval for plans and specifications, and concurs in bid advertisement.

O. If a project is designated to be financed by a loan or an interest buy-down agreement as described in Sections R317-101-12 [~~and through R317-101-~~]~~13~~, from the Board, to cover any part of project costs an account supervised by the applicant and the Board will be established by the applicant to assure that loan funds are used only for qualified project costs. If financial assistance for the project is provided by the Board in the form of a credit enhancement agreement as described in Section R317-101-11 all project funds will be maintained in a separate account and a quarterly report of project expenditures will be provided to the Board.

P. A copy of the applicant's Sewer Use Ordinance or Resolution and User Charge System[~~rate structure~~] must be submitted to the Division[~~Board~~] for review and approval to insure adequate provisions for debt retirement, [~~and/or~~] operation and maintenance, or both.

Q. A plan of operation must be submitted by the applicant to the Division for new treatment works, sewerage systems, and projects involving upgrades that add additional treatment, e.g., advanced treatment. The Plan must address: [~~including~~] adequate staffing, with an operator certified at the appropriate level in accordance with Rule R317-10, training, and start up procedures to assure efficient operation and maintenance of the facilities. The plan must be [~~is~~] submitted by the applicant in draft at initiation of construction and approved in final form prior to 50% of construction completion.

R. An Q[~~o~~]peration and M[~~m~~]aintenance [~~(O and M)-~~] M[~~m~~]annual (Manual) which provides long-term guidance for efficient facility operations and maintenance. [~~O and M-~~]is submitted by the applicant and approved in draft and final form prior to, respectively, 50% and 90% of project construction completion. Existing Manuals can be submitted or amended if the existing Manual is relevant to the funded project.

S. The applicant's contract with its engineer must be submitted to the Board for review to determine that there will be adequate engineering involvement, including project supervision and inspection, to successfully complete the project.

T. The applicant's attorney must provide an opinion to the Board regarding legal incorporation of the applicant, valid legal title to rights-of-way and the project site, and adequacy of bidding and contract documents.

U. Credit Enhancement Agreement and Interest Buy-Down Agreement Only - The Board issues the credit enhancement agreement or interest buy-down agreement setting forth the terms and conditions of the security or other forms of assistance provided by the agreement and notifies the applicant to sell the bonds as described in~~(see) Sections R317-101-11 [and] through R317-101-12~~.

V. Credit Enhancement Agreement and Interest Buy-Down Agreement Only - The applicant sells the bonds on the open market and notifies the Board of the terms of sale. If a credit enhancement agreement is being utilized, the bonds sold on the open market shall contain the legend required by Subsection 73-10c-6(2)(a). If an interest buy-down agreement is being utilized, the bonds sold on the open market shall bear a legend which makes reference to the interest buy-down agreement and states that such agreement does not constitute a pledge of or charge against the general revenues, credit or taxing powers of the state and that the holder of any such bond may look only to the applicant and the funds and revenues pledged by the applicant for the payment of interest and principal on the bonds.

W. The applicant opens bids for the project.

X. Loan Only - The Board gives final approval to purchase the bonds and execute the loan contract~~(see) as described in Section R317-101-13~~.

Y. Loan Only - The final closing of the loan is conducted.

Z. The Board gives approval to award the contract to the low responsive and responsible bidder.

AA. A preconstruction conference is held.

BB. The applicant issues a written notice to proceed to the contractor.

**R317-101-4. Loan, Credit Enhancement, Interest Buy-Down, and Hardship Grant Consideration Policy.**

A. Water Quality Board Priority Determination

In determining the priority for financial assistance the Board shall consider:

1. ~~t~~~~[F]~~he ability of the political subdivision to obtain funds for the wastewater project from other sources or to finance such project from its own resources;
2. ~~t~~~~[F]~~he ability of the political subdivision to repay the loan or other project obligations;
3. ~~w~~~~[W]~~hether a good faith effort to secure all or part of the services needed from the private sector through privatization has been made; and
4. ~~w~~~~[W]~~hether the wastewater project:
  - a. ~~m~~~~[M]~~eets a critical local or state need;
  - b. ~~i~~~~[F]~~s cost effective;
  - c. ~~w~~~~[W]~~ill protect against present or potential health hazards;
  - d. ~~i~~~~[F]~~s needed to comply with minimum standards of the Federal Water Pollution Control Act Amendments of 1972, U.S.C. 1251 et. Seq.~~[, Chapter 26, Title 33, United States Code]~~, or any similar or successor statute;
  - e. ~~i~~~~[F]~~s needed to comply with the minimum standards of Title 19, Chapter 5~~[the] Utah Water Quality~~~~[Pollution Control] Act, [Chapter 5, Title 19,]~~ or any similar or successor statute;

f. ~~i~~~~[F]~~s designed to reduce or prevent the pollution of the waters of this state;~~or~~

g. ~~f~~~~[F]~~urther the concept of regionalized sewer service;

5. ~~t~~~~[F]~~he priority point total for the project as determined by the Board from application of the current Utah State Project Priority System ~~[c]Rule R317-100~~;

6. ~~t~~~~[F]~~he overall financial impact of the proposed project on the citizens of the community including direct and overlapping indebtedness, tax levies, user charges, impact or connection fees, special assessments, etc., resulting from the project, and anticipated operation and maintenance costs versus the median adjusted gross household income of the community;

7. ~~t~~~~[F]~~he readiness of the project to proceed;

8. Consistency with other funding source commitments that may have been obtained for the project;~~and~~

9. ~~o~~~~[O]~~ther criteria that the Board may deem appropriate.

B. Water Quality Board Financial Assistance Determination.

The amount and type of assistance offered will be based on the following considerations:

1. ~~i~~~~[F]~~or loan consideration, the estimated annual cost of sewer service to the average residential user should not exceed 1.4% of the median adjusted gross household income from the most recent available State Tax Commission records. Consideration will also be given to the applicant's unemployment data, population trends, and the applicant's level of contribution to the project. For hardship grant consideration, exclusive of advances for planning and design, the estimated annual cost of sewer service for the average residential user should exceed 1.4% of the median adjusted gross household income from the most recent available State Tax Commission records. The Board will also consider the applicant's level of contribution to the project~~[-];~~

2. ~~t~~~~[F]~~he estimated, average residential cost, ~~[c]~~~~[a]~~s a percent of median adjusted gross household income~~[-]~~, for the proposed project should be compared to the average user charge, ~~[c]~~~~[a]~~s a percent of median adjusted gross household income~~[-]~~, for recently constructed projects in the State of Utah~~[-];~~

3. ~~m~~~~[M]~~aximizing~~[O]~~~~[O]~~ptimizing return on the security account while still allowing the project to proceed~~[-];~~

4. ~~l~~~~[L]~~ocal political and economic conditions~~[-];~~

5. ~~c~~~~[C]~~ost effectiveness evaluation of financing alternatives~~[-];~~

6. ~~a~~~~[A]~~vailability of funds in the security account~~[-];~~

7. ~~e~~~~[E]~~nvironmental need~~[-]; and~~

8. ~~o~~~~[O]~~ther data and criteria the Board may deem appropriate.

C. The Executive Secretary may not execute financial assistance for NPS~~[Non-point Source]~~ projects totaling more than \$1,000,000 per fiscal year unless directed by the Board.

**R317-101-5. Financial Assistance For Onsite~~[On-site] Wastewater Systems.~~**

A. Replacement or repair of Onsite~~[On-site] Wastewater Systems (OWS)~~, as defined in Section R317-4-2~~[1-45]~~, are eligible for funding if they have malfunctioned or are in non-compliance with state administrative rules or local regulations governing the same.

1. Funding will only be made for the repair or replacement of existing malfunctioning OWS when the malfunction is not attributable to inadequate system operation and maintenance.

2. The Executive Secretary, ~~and~~ or another whom the Board may designate, will authorize and execute OWS grant agreements and loan agreements with the applicant for a wastewater project as defined by Subsection R317-101-2.C ~~(C)~~.

3. OWS funding recipients must have a total household income no greater than 150% of the state median adjusted gross household income, as determined from the Utah Tax Commission's most recently published data or other means testing as approved by the Executive Secretary.

4. Eligible activities under the OWS Financial Assistance program include:

- a. ~~s~~ ~~S~~ eptic tank;
- b. ~~a~~ ~~A~~ bsorption system;
- c. ~~b~~ ~~B~~ uilding sewer;
- d. ~~a~~ ~~A~~ ppurtenant facilities
- e. ~~c~~ ~~C~~ onventional or alternative OWS;
- f. ~~c~~ ~~C~~ onnection of the residence to an existing centralized

sewer system, including connection or hook-up fees, if this is determined to be the best means of resolving the failure of an OWS~~[-];~~ and

g. ~~c~~ ~~C~~ osts for construction, permits, legal work, engineering, and administration.

5. Ineligible project components include:

- a. land;
- b. interior plumbing components~~[include];~~
- c. impact fees, if connecting to a centralized sewer system is determined to be the best means of resolving the failure of an OWS;
- d. OWS for new homes or developments; and
- e. OWS operation and maintenance.

6. The local health department will certify the completion of the project to the Division~~[of Water Quality]~~.

7. To be reimbursed for project expenditures the borrower must solicit bids for the work, maintain and submit invoices, financial records, or receipts ~~that~~ ~~which~~ document the expenditures or costs.

B. The following procedures apply to OWS loans:

1. OWS loan applications will be received by the local health department which will evaluate the need, priority, eligibility and technical feasibility of each project. The local health department will issue a certificate of qualification (COQ) for projects which qualify for a OWS ~~[OSW]~~ loan. The COQ and completed loan application will be forwarded to the Division~~[of Water Quality]~~ for its review~~[-];~~

2. ~~t~~ ~~F~~ he maximum term of the OWS ~~[OSW]~~ loan will be 10 years~~[-];~~

3. ~~t~~ ~~F~~ he interest rate of OWS ~~[OSW]~~ loans may be between 0% ~~[zero percent or up to]~~ and 60% ~~[percent]~~ of the interest rate on a 30-year U.S. Treasury bill~~[-];~~

4. ~~s~~ ~~S~~ ecurity conditions for OWS ~~[OSW]~~ ~~[L]~~ loans:

- a. ~~t~~ ~~F~~ he borrower must adequately secure the loan with real property or other appropriate security~~[-];~~ and
- b. ~~t~~ ~~F~~ he ratio of the loan amount to the value of the pledged security must not be greater than 70% ~~[percent];~~

5. OWS loan recipients will be billed for monthly payments of principal and interest beginning 60 days after execution of the loan agreement~~[-];~~

6. ~~t~~ ~~F~~ he OWS loan must be paid in full at the time the property served by the project is sold or transferred~~[-];~~ and

7. ~~t~~ ~~F~~ he ~~[Utah]~~ Division~~[of Water Quality]~~, or its designee, will evaluate the financial aspects of the project and the credit worthiness of the applicant.

C. The following procedures apply to OWS grants:

OWS grants may be made to recipients that are unable to secure a loan but are otherwise eligible for funding as identified in Subsection R317-101-5.A.4 ~~[5(4)]~~.

#### **R317-101-6. Financial Assistance for Large Underground Wastewater Disposal Systems.**

A. Large Underground Wastewater Disposal Systems (LUWDS) projects, as defined in Subsection ~~[UAC]~~ 73-10c-2(9), may be eligible for funding from the state revolving loan funds ~~[SRF]~~ and from the Hardship Grant Program. Application and project initiation procedures including loans, credit enhancement, interest buy-down and hardship grant consideration policies for LUWDS are defined in Sections R317-101-3 ~~[and]~~ through R317-101-4 except as otherwise stated.

B. The following procedures apply to LUWDS project loans:

1. Projects will be prioritized according to criteria established in Section R317-100-4, Utah State Project Priority System for the Utah Wastewater Project Assistance Program.

2. The maximum term of LUWDS project loans will be twenty years but not beyond a term exceeding the depreciable life of the project.

3. The interest rate on LUWDS project loans will be determined by the Board.

C. The following procedures apply to LUWDS project grants. Hardship Grants may be considered for LUWDS projects that meet criteria established in Section R317-101-4 and that:

1. address~~[es]~~ a critical water quality need or health hazard;
2. would otherwise not be economically feasible; or
3. implement~~[s]~~ provisions of TMDLs.

#### **R317-101-7. Financial Assistance for NPS ~~[Non-point Source] Projects.~~**

A. ~~[Non-point Source Pollution - (NPS)]~~ Projects, as defined in Section ~~[UAC]~~ 73-10c-2(9), are eligible for funding from the state revolving loan fund ~~[SRF]~~ and from the Hardship Grant Program.

1. Funding to ~~[the]~~ individuals in amounts in excess of \$150,000 will be presented to and authorized funding by the Board. Funding of less than \$150,000 will be considered and authorized funding by the Executive Secretary.

2. The Executive Secretary, ~~and~~ or another whom the Board may designate, will authorize and execute NPS project loan agreements, ~~and/or~~ grant agreements, or both, with the applicant.

3. Eligible projects under the NPS project funding programs include projects that:

- a. abate or reduce raw sewage discharges;
- b. repair or replace failing individual on-site wastewater disposal systems;
- c. reduce untreated or uncontrolled runoff;
- d. improve critical aquatic habitat resources;
- e. conserve soil, water, or other natural resources;
- f. protect and improve ground water quality;
- g. preserve and protect the beneficial uses of water of the state;
- h. reduce the number of water bodies not achieving water quality standards;
- i. improve watershed management;

j. prepare and implement total maximum daily load (TMDL) assessments;

k. are a study, activity, or mechanism that abates, prevents or reduces water pollution; or

l. supports educational activities that promotes water quality improvement.

B. The following procedures apply to NPS project loans:

1. Projects will be prioritized according to criteria established in Section R317-100-4, Utah State Project Priority System for the Utah Wastewater Project Assistance Program.

2. The maximum term of NPS program loans will be twenty years but not beyond a term exceeding the depreciable life of the project.

3. The interest rate on NPS project loans will be determined by the Board.

4. NPS project loans are exempt from environmental reviews under the National Environmental Policy Act (NEPA) as long as the funding of these projects is identified in Utah's NPS [Non-point Source] Pollution Management Plan.

5. Security of NPS project loans.

a. NPS project loans to individuals in amounts greater than \$15,000 will be secured by the borrower with water stock or real estate. Loans less than \$15,000 may be secured with other assets.

b. For NPS project loans to individuals the ratio of the loan amount to the value of the pledged security must not be greater than 70% ~~[percent]~~.

c. NPS loans to political subdivisions of the state will be secured by a revenue bond, general obligation bond or some other acceptable instrument of debt.

6. The Division ~~[of Water Quality]~~ will determine project eligibility and priority. Periodic payments will be made to the borrower, contractors, or consultants for work relating to the planning, design, and construction of the project. The borrower must maintain and submit the financial records that document expenditures or costs.

7. The Division ~~[of Water Quality]~~, or its designee, will perform periodic project inspections. Final payment on the NPS loan project will not occur until a final inspection has occurred and an acceptance letter issued for the completed project.

8. NPS project loan recipients will be billed periodically for payments of principal and interest as agreed to in the executed loan agreements or bond documents.

9. The ~~[Utah]~~ Division ~~[of Water Quality]~~, or its designee, will evaluate the financial aspects of the NPS project and the credit worthiness of the applicant.

C. The following procedures apply to NPS project grants. Hardship Grants may be considered for a NPS project that:

1. addresses a critical water quality need or health hazard;

2. remediates water quality degradation resulting from natural sources damage including fires, floods, or other disasters;

3. would otherwise not be economically feasible;

4. provides financial assistance for a study, pollution prevention activity, or educational activity; or

5. implements provisions of TMDLs.

#### **R317-101-8. Loans For Storm Water Projects.**

Storm water projects are eligible for funding through the Utah Wastewater Project Assistance Program, as identified in Subsection [UCA] 73-10c-2(12). In addition to other rules identified in

Rule R317-101 which may apply, the following particular rules apply to storm water project loans:

A. Loans will only be made to political subdivisions of the state.

B. The interest rate charged on storm water project loans will be equal to 60% of the interest rate on a 30-year U.S. Treasury bill.

C. Storm water project loans will be made twice per year. Projects will be prioritized so that the limited funds which are available are allocated first to the highest priority projects in accordance with Sections R317-100-3 ~~[and] through R317-100-4~~, ranking systems of the Utah State Project Priority System for the Utah Wastewater Project Assistance Program.

D. Storm water projects are eligible for funding provided a significant portion of the project is for the purpose of improving water quality.

#### **R317-101-9. Planning Advance.**

A. A Planning Advance can only be made to a political subdivision which demonstrates a financial hardship ~~[which prevents the completion of project planning]~~.

B. A Planning Advance is made to a political subdivision with the intent to provide interim financial assistance for project planning until the long-term project financing can be secured. Once the long-term project financing has been secured, the Planning Advance must be expeditiously repaid to the Board.

C. The applicant must demonstrate that all funds necessary to complete project planning will be available prior to commencing the planning effort. The Planning Advance will be deposited with these other funds into a supervised escrow account at the time the grant agreement between the applicant and Board is executed.

D. Failure on the part of the recipient of a Planning Advance to implement the construction project may authorize the Board to seek repayment of the Advance on such terms and conditions as it may determine.

E. The recipient of a Planning Advance must first receive written approval for any cost increases or changes to the scope of work.

#### **R317-101-10. Design Advance.**

A. A Design Advance can only be made to a political subdivision which demonstrates a financial hardship ~~[which prevents the completion of project design]~~.

B. A Design Advance is made to a political subdivision with the intent to provide interim financial assistance for the completion of the project design until the long-term project financing can be secured. Once the long-term project financing has been secured, the Project Design Advance must be expeditiously repaid to the Board.

C. The applicant must demonstrate that all funds necessary to complete the project design will be available prior to commencing the design effort. The Design Advance will be deposited with these other funds into a supervised escrow account at the time the grant agreement between the applicant and Board is executed.

D. Failure on the part of the recipient of a Design Advance to implement the construction project may result in ~~[authorize]~~ the Board ~~[to]~~ seeking repayment of the Advance on such terms and conditions as it ~~[may]~~ determines.

E. The recipient of a Design Advance must first receive written approval for any cost increases or changes to the scope of work.

**R317-101-11. Credit Enhancement Agreements.**

The Board will determine whether a project may receive all or part of a loan, hardship grant, credit enhancement agreement or interest buy-down agreement subject to the criteria in Section R317-101-4. To provide security for project obligations the Board may agree to purchase project obligations of political subdivisions or make loans to the political subdivisions to prevent defaults in payments on project obligations. The Board may also consider making loans to the political subdivisions to pay the cost of obtaining letters of credit from various financial institutions, municipal bond insurance, or other forms of insurance or security for project obligations. In addition, the Board may consider other methods and assistance to political subdivisions to properly enhance the marketability of project obligations or enhance the security for project obligations.

**R317-101-12. Interest Buy-Down Agreement.**

Interest buy-down agreements may consist of:

A[+]. A financing agreement between the Board and political subdivision whereby a specified sum is loaned or granted to the political subdivision to be placed in a trust account. The trust account shall be used exclusively to reduce the cost of financing for the project.

B[2]. A financing agreement between the Board and the political subdivision whereby the proceeds of bonds purchased by the Board is combined with proceeds from publicly issued bonds to finance the project. The rate of interest on bonds purchased by the Board may carry an interest rate lower than the interest rate on the publicly issued bonds, which when blended together will provide a reduced annual debt service for the project.

C[3]. Any other legal method of financing which reduces the annual payment amount on locally issued bonds. After credit enhancement agreements have been evaluated by the Board and it is determined that this method is not feasible or additional assistance is required, interest buy-down agreements and loans may be considered. Once the level of financial assistance required to make the project financially feasible is determined, a cost effective evaluation of interest buy-down options and loans must be completed. The financing alternative chosen should be the one most economically advantageous for the state and the applicant.

**R317-101-13. Loans.**

The Board may make loans to finance all or part of a wastewater project only after credit enhancement agreements and interest buy-down agreements have been evaluated and found either unavailable or unreasonably expensive. The financing alternative chosen should be the one most economically advantageous for the state and its political subdivision.

**R317-101-14. Project Authorization.**

A project may be [A]authorized[2] for a loan, credit enhancement agreement, interest buy-down agreement or hardship grant in writing by the Board following submission and favorable review of an application form, engineering report, [if required], financial capability assessment and Staff feasibility report. The engineering report must include the preparation of a cost effective

analysis according to Section R317-101-2.~~[of feasible project alternatives capable of meeting State and Federal water quality and public health requirements. It shall include consideration of monetary costs including the present worth or equivalent annual value of all capital costs, operation, maintenance, and replacement costs. The alternative selected must be the most economical means of meeting applicable State and Federal effluent and water quality or public health requirements over the useful life of the facility while recognizing environmental and other nonmonetary considerations.]~~ If it is anticipated that a project will be a candidate for financial assistance from the Board, the Staff should be contacted, and the plan of study for the engineering report, [if required,] should be approved before the planning is initiated.

Once the application form, plan of study, engineering report, and financial capability assessment are reviewed, the staff will prepare a project feasibility report for the Board's consideration in [A]authorizing a project. The project feasibility report will include a detailed evaluation of the project with regard to the Board's funding priority criteria, and will contain recommendations for the type of financial assistance which may be extended, [i.e., for] a loan, credit enhancement agreement, interest buy-down agreement or hardship grant[3].

Project [A]authorization is not a contractual commitment and is conditioned upon the availability of funds at the time of loan closing, or signing of the credit enhancement, interest buy-down, or grant agreement and upon adherence to the project schedule approved at that time. If the project is not proceeding according to the project schedule the Board may withdraw the project [A]authorization so that projects that[which] are ready to proceed can obtain necessary funding. Extensions to the project schedule may be considered by the Board, but any extension requested must be fully justified.

**R317-101-15. Financial Evaluations.**

A. The Board considers it a proper function to assist and give direction to project applicants in obtaining funding from such State, Federal or private financing sources as may be available to achieve the most effective utilization of resources in meeting the needs of the State. This may also include joint financing arrangements with several funding agencies to complete a total project.

B. Hardship Grants will be evidenced by a grant agreement.

C. Loans will be evidenced by the sale of any legal instrument which meets the legal requirements of the Title 11, Chapter 14, Local Government Bonding Act, [Utah Municipal Bond Act (Chapter 14, Title 11)] to the Board.

D. The Board will consider the financial feasibility and cost effectiveness evaluation of the project in detail. The financial capability assessment must be completed as a basis for the review. The Board will generally use these reports to determine whether a project will be [A]authorized to receive a loan, credit enhancement agreement, interest buy-down agreement or hardship grant, as described in Sections [Reference] R317-101-5 through R317-101-9[3]. If a project is [A]authorized to receive a loan, the Board will establish the portion of the construction cost to be included in the loan and will set the terms for the loan. The Board will require the applicants to repay the loan as rapidly as is reasonably consistent with the financial capability of the applicant. It is the Board's intent to avoid repayment schedules which would exceed the design life of the project facilities.

E. In order to support costs associated with the administration of the loan program, the Board may charge a loan

origination fee. A recipient may use loan proceeds to pay the loan origination fee. The loan origination fee shall be due at the recipient's scheduled loan closing.

F. The Board shall determine the date on which annual repayment will be made. In fixing this date, all possible contingencies shall be considered, and the Board may allow the system user one year of actual use of the project facilities before the first repayment is required.

G. The applicant shall furnish the Board with acceptable evidence that the applicant is capable of paying its share of the construction costs during the construction period.

H. Loans and Interest Buy-Down Agreements Only - The Board may require, as part of the loan or interest buy-down agreement, that any local funds which are to be used in financing the project be committed to construction prior to or concurrent with the committal of State funds.

I. The Board will not forgive the applicant of any payment after the payment is due.

#### **R317-101-16. Committal of Funds and Approval of Agreements.**

After the Board has approved the plans and specifications by the issuance of a Construction Permit[~~and~~ Plan Approval, and has received the appropriate legal documents and other items listed in the authorization letter, the project will be considered by the Board for final approval. The Board will determine whether the project loan, interest buy-down agreement or grant agreement is in proper order on the basis of the Board's authorization. The Executive Secretary may then close the loan, credit enhancement or grant agreement if representations to the Board or other aspects of the project have not changed significantly since the Board's funding authorization, provided all conditions imposed by the Board have been met. If significant changes have occurred, the Board will then review the project and, if satisfied, will then commit funds, approve the signing of the contract, credit enhancement agreement, interest buy-down or grant agreement, and instruct the Executive Secretary to submit a copy of the signed contract agreement to the Division of Finance.

#### **R317-101-17. Construction.**

The Division[~~of Water Quality~~] staff may conduct inspections and will report to the applicant. Contract change orders must be properly negotiated with the contractor and approved in writing. Change orders in excess of \$10,000 must receive prior written approval by the Division[~~of Water Quality~~] staff before execution. Upon successful completion of the project and recommendation of the applicant's engineer, the applicant will request the Division[~~of Water Quality~~] to conduct a final inspection. When the project is complete to the satisfaction of the applicant's engineer, the Division [~~of Water Quality~~] staff, and the applicant, written approval will be issued by the Director[~~Executive Secretary~~] to commence using the project facilities.

**KEY: wastewater, water quality, loans, sewage treatment**

**Date of Enactment or Last Substantive Amendment: [~~June 11, 2009~~]2015**

**Notice of Continuation: March 28, 2013**

**Authorizing, and Implemented or Interpreted Law: 19-5; 73-10c; 11-8-2**

## Governor, Economic Development **R357-14** Electronic Meetings

### NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 39510

FILED: 07/14/2015

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule is to outline the procedures for any public body created within Title 63N to hold an electronic meeting.

**SUMMARY OF THE RULE OR CHANGE:** The rule explains when an electronic meeting can be held, the procedure for requesting an electronic meeting, and what is required for the anchor location, quorums, vote counts, and any other essential requirement to an electronic meeting as provided in Utah law.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 52-4-207

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** This will not impact the state budget because these meetings already take place and the technology to support them in an electronic format is already present and available in our office.

◆ **LOCAL GOVERNMENTS:** This will not impact local governments' budgets. In fact, it could save local governments travel expenses because they will be able to attend meetings held in our office electronically.

◆ **SMALL BUSINESSES:** This will not impact small businesses because this is an internal office rule only. Small businesses could save travel expenses because they will be able to attend meetings held in our office electronically.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no other persons that could be affected by this rule financially because the rule places requirements only on the office itself. Again, savings on travel expenses because they will be able to attend meetings held in our office electronically.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no anticipated compliance costs because the office already has the technology to host electronic meetings.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule will allow the office to continue work in the most efficient and cost effective way for both ourselves and our community partners.

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

GOVERNOR  
ECONOMIC DEVELOPMENT  
60 E SOUTH TEMPLE 3RD FLR  
SALT LAKE CITY, UT 84111  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Jeffrey Van Hulten by phone at 801-538-8694, by FAX at 801-538-8888, or by Internet E-mail at jeffreyvan@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/31/2015

THIS RULE MAY BECOME EFFECTIVE ON: 09/07/2015

AUTHORIZED BY: Val Hale, Executive Director

**R357. Governor's Office of Economic Development.**

**R357-14. Electronic Meetings.**

**R357-14-1. Purpose and Procedure.**

(1) Purpose. Section 52-4-207 requires any public body that convenes or conducts an electronic meeting to adopt a rule governing the use of electronic meetings. This Rule establishes procedures for conducting meetings by electronic means for any and all boards, commissions, committees, and task forces statutorily provided in the Governor's Office of Economic Development's (GOED) code, Title 63N.

(2) Procedure. The following provisions govern any meeting at which one or more board, commission, committee, and task force members (hereinafter "member(s)") appear electronically pursuant to Section 52-4-207:

(a) If one or members desire to participate electronically, such member(s) shall contact the Executive Director of the Governor's Office of Economic Development or their designee(s) (hereinafter "Executive Director"). The Executive Director shall assess the practicality of facility requirements needed to conduct the meeting electronically in a manner that allows for the attendance, participation and monitoring as required by this Rule. If it is practical, the Executive Director shall determine whether to allow for such electronic participation, and the public notice of the meeting shall so indicate. In addition, the notice shall specify the anchor location where the members not participating electronically will be present and where interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

(b) Notice of the meeting and the agenda shall be posted at the anchor location and be provided in accordance with the Open and Public Meetings Act. The anchor location is the physical location where the electronic meeting originates or where the participants are connected. The anchor location shall be identified in the public notice for the meeting. Unless otherwise designated in the notice, the anchor location shall be a room in the offices of GOED where such meetings would normally be held.

(c) Notice of the possibility of an electronic meeting shall be given to the member(s) at least 24 hours before the meeting. In addition, the notice shall describe how a member(s) may participate in the meeting electronically.

(d) When notice is given of the possibility of a member(s) participating electronically, any member(s) may do so and any voting member(s), whether at the anchor location or participating electronically, shall be counted as present for purposes of a quorum and may fully participate and vote. At the commencement of the meeting, or at such time as any member(s) initially appears electronically, the Executive Director shall identify for the record all those who are participating electronically. Votes by member(s) who are not at the anchor location of the meeting shall be confirmed by the Executive Director.

(e) The anchor location will have space and facilities so that interested persons and the public may attend, monitor and participate in the open portions of the meeting, as appropriate.

**KEY: electronic meetings, open and public meetings**

**Date of Enactment or Last Substantive Amendment: 2015**

**Authorizing, and Implemented or Interpreted Law: 52-4-207**

Health, Family Health and  
Preparedness, Licensing  
**R432-3-10**  
Alternative Remedies for Nursing  
Facilities

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 39514

FILED: 07/15/2015

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The implementation of this rule is part of the responsibility of the Bureau of Health Facility Licensing and Certification; however this section has been housed within Medicaid. This action adds Section R432-3-10 for oversight and maintenance by the Bureau of Health Facility Licensing and Certification. The purpose of this change is to update and clarify alternative remedies for nursing facilities but will not change the current process.

SUMMARY OF THE RULE OR CHANGE: This new rule section updates and clarifies alternative remedies for nursing facilities. This new rule section also makes other technical corrections to the old rule.

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

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** There is no impact to the state budget because the changes in this rule only clarify alternative remedies for nursing facilities but will not change the current process.
- ◆ **LOCAL GOVERNMENTS:** There is no impact to local governments because the changes in this rule only clarify alternative remedies for nursing facilities but will not change the current process.
- ◆ **SMALL BUSINESSES:** There is no impact to small businesses because the changes in this rule only because the changes in this rule only clarify alternative remedies for nursing facilities but will not change the current process.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact to businesses, individuals, local governments, and persons that are not small businesses because the changes in this rule only clarify alternative remedies for nursing facilities but will not change the current process.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There is no impact to single persons because the changes in this rule only clarify alternative remedies for nursing facilities but will not change the current process.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There is no fiscal impact because this rule does not add any requirements to the already existing requirements in rule.

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

HEALTH  
 FAMILY HEALTH AND PREPAREDNESS,  
 LICENSING  
 3760 S HIGHLAND DR  
 SALT LAKE CITY, UT 84106  
 or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

- ◆ Carmen Richins by phone at 801-273-2802, by FAX at 801-274-0658, or by Internet E-mail at carmenrichins@utah.gov
- ◆ Joel Hoffman by phone at 801-273-2804, by FAX at 801-274-0658, 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 08/31/2015**

**THIS RULE MAY BECOME EFFECTIVE ON: 09/07/2015**

**AUTHORIZED BY: David Patton, PhD, Executive Director**

**R432. Health, Family Health and Preparedness, Licensing.**

**R432-3. General Health Care Facility Rules Inspection and Enforcement.**

**R432-3-10. Alternative Remedies for Nursing Facilities.**

(1) The department conducts on-site inspections of nursing facilities to determine compliance with state and federal nursing home requirements. When the department finds that a nursing facility is out of compliance with requirements of participation, the department may apply remedies, including Federal civil money penalties (CMP) to compel the facility to implement corrective measures to achieve compliance.

(2) For Medicare and/or Medicaid certified nursing facilities the authority to apply the remedies described in this section is defined in the federal Omnibus Budget Reconciliation Act (OBRA) of 1987 (P.L. 100-203), which mandates compliance with requirements for participation in the program, and in Section 26-18-3 of the Utah Code Annotated 1953. Section 1819(h) and 1919(h) of the Social Security Act specifies remedies available to a state when a skilled nursing facility (SNF) or nursing facility (NF) is out of compliance with the participation requirements. This section requires the state to ensure prompt compliance, and it further specifies that the available remedies are in addition to other remedies available under state or federal law and, except for Federal CMP, are imposed prior to the conduct of a hearing.

(3) This rule establishes criteria for the imposition of remedies authorized by statute.

(4) The department adopts and incorporates by reference the regulations in 42 CFR, Part 488-Survey, Certification, and Enforcement Procedures, as amended in the Federal Register for November 10, 1994, 59 FR 56237. Remedies available for non-compliance with one or more participation requirements may include:

- (a) temporary management;
- (b) denial of payment for new admissions;
- (c) transfer of residents;
- (d) closure of the facility and transfer of residents;
- (e) state monitoring; and
- (f) Civil Money Penalties. Civil Money Penalties may be imposed for either:

(i) the number of days a facility is out of compliance with one or more participation requirements; or

(ii) for each instance that a facility is not in substantial compliance.

(5) Interest shall be assessed on the unpaid balance of the Federal CMP, beginning on the due date. The interest rate charged shall be the average of the bond equivalent of the weekly 90-day U.S. Treasury bill auction rates during the period for which interest will be charged.

(6) Disposition of Federal CMP Collected.

(a) The department shall deposit Federal CMP and corresponding interest collected from Medicaid certified facilities in the General Fund in accordance with Section 26-18-3(5).

(b) Federal CMP collected by the department must be applied in accordance with Section 1819 and 1919 of the act for the protection of the health and property of residents.

**KEY: health care facilities**

**Date of Enactment or Last Substantive Amendment:** ~~February 27, 2014~~ 2015

**Notice of Continuation:** August 12, 2013

**Authorizing, and Implemented or Interpreted Law:** 26-21-5; 26-21-14 through 26-21-16

## Human Services, Child and Family Services

### R512-500

## Kinship Services, Placement and Background Screening

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39499

FILED: 07/06/2015

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is being changed in response to H.B. 39 (2015 General Session).

**SUMMARY OF THE RULE OR CHANGE:** The proposed changes to this rule bring the rule in-line with statute from H.B. 39 (2015), to include language about the ability of Child and Family Services to place a child with a "friend" of the child's family".

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 62A-4a-102 and Section 62A-4a-105 and Section 62A-4a-209 and Section 78A-6-307 and Section 78A-6-307.5 and Section 78A-6-308

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** There will be no increase in cost or savings to the state budget because these proposed changes do not increase workload that would require additional staff or other costs.

◆ **LOCAL GOVERNMENTS:** Local governments have no responsibility for services offered by Child and Family Services and are therefore not affected by this rule and will have no fiscal impact.

◆ **SMALL BUSINESSES:** Small businesses have no responsibility for services offered by Child and Family Services and are therefore not affected by this rule and will have no fiscal impact.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no expected fiscal impact for "persons other than small businesses, businesses, or local government entities" because funding requests for services offered by Child and Family Services come out of already-existing budgets.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for affected persons associated with implementing the changes to this rule.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There will be no costs or savings on businesses.

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

HUMAN SERVICES  
CHILD AND FAMILY SERVICES  
195 N 1950 W  
SALT LAKE CITY, UT 84116  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Carol Miller by phone at 801-557-1772, by FAX at 801-538-3993, or by Internet E-mail at carolmiller@utah.gov  
◆ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhjonesrobbins@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/31/2015**

**THIS RULE MAY BECOME EFFECTIVE ON:** 09/07/2015

**AUTHORIZED BY:** Brent Platt, Director

**R512. Human Services, Child and Family Services.**

**R512-500. Kinship Services, Placement and Background Screening.**

**R512-500-1. Purpose and Authority.**

(1) The purpose of this rule is to establish standards for kinship placement for a child who is in Child and Family Services custody, including Preliminary Placement, evaluation of kinship caregiver capacity for ongoing care, and background screening.

(2) This rule is authorized by Sections 62A-4a-102, 62A-4a-209, 78A-6-307, and 78A-6-307.5.

**R512-500-2. Definitions.**

(1) "Abuse" is defined in Section 78A-6-105.

(2) "Child" is defined in Section 62A-4a-101.

(3) "Child and Family Services" means the Division of Child and Family Services, Department of Human Services.

(4) "Child and Family Team" has the same meaning as defined in Rule R512-301.

(5) "Friend" means an ~~individual~~ adult the child knows and is comfortable with, other than a non-custodial parent or relative as defined in Section 78A-6-307, A friend who is not licensed as a foster parent and who ~~is licensed as a foster parent and~~ is designated [for] a preference for care of a child by a custodial parent or guardian [of the child] in accordance with Section 62A-4a-209, must be willing to become a licensed foster parent.

(6) "Kinship caregiver" means a non-custodial parent~~[-]; or~~ relative, ~~[or friend,]~~ as defined in this section, who is selected for placement and care of a child in Child and Family Services custody.

(7) "Neglect" is defined in Section 78A-6-105.

(8) "Non-custodial parent" is a natural parent as defined in Section 78A-6-307 who is a biological or adoptive mother, an adoptive father, or a biological father who was married to the child's biological mother at the time the child was conceived or born, or who has had paternity established, who has not been granted legal custody of the child.

(9) "Non-relative" is defined in Section 62A-4a-209.

(10) "Preliminary Placement" means an out-of-home placement with a non-custodial parent, ~~or~~ relative, or with a friend who is either a licensed foster parent or is willing to become a licensed foster parent, which is referred to in statute as an emergency placement with a non-custodial parent or relative as authorized in Section 62A-4a-209 or a post-shelter hearing placement with a non-custodial parent, ~~or~~ relative, or friend as authorized in Section 78A-6-307.5.

(11) "Relative" is defined in Section 78A-6-307 as the child's "grandparent, great-grandparent, aunt, great-aunt, uncle, great-uncle, brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, ~~or~~ sibling of the child, a first cousin of the child's parent, or an adult who is an adoptive parent of the child's sibling." For a Native American child, relative also includes "extended family members" as defined by the Indian Child Welfare Act (ICWA), 25 USC 1903, which is "by the law or custom of the Native American child's tribe or, in the absence of such law or custom, shall be a person who has reached the age of eighteen and who is the Native American child's grandparent, aunt, or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent."

(12) "Severe type of child abuse or neglect" is defined in Section 62A-4a-1002.

(13) "Sibling" is defined as a child who has the same biological parent or adoptive parent as the child.

~~(13)~~(14) "Substantiated" is defined in Section 62A-4a-101.

~~(14)~~(15) "Supported" is defined in Section 62A-4a-101.

### **R512-500-3. Philosophy.**

(1) All children need permanency through enduring relationships that provide stability, familiarity, and support for the culture of the child; support the child's sense of self based on existing attachments; provide for the child's safety and physical care; and connect the child to their past, present, and future through continuing family relationships. First priority is to maintain a child safely at home. However, if a child cannot safely remain at home, kinship care has the potential for providing these elements of permanency by virtue of the kin's knowledge of and relationship to the family and child.

(2) All kinship work is done in the context of a Child and Family Team. Kinship care includes elements of child protection, in-home services, family preservation, and out-of-home care. When a child cannot safely remain home, kinship care is preferable to other out-of-home placements if the kinship caregiver can keep the child safe and appropriately meet the child's needs.

(3) The caregiver's willingness and ability to care for and keep the child safe are fundamental. The kinship caregiver must have or acquire knowledge of the child, be able to meet the child's needs, support reunification efforts, and be able to provide the child access to parents, siblings, and other family members through visits or caring for the child and siblings as a group.

(4) Ongoing assessment of the child's safety, permanence, and well-being is important to the stability and value of kinship care. Ongoing assessment of safety is based on the components of safety decision-making, which include threats of harm, vulnerabilities of the child, and protective capacities of the kinship caregiver and their support system.

(5) Providing for kinship care in the Child and Family Services spectrum of services requires active efforts to identify and locate kin families with whom children may form or continue relationships at home or in temporary or permanent placements. Support to kinship caregivers is essential to the success of the child's placement with the family and to the family's ability to respond to the needs of the child. As members of the Child and Family Team, kinship caregivers will seek support from other family members and from informal and formal supports to provide for the child.

### **R512-500-4. Preferences for Placement.**

(1) The following order of preference ~~[applies to placement]~~ shall be used when determining the placement of a child in the custody of Child and Family Services, and is subject to the child's best interest:

(a) A non-custodial parent of the child in accordance with Section 78A-6-307;

(b) A relative of the child, including the adoptive parent of the child's sibling;

(c) A friend who is a licensed foster parent, designated by the custodial parent or guardian of the child, ~~if the friend is a licensed foster parent~~; ~~and~~

(d) A friend not licensed as a foster parent, designated by the custodial parent or guardian of the child, who is willing to become licensed within six months of the child being placed with them;

(e) A former out-of-home care placement; and

(f) A ~~[-]~~shelter facility; ~~or~~ other out-of-home care placement designated by Child and Family Services.

(2) Preferential consideration given in accordance with Section 78A-6-307 to kinship caregivers or friends who are licensed or who become licensed ~~[in Section 78A-6-307]~~ expires 120 days from the date of the shelter hearing. After that time period has expired, a relative or friend who has not obtained custody or asserted an interest in the child may not be granted preferential consideration by Child and Family Services or the court. Prospective kinship caregivers or friends may be considered for placement after the 120 days has lapsed, if it is in the best interest of the child.

(3) A ~~[kinship]~~potential caregiver who meets the definition of friend and who is not a licensed foster parent must be ~~[licensed as an out-of-home care provider]~~ designated by the custodial parent or guardian to provide care for the child. The friend must be willing to become a licensed foster parent, must be actively engaged in the process of becoming a licensed foster parent within 60 days of the child being placed with them, and must complete all requirements of the Department of Human Services, Office of Licensing to obtain a child-specific foster care license within six months of a child being placed with them in order for a child in the custody of Child and Family Services to be placed with them and to remain in the friend's care. Furthermore, if the child remains in the custody of Child and Family Services placed in the home of the friend, the friend must comply with all Office of Licensing requirements to receive ongoing

licensure as a foster parent prior to the child-specific license expiring, or the child will be removed from the friend's care.

#### **R512-500-5. Preliminary Placement.**

(1) The requirements specified in Section 62A-4a-209 must be met for Preliminary Placement of a child with a kinship caregiver.

(2) A decision to make a Preliminary Placement of a child with a kinship caregiver will include [~~background screening,~~] assessment of the kinship caregiver's willingness and ability to care for a child and to keep the child safe, a limited home inspection, and background screening.

(3) A kinship caregiver must meet the background [~~check~~]screening requirements specified in Rule R512-500-7.

(4) Assessment of safety will be based on safety decision-making principles, which include:

- (a) Potential threats of harm;
- (b) Vulnerabilities of the child; and

(c) Protective capacities of the potential kinship caregiver and their support system.

(5) The limited home inspection specified in Section 62A-4a-209 is required for a non-custodial parent, [~~or~~]relative, or friend. The limited home inspection is conducted in the home of the prospective kinship caregiver to determine if there are apparent safety risks in the home that present a potential threat of harm to the child. The limited home inspection determines if the following are met:

(a) The home is free from observable health and fire hazards.

(b) There are adequate sleeping arrangements to meet the specific needs of each child.

(c) Any firearms, ammunition, hazardous chemicals, and/or medications are secured and not accessible to children.

(6) References may be contacted to obtain input regarding placing the child with the potential kinship caregiver or information about other available relatives or friends who may care for the child.

#### **R512-500-6. Evaluation of Capacity for Ongoing Care of a Child.**

(1) The Child and Family Team will determine the most appropriate caregiver to meet the ongoing and permanency needs of the child.

(a) Since the Preliminary Placement is made in an emergency situation they may or may not be the most appropriate caregiver to meet the ongoing and permanency needs of the child.

(b) The ongoing caregiver may be the kinship caregiver who is the Preliminary Placement or may be a different prospective caregiver.

(2) Child and Family Services will evaluate with the prospective caregiver their capacity for ongoing care of the child as well as permanency if reunification efforts are not successful. The components of the evaluation process include:

- (a) The child-specific home study, including:

(i) Results of the background screening specified in R512-500-7;

(ii) Obtaining positive written references from three different people known to the kinship caregiver expressing the referent's opinion about the family's ability to care for the child;

(iii) Physical and emotional ability of the kinship caregiver to provide adequate care for the child;

(iv) Understanding of family dynamics and how placement will impact relationships within the family;

(v) Ability to provide for the child's safety and well-being needs and to support a plan for permanency;

(vi) Analysis of the type of resources and support needed by the kinship caregiver to care for the child.

(vii) Ability of the home to meet required safety standards of the Office of Licensing.

(b) Providing information to the kinship caregiver to assist with considering options for ongoing care of the child, including:

(i) Educating the kinship caregiver of the expectations of caring for a child who is under the jurisdiction of the court.

(ii) Assessing the resources that may be available to assist the kinship caregiver in providing a stable placement for the child.

(iii) Becoming a licensed out-of-home care placement for the child.

(iv) Requesting temporary custody and guardianship from the court.

#### **R512-500-7. Background Screening.**

(1) Background Screening Procedure for Preliminary Placements.

(a) In order for a non-custodial parent, [~~or~~]relative, or friend to be considered for Preliminary Placement of a child, background screening must be completed that meets the requirements of Sections 62A-4a-209, 78A-6-307, and 78A-6-308. If any non-relative adults live in the household, applicable background screening requirements in Sections 62A-4a-209, 78A-6-307, and 78A-6-308 must be met.

(b) A non-custodial parent or relative and all persons 18 years of age and older living in the household must provide the following information in order for background screening to be conducted:

(i) Full first, middle, last, maiden, alias, and all previous married names.

(ii) Social Security number, if a number has been issued.

(iii) Proof of identity verified by a government-issued photo identification.

(iv) Date of birth.

(2) Background Screening Procedure for Ongoing Care of a Child.

(a) As part of the evaluation of capacity for ongoing care of a child, in addition to background screening required for Preliminary Placement, [~~a relative and spouse or partner~~] anyone over the age of 18 years in the home must complete an FBI [~~national~~] fingerprint-based criminal history records check, [~~as prospective out-of-home care or adoptive parents. A non-custodial parent will complete an FBI national criminal history check if Utah criminal history or SAFE child abuse checks result in concerns about potential threats of harm to the child or if ordered by the court.~~

~~\_\_\_\_\_ (b) If a non-relative 18 years of age or older is residing in the home and has lived outside of the state of Utah in the five years immediately preceding the date of the application, the individual must complete an FBI national criminal history records check.]~~

~~(c)~~ (b) A Utah child abuse registry check will be completed or all persons over the age of 18 years residing in the home. If any person 18 years of age or older residing in the home has lived out of the state of Utah in the five years immediately preceding the date of the application, a child abuse and neglect registry check must be completed for any state in which the individual resided.

~~[(d)](c)~~ ~~[A non-custodial parent or relative and a]~~All persons 18 years of age and older living in the household must provide the following information on a form provided by Child and Family Services in order for background screening to be conducted:

- (i) Full first, middle, last, maiden, alias, and all previous married names.
- (ii) Social Security number, if a number has been issued.
- (iii) Proof of identity verified by a government-issued photo identification.
- (iv) Date of birth.
- (v) The potential kinship caregiver and applicable adults living in the household shall provide fingerprints from an authorized law enforcement agency or designated electronic scanning site.
- (vi) [The child abuse registry for each state in which a potential kinship caregiver or other adult in the household has lived will be checked.]If the applicant has lived outside of Utah in the five years preceding the date of the application, a list of the states the applicant has lived in will be provided.

**KEY: child welfare, kinship**

**Date of Enactment or Last Substantive Amendment: ~~[December 22, 2010]~~2015**

**Notice of Continuation: April 8, 2013**

**Authorizing, and Implemented or Interpreted Law: 62A-4a-102; 62A-4a-105; 62A-4a-209; 78A-6-307; 78A-6-307.5; 78A-6-308**

## Transportation, Preconstruction, Right-of-way Acquisition **R933-2** Control of Outdoor Advertising Signs

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39511

FILED: 07/14/2015

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The last substantive update to Rule R933-2 was done more than nine years ago (03/31/2006). Significant discrepancies between the rule and state law have developed in the intervening years (the rule has not kept pace with changes in state law). Numerous provisions in the existing rule also conflict with a federal/state agreement entered into between the governor of the state of Utah and the Secretary of Transportation of the United States dated 01/18/1968, regarding the size, lighting, and spacing of outdoor advertising which may be erected and maintained within areas adjacent to the interstate.... This Utah-federal agreement is codified by Section R933-5-2. This amendment to Rule R933-2 resolves these conflicts.

**SUMMARY OF THE RULE OR CHANGE:** The amendment to Rule R933-2 creates a logical progression through the outdoor advertising control process; clarifies what information

is needed for each application process; addresses how incomplete applications are handled; creates a purpose-built ownership transfer application; updates application time-frame language to conform with Subsection 72-7-507(5)(c); provides the permit holders additional time to complete permit ownership transfers; and gives the department 90 days to accept renewal fees, rather than the current 60 days, in advance of the renewal deadline; removes permit plate requirements and associated fees from the rule; removes Section R933-2-10 that covers when conforming signs become nonconforming and their removal (this section is duplicative of Subsection 72-7-509(1), and, therefore, serves no purpose); updates the limitations section for zoned or unzoned areas; removes specific fee-related references to conform with Section 63J-1-501; corrects an existing conflict between state law, which indicates permits are transferable and the present rule, which indicates otherwise; removes several requirements relative to official signs application process; adds a provision on official signs regarding digital displays; prevents official signs from being transferred and off-premise advertising from being displayed; and updates and makes additions to or deletions from its list of defined terms.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 72-1-201 and Title 72, Chapter 7, Part 5

### ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** It is anticipated that improved organization and the clarifications included as part of the amendments will make Rule R933-2 easier to understand and follow. If the rule is easier to understand and follow, applicants and regulators will require less time to complete the application process and there will be fewer challenges made to permit application decisions. If the amendments to the rule lead to an easier to understand and implement permitting process and fewer challenged permit decisions, the state's budget will experience an aggregate cost savings attributable in part to the rule amendments.

♦ **LOCAL GOVERNMENTS:** No aggregate cost or savings to local governments are anticipated because the amendments to Rule R933-2 do not require any additional actions by local governments.

♦ **SMALL BUSINESSES:** Small businesses could be affected by the amendments to Rule R933-2 because permit application fees will likely increase due in part to the amendments. Small businesses that own and must purchase annual permits for outdoor roadside advertising signs will be required to pay the increased fees. Small businesses that purchase space on outdoor roadside advertising signs will likely experience an increase in their rental fees due to owners passing along the increased fees to their customers.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Persons other than small businesses, businesses, or local government entities should not experience additional costs or savings attributable to the amendments to Rule R933-2 other than a possible de minimis increase in prices that may be caused in part by the increase in permit fees.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:**  
Compliance costs for affected persons will increase due to increased permit fees that will likely result from the amendments to Rule R933-2. The amendment to the rule requires permit-related fees to be determined in accordance with Section 63J-1-504, which is amended from time-to-time by the legislature to account for inflation.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:**  
These amendments to Rule R933-2 are necessary to bring the rule into conformance with state and federal law. However, the changes that will result from the amendments are generally positive for all persons affected by the rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
TRANSPORTATION  
PRECONSTRUCTION,  
RIGHT-OF-WAY ACQUISITION  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W  
SALT LAKE CITY, UT 84119-5998  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**  
♦ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at jimpalmer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 08/31/2015

THIS RULE MAY BECOME EFFECTIVE ON: 09/08/2015

AUTHORIZED BY: Carlos Braceras, Executive Director

**R933. Transportation, Preconstruction, Right-of-Way Acquisition.**

**R933-2. Control of Outdoor Advertising Signs.**

**R933-2-1. Purpose.**

The purpose of ~~these~~ this rule[s] is to implement the Utah Outdoor Advertising Act Sections 72-7-501 ~~[et seq.]~~ through 72-7-516. Nothing in ~~these~~ this rule[s] shall be construed to permit outdoor advertising that would disqualify the ~~[S]~~ state for ~~[F]~~ federal participation of funds under the applicable [F] federal standards [applicable] or conflict with the Utah Outdoor Advertising Act. The Transportation Commission and the Utah Department of Transportation shall, through designated personnel, control outdoor advertising on ~~[interstate and primary highway systems]~~ controlled routes throughout the State of Utah.

**~~[R933-2-2. Federal Regulations.~~**

~~The federal regulations governing outdoor advertising contained in 23 CFR 750.101 through 750.713, April 1, 1994 are adopted and incorporated by this reference.~~

**[R933-2-2. Definitions.**

All references in this rule to Title 72, Chapter 7, Part 5, are to those sections of the Utah Code known as the Utah Outdoor Advertising Act. In addition to the definitions in that part, the following definitions are supplied:

(1) "Abandoned sign" means any controlled sign of which the sign face has been partially obliterated, dilapidated, has unsafe conditions or has remained blank or been removed for a continuous period of 12 months or more, and the sign owner does not have a pending and active application with the department or a local governmental authority to repair or rectify the condition.

(2) "Acceleration and deceleration lanes" means speed change lanes created for the purpose of enabling a vehicle to increase or decrease its speed to merge into, or out of, traffic on the main-traveled way. As used in the Act, an acceleration or deceleration lane begins and ends at a point no closer than 500 feet from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way. On-ramps and off-ramps are part of the interchange and shall not be considered an acceleration or deceleration lane under the Act or this rule.

(3) "Act" means the Utah Outdoor Advertising Act.

(4) "Advertising" means any message, whether in words, symbols, pictures or any combination thereof, painted or otherwise applied to the face of an outdoor advertising structure, and the message is designed, intended, or used to advertise or inform, and the message is visible from any place on the main traveled-way of a controlled route.

(5) "Areas zoned for the primary purpose of outdoor advertising" as used in the Act is defined to include areas in which the primary activity is outdoor advertising.

(6) "Changeable Electronic Variable Message Signs" or "CEVMS" means a self-luminous advertising sign which emits or projects any kind of light, color, or message. Such a sign has the capability of being changed or altered by electronic means on a fixed display screen composed of a series of lights including light emitting diodes (LEDs), fiber optics, plasma displays, light bulbs, or other illumination devices within the display area.

(7) "Conforming sign" means an off-premises sign maintained in a location that conforms to the size, lighting, spacing, zoning, and other requirements as provided by law and this rule.

(8) "Contiguous" means a property that shares a common property line with another property.

(9) "Controlled route" means any route where outdoor advertising control is mandated by the Act, the Utah-Federal Agreement R933-5, or other state or federal law.

(10) "Controlled sign" means any off-premises sign that is designed, intended, or used to advertise or inform and which is located and the advertising thereon is visible within a controlled outdoor advertising corridor as specified by state or federal law.

(11) "Customary Maintenance" means any change, replacement, manipulation, or other repair to the sign structure that does not:

(a) alter or change the overall height, location, material, sign face orientation or sign face size (except for temporary embellishments);

(b) add lighting relative to what is currently listed on the valid permit or change the sign face to a CEVMS, or

(c) require structural engineering review.

(12) "Feeder systems" are secondary city or county roads that bring traffic to the state highway.

(13) "Freeway" means a divided highway for through traffic with full control access.

(14) "Good standing" means the controlled sign is properly maintained, all program and permit-related fees are paid as specified in this rule, and current sign owner contact information is up to date with the department.

(15) "Grandfather status" refers to any off-premises controlled sign erected in zoned or unzoned commercial or industrial areas, prior to May 9, 1967, even if the sign does not comply with the size, lighting, or spacing of the Act and this rule. Signs only, and not sign sites, may qualify for Grandfather Status.

(16) "H-1" means highway service zone as defined in the Act.

(17) "Lease or consent" means any written agreement by which possession of land, or permission to use land for the purpose of erecting or maintaining a sign, or both, is granted by the owner to another person for a specified period of time.

(18) "Nonconforming sign" means a sign that was lawfully erected, but that does not conform to state law or rules enacted at a later date or that later fails to comply with state legislation or rules because of changed conditions. The term "illegally erected" or "illegally maintained" is not synonymous with the term, "nonconforming sign", nor is a sign with "grandfather" status synonymous with the term, "nonconforming sign."

(19) "Off-Premises Sign" means an outdoor advertising sign that advertises an activity, service or product and that is located on premises other than the premises at which activity or service occurs or product is sold or manufactured.

(20) "On-Premises Sign" does not include a sign that advertises a product or service that is only incidental to the principal activity or that brings rental income to the property owner or occupant.

(21) "Point of the gore" means the point of the area delineated by two solid white lines that is between a permanently constructed continuing lane of a through-roadway and a permanently constructed lane used to enter or exit the continuing lane, including similar areas between merging or splitting highways.

(22) "Property" as used in the definition of "On-Premises Sign" includes those areas from which the general public is serviced and which are directly connected with and are involved in assembling, manufacturing, servicing, or repairing of products used in the business activity. This property does not include the site of any auxiliary facilities that are not essential to and customarily used in the conduct of business, nor does it include property not contiguous to the property on which the sign is situated.

(23) "Public park" means any publicly owned land that is designed or used as a recreation area, wildlife or waterfowl refuge, or historical site.

(24) "Sale or lease sign" means any sign situated on the subject property that advertises that the property is for "sale" or "lease". This sign may not advertise any product or service unrelated to the business of selling or leasing the land upon which it is located, nor may it advertise a projected use of the land or a financing service available or being utilized in its development.

(25) "Scenic area" as used in the Act includes a scenic byway.

(26) "Transient or temporary activity" means any industrial or commercial activity, not otherwise herein excluded, that does not have a prior continuous history for a period of six months.

(27) "Visible" means capable of being seen whether or not readable, without visual aid, by a person of normal visual acuity.

(28) "Written notification" as described under Subsection 72-7-506(2)(a) is further defined to include email notification. An outdoor advertising permit holder may request in writing to receive notice via United States Postal Service.

#### **[R933-2-3. Definitions:**

All references in these Rules to Title 72, Chapter 7, Part 5, are to those sections of the Utah Code known as the Utah Outdoor Advertising Act. In addition to the definitions in that part, the following definitions are supplied:

(1) "Abandoned Sign" means any controlled sign, the sign facing of which has been partially obliterated, has been painted out, has remained blank or has obsolete advertising matter for a continuous period of 12 months or more.

(2) "Acceleration and deceleration lanes" means speed change lanes created for the purpose of enabling a vehicle to increase or decrease its speed to merge into, or out of, traffic on the main-traveled way. As used in the Act, an acceleration or deceleration lane begins and ends at a point no closer than 500 feet from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way. On-ramps and off-ramps are part of the interchange and shall not be considered an acceleration or deceleration lane under the Act or these rules.

(3) "Act" means the Utah Outdoor Advertising Act.

(4) "Advertising" means any message, whether in words, symbols, pictures or any combination thereof, painted or otherwise applied to the face of an outdoor advertising structure, which message is designed, intended, or used to advertise or inform, and which message is visible from any place on the main travel-way of the interstate or primary highway system.

(5) "Areas zoned for the primary purpose of outdoor advertising" as used in the Act is defined to include areas in which the primary activity is outdoor advertising.

(6) "Commercial or industrial zone" as defined in of the Act is further defined to mean, with regard to those areas outside the boundaries of urbanized counties and outside the boundaries of cities and towns referred to in that subsection, those areas not within 8,420 feet of an interstate highway exit-ramp or entrance-ramp as measured from the nearest point of the beginning or ending of the pavement widening at the exit from or entrance to the main traveled way that are reserved for business, commerce, or trade under enabling state legislation or comprehensive local zoning ordinances or regulations, and are actually used for commercial or industrial purposes, including the land along both sides of a controlled highway for 600 feet immediately abutting the area of use, measurements under this subsection being made from the outer edge of regularly used buildings, parking lots, gate-houses, entrance gates, or storage or processing areas.

(7) "Conforming Sign" means an off-premise sign maintained in a location that conforms to the size, lighting, spacing, zoning and usage requirements as provided by law and these rules.

(8) "Controlled Sign" means any off-premise sign that is designed, intended, or used to advertise or inform any part of the advertising or informative contents of which is visible from any place on the main traveled way of any interstate or federal-aid primary highway in this State.

(9) "Destroyed Sign" means a sign damaged by natural elements wherein the costs of re-erection exceeds 30% of the depreciated value of the sign as established by departmental appraisal methods.

(10) "Feeder systems" are secondary roads that bring traffic to the main traveled way.

(11) "Freeway" means a divided highway for through traffic with full control access.

(12) "Grandfather Status" refers to any off-premise controlled sign erected in zoned or unzoned commercial or industrial areas, prior to May 9, 1967, even if the sign does not comply with the size, lighting, or spacing of the Act and these Rules. Signs only, and not sign sites, may qualify for Grandfather Status.

(13) "H-1" means highway service zone as defined in the Act.

(14) "Lease or Consent" means any written agreement by which possession of land, or permission to use land for the purpose of erecting or maintaining a sign, or both, is granted by the owner to another person for a specified period of time.

(15) "Legal copy" means the advertising copy on the sign that occupies at least 50% of the sign size.

(16) "Nonconforming Sign" means a sign that was lawfully erected, but that does not conform to State law or rules passed or made at a later date or that later fails to comply with State legislation or rules because of changed conditions. The term "illegally erected" or "illegally maintained" is not synonymous with the term, "nonconforming sign", nor is a sign with "grandfather" status synonymous with the term, "nonconforming sign."

(17) "Off-Premise Sign" means also, in supplement to the definition stated in the Act, an outdoor advertising sign that advertises an activity, service or product and that is located on premises other than the premises at which activity or service occurs or product is sold or manufactured.

(18) "On-Premise Sign", in supplement to the definition stated in the Act, does not include a sign that advertises a product or service that is only incidental to the principal activity or that brings rental income to the property owner or occupant.

(19) "Parkland" means any publicly owned land that is designed or used as a public park, recreation area, wildlife or waterfowl refuge, or historical site.

(20) "Point of the Gore" means the point of the area delineated by two solid white lines that is between a continuing lane of a through roadway and a lane used to enter or exit the continuing lane, including similar areas between merging or splitting highways.

(21) "Property" as used in the definition of "On-Premise Sign" includes those areas from which the general public is serviced and which are directly connected with and are involved in assembling, manufacturing, servicing, repairing, or storing of products used in the business activity. This property does not include the site of any auxiliary facilities that are not essential to and customarily used in the conduct of business, nor does it include property not contiguous to the property on which the sign is situated.

(22) "Sale or Lease Sign" means any sign situated on the subject property that advertises that the property is for "sale" or "lease". This sign may not advertise any product or service unrelated to the business of selling or leasing the land upon which it is located, nor may it advertise a projected use of the land or a financing service available or being utilized in its development.

(23) "Scenic Area" as used in the Act includes a scenic byway.

(24) "Transient or Temporary Activity" means any industrial or commercial activity, not otherwise herein excluded, that does not have a prior continuous history for a period of six months.

(25) "Un-zoned Area" in supplement to the definition stated in the Act, means an area in which no zoning is in effect. It does not include areas within comprehensive zoning or master plans adopted by local zoning authorities.

(26) "V-Type Sign" means any sign, the center pole of which is nearest the traveled portion of the highway and is a common pole to the two sign faces, or when a common pole is not used, a sign with the sign faces no further than 36 inches apart at the angle of the sign closest to the traveled portion of the highway, and the structure poles at the point nearest the traveled portion of the highway no further apart than 48 inches. Existing V-type signs now controlled and permitted are excluded from this definition.

(27) "Visible" means capable of being seen whether or not readable, without visual aid, by a person of normal visual acuity.

#### **§R933-2-3. Permit Required.**

(1) All controlled signs legally in existence prior to the effective date of the 1967 Act, or that are legally created thereafter, shall have a permit issued by the department.

#### **§R933-2-4. Permits.**

(1) All controlled outdoor advertising signs legally in existence prior to the effective date of the 1967 Act, or that are legally created thereafter, must have a permit. This includes off-premise signs located on the side of or on top of any fixed object or building and visible from the main traveled way of an interstate or federal-aid primary highway.

(2) Anyone preparing to erect a controlled sign shall apply for the permit before beginning construction of the sign. Permits shall be issued in the manner prescribed in the Act. Permits may be issued only for signs that are to be erected in commercial or industrial zones or in unzoned commercial or industrial areas, as defined by the Act. Inasmuch as a sign cannot lawfully be constructed or maintained unless there is legal access to the property on which the sign is proposed to be located, a permit may not be issued if the applicant does not have legal access to that property.

(3) Permits may be issued only for signs already lawfully erected or to be lawfully erected within 90 days from the date of the issuance of the permit. Within 30 days from the date of issuance, the permit must be affixed to the completed sign for which the permit was issued as provided in Subsection R933-2-4(5).

(4) A permit affixed to a sign other than the sign for which it was issued is unlawful, and remedial action shall be taken by the permittee by the proper affixing of the permit to the correct sign within 30 days of notice to the permittee.

~~(5) Permits shall be permanently attached to the sign in a position to be readily visible from the nearest highway in the direction of travel to the sign faces. If the sign is a single-face cross-highway reader, then the permit must be attached to the sign in a position readily visible from the nearest traveled portion of the highway. The permittee is responsible for the proper placement of the permit on the sign.~~

~~(6) Sign permits that have been lost or destroyed must be replaced, and new permits for signs otherwise lawful shall be issued upon the payment of a \$25 fee for each sign and the completion of a new permit application.~~

~~(7) Permits shall be issued on a one year fiscal basis, and shall be renewed on or before the first day of July of each year.~~

~~(8) The fee for a new permit is \$100 for the one-year fiscal period or any part thereof. The permit expires June 30 of the fiscal year. The fee for permit renewal is \$25 for the one-year fiscal period or any part thereof. Notwithstanding the specification in Subsections R933-2-4(8),(12), and (13)(a) of a \$100 fee for a sign permit, the fee for the sign permit for a non-profit public service sign shall be \$25, and the fee for renewal of the permit for that non-profit public service sign shall be \$10.~~

~~(9) The fee for permits issued within a one-year fiscal period shall not be prorated.~~

~~(10) One-year permit renewals shall be made on renewal forms prepared by the Department. Completion of the renewal application and obtaining of the renewal permit prior to the expiration of the existing permit shall be the sole responsibility of the owner. The renewal may be applied for no sooner than 60 days prior to July 1 of the year in which the permit is to be renewed.~~

~~(11) Written proof of lease or consent from site owner to erect or maintain an outdoor advertising sign must be furnished by the applicant at the time of application for an original permit. This proof may consist of an affidavit showing the landowner's name and address, the sign owner's name, and the sign location by route, milepost, address, and county. On renewal of the permit the applicant must certify that the sign site is still under valid lease to the applicant.~~

~~(12) If a one-year permit on a conforming sign is not renewed on or before July 1 of the year of its term, a new permit application shall be required for a new permit, along with a fee of \$100.~~

~~(13) A permit is non transferable, and the permittee shall be liable for any violation of the law regarding the permitted sign. No new permit may be issued for a sign for which a permit has already been issued, except as follows:~~

~~(a) Transfer of ownership of a permitted sign shall require the holder of the valid permit to release, in writing, his rights to continue to maintain his sign or use his location for outdoor advertising. The new owner applicant shall then submit to the Utah Department of Transportation the written release and proof of having obtained sign ownership, and a valid lease or consent for the remainder of the permit term. A \$100 fee shall accompany the application and both application and fee must be received within 30 days of the ownership transfer.~~

~~(b) A conforming sign that is unlawful and forfeited by the permittee may be acquired and permitted, providing the new sign applicant submits the completed permit application and proof of possession of a valid land lease or consent to maintain a sign at~~

~~the described location and providing the new application and the sign are otherwise lawful.~~

~~(14) A supplemental application fee of \$100 shall be charged to cover administrative and inspection costs for every sign that was erected without a sign permit, Form R-299, or altered without prior written approval of the department, Form R-407. This supplemental fee is in addition to the regular \$100 permit fee.~~

~~(15) Each application for a new permit must be accompanied by the approved building permit of the local governing authority or a written statement from that authority that building permits are not required under its ordinances.~~

~~(16) Where local authority has issued a building permit for construction of a sign, but construction is contrary to the Utah Outdoor Advertising Act, the action of the local authority does not require the State to issue a permit.~~

~~(17) Federal agencies, State agencies, counties, cities and towns that use outdoor advertising signs along the interstate or primary highway systems shall have a permit for each controlled sign as provided in the Act and these rules.~~

#### **§R933-2-4. General Requirements.**

(1) Permits shall be issued in accordance with the Act and as described by this rule.

(2) Permits may be issued only for signs that are to be erected in areas allowed by local, state and federal law.

(3) All permits shall be maintained in good standing with the department for the duration of the sign's existence.

(4) Until the application is considered complete by the department, the department shall not process the application.

(a) If the application is deemed incomplete by the department, the department will send a notice notifying the applicant of the deficiencies of the application.

(b) The applicant will have 30 days from the notification date to make the application complete per the instructions on the application.

(c) If the applicant does not submit the required information to make the application complete within 30 days from the notification date the application will be returned to the applicant as incomplete without being processed.

(d) During the time the applicant is completing the application, the department will not consider or review any subsequently-received New Outdoor Advertising Permit Application for the same general location, where granting one permit would preclude the other.

(e) If two or more applicants file a New Outdoor Advertising Permit Application at exactly the same time for the same general location, where granting one permit would preclude the other, the first complete application received by the department will have priority over the other. Any notices of deficiencies shall be sent to the applicants simultaneously.

(5) Where the local authority has issued a building permit for construction of a sign, but construction is contrary to the Act, the action of the local authority does not require the state to issue a permit.

(6) The crossing of a right-of-way line of any controlled route for access at other than an established access approach to erect, alter or maintain a sign without the written permission of the department, is unlawful.

~~(a) The first documented offense the permit holder will receive a warning notice.~~

~~(b) The second documented offense will result in a Notice of Agency Action.~~

~~(c) The third documented offense will result in permit revocation.~~

~~(7) Any sign located within the controlled area of two controlled routes shall meet the spacing requirements of both highway systems.~~

~~(8) If a sign message may be read from two or more routes, one or more of which is a controlled route, the more stringent of applicable control requirements applies.~~

~~(9) New sign structure or adjusted sign structure location requires the proposed location to be staked by the applicant prior to submitting any application. The applicant shall mark the center-point(s) of the support pole(s) of the proposed location with a clearly visible stake and a ribbon. The stake shall have the sign owners name clearly identified on it.~~

~~(10) If two or more applicants file a complete New Outdoor Advertising Permit Application at the same time for the same general location the first fully completed application received by the department will have priority over the other(s).~~

**[R933-2-5. Sign Changes, Repairs, and Maintenance.**

~~(1) Sign changes or repairs, including those for signs in a commercial or industrial zone, are subject to the following requirements:~~

~~(a) The face of a controlled sign may be removed for maintenance and renovation or change of advertising copy using basically the same face material. The shape and size of advertising space may not be changed except as provided in these rules. Replacement of the sign face must be accomplished within a 60 day period from the date of its removal.~~

~~(b) A nonconforming sign with "Grandfather Status" may not be relocated, structurally altered, nor repositioned, including reversing the direction of the sign face.~~

~~(c) A conforming sign may be reshaped or modified as to height or size, or relocated upon proper written request, Form R-407, provided the change is in compliance with the Act and these rules. Any change shall be completed within 60 calendar days from the date of the approval of the request. A fee of \$100 shall accompany the R-407 application to change the sign, in addition to any applicable fee under Subsection R933-2-4(14).~~

~~(d) A conforming sign that is damaged by vandals, storms, wind, or acts of nature can be re-erected or changed, or both, upon proper written request and approval on Form R-407.~~

~~(e) A nonconforming sign that is damaged but not destroyed by vandals or acts of nature may be repaired to the same size or shape upon proper written application and approval. Normal maintenance may be included in the repair, but no structural changes affecting the sign's value may be allowed. The sign may be purchased by the State if agreement is reached by the State and the sign owner. The compensation to the sign owner shall be the depreciated value of the sign immediately before damage, less cost of re-erection or repair.~~

~~(f) Repairs and ordinary maintenance may be made on conforming and nonconforming signs so long as repairs do not alter the basic advertising space or illumination, or change the material of the sign structure.~~

~~(g) Nonconforming signs destroyed by natural disaster are not eligible for compensation, unless at the time of destruction they have been appraised and committed for removal and the State has approved a purchase agreement.~~

~~(2) The following provisions govern maintenance:~~

~~(a) A legally permitted nonconforming sign may remain standing subject to the provisions of the Act and these rules so long as it is not changed, except for advertising copy, and is not purchased or condemned pursuant to law.~~

~~(b) Signs shall be properly maintained. Improper maintenance is considered:~~

~~(i) Paint faded or peeling extensively;~~

~~(ii) Message not visible or illegible;~~

~~(iii) Sheets or panels loose or sagging;~~

~~(iv) Structural supports leaning;~~

~~(v) Abandoned.~~

~~(c) A sign with any of the deficiencies listed in Subsection R933-2-5(2)(b) is not in a reasonable state of repair, is in violation of the law, and is subject to removal.~~

~~(d) The crossing of a right-of-way line of any State highway at other than an established access approach to erect or maintain a sign without the written permission of the Department, is unlawful.~~

**[R933-2-5. Commercial and Industrial Usage Limitations for Unzoned Areas.**

~~(1) Airport runways or parking or aircraft tie down areas are not commercial or industrial activities.~~

~~(2) Farming or ranching areas or related dairy farm facilities, of whatever nature, are not commercial or industrial activities.~~

~~(3) Municipal or private golf courses or cemeteries are not commercial or industrial areas.~~

~~(4) A trailer or mobile home park, court, or facility are not commercial or industrial areas.~~

**[R933-2-6. Commercial and Industrial Usage: Limitations in Zoned or Unzoned Areas.**

~~(1) Controlled signs in zoned or unzoned industrial or commercial areas are subject to the following zoning and usage requirements:~~

~~(a) Commercial or industrial usage must be visible from a traveled portion of the highway and must be situated within 600 feet of the sign site, measured from the outer edge of the regularly used buildings, parking lot, storage or processing area of the activity.~~

~~(b) The sign site must be zoned commercial or industrial or be in an unzoned commercial or industrial area.~~

~~(2) Airport runways or parking or aircraft tie down areas are not zoned or unzoned commercial or industrial areas.~~

~~(3) Mining operations and related activities, including gravel pits are not zoned or unzoned commercial or industrial areas unless they are:~~

~~(a) Where the final and concentrated processing of mined or extracted minerals is effected; or~~

~~(b) Where the mined material which has been processed is regularly stored or held for sale or shipment.~~

~~(4) Farming or ranching areas or related dairy farm facilities, of whatever nature, are not zoned or unzoned commercial or industrial areas.~~

~~(5) Municipal or private golf courses or cemeteries are not zoned or unzoned commercial or industrial areas.~~

~~(6) A trailer or mobile home park, court, or facility does not qualify under Subsection 72-7-504(1)(d) or (e) regardless of the local zoning. An RV Park does not qualify under either of those subsections unless at least 3/4 of the total available trailer parking spaces are not occupied or reserved for rental on a month-to-month basis.~~

~~(7) Where an occupied residence is located along the highway right of way within 600 feet of a commercial or industrial activity, no controlled sign may be erected closer than 100 feet of the residence unless the owner of the residence expressly waives in writing the foregoing restriction. The waiver must be submitted with the permit application prior to the erection of a new sign.~~

~~(8) Where the width of the right of way in a commercial or industrial area is more than 300 feet, and there is commercial activity on only one side of the highway, that activity does not qualify the opposite side of the highway as commercial or industrial usage for the purpose of erecting new outdoor advertising signs.~~

#### **[R933-2-6. New Application Requirements.**

(1) The applicant shall submit a completed application on the approved departmental form (Outdoor Advertising Permit Application) in accordance with the instructions listed on the application. At a minimum, the applicant shall include the following items:

(a) Each application shall be accompanied by a valid and approved building permit or special use permit from the local governing authority, or a written statement from that authority indicating the building permit or special use permit is not required under its ordinances for the proposed sign.

(b) Written proof of lease, easement, ownership, or consent from the property owner to erect and maintain an outdoor advertising sign shall be furnished by the applicant.

(i) Proof of ownership may consist of a sworn declaration showing the landowner's name and address, the sign owner's name, and the sign location by route, milepost, address, and county; and

(ii) Proof verifying legal access to the sign location from private property, for purposes of maintaining the controlled sign, is also required.

(c) The Application's Location Sketch Addendum shall be completed and attached in accordance with the instructions contained thereon.

(d) The Application's Zoning Verification Addendum shall be completed and signed by the local zoning authority.

(e) The appropriate non-refundable new application review fee shall be submitted with the completed application.

(2) All new approved permit applications require the applicant to commence construction of the sign structure within 180 days from the date of the department approval and shall complete all work within 365 days from the date of the department approval.

(3) The final approval of the new approved permit application will not occur until (a) the applicant notifies the department of its completion and (b) the applicant has forwarded photographs to the department depicting the entire sign structure (including a photograph showing each individual sign face).

(4) It shall be the sole responsibility of the sign owner to ensure the final placement of the sign is not encroaching anywhere within the department's established right-of-way.

(5) A retroactive permit fee penalty shall be charged in addition to the non-refundable new application review fee to cover the additional administrative review and inspection costs where an applicant is seeking a state permit for an existing sign that did not have prior written approval.

#### **[R933-2-7. Spacing For Permitted Signs.**

(1) Spacing of permitted signs shall be as follows:

(a) Signs in unincorporated areas may not be spaced less than 500 feet apart on the interstate and federal-aid primary system, as measured parallel to the highway right of way. Any sign allowed to be erected in a highway service zone H-1 may not be less than 500 feet from an existing controlled sign adjacent to an interstate highway or primary highway except that signs may be erected less than 500 feet from each other if the sign faces on the same side of the interstate highway or limited access primary highway are not simultaneously visible.

(b) No sign may be erected more than 100 feet on the perpendicular from the edge of the right of way of an interstate or primary highway except where a non-controlled highway or railroad right of way runs contiguous and adjacent to the edge of the controlled highway. The 100-foot corridor shall then be measured from a point on the perpendicular not to exceed 200 feet from the edge of the right of way of the interstate or primary highway. In no case may the outer edge of the corridor exceed 350 feet from the controlled right of way.

(c) Any sign located within the controlled area of both the interstate system and a primary system must meet the spacing requirements of both highway systems.

(d) If a sign message may be read from two or more routes, one or more of which is a controlled route, the more stringent of applicable control requirements applies.

(2) Height Above Highway:

No new structure, including the sign face, may be more than 50 feet in height above the elevation of the edge of the traveled surface of the highway. Where local zoning requirements or ordinances are in effect, the stricter of any applicable zoning requirements or ordinances apply.

#### **[R933-2-7. Permit Transfer Application Requirements.**

(1) A permit is transferable in accordance with Utah Code Section 72-7-507.

(2) Within 90 days of the sale or transfer of ownership of a controlled sign the new sign owner shall submit a completed application on the approved departmental form (Outdoor Advertising Permit Ownership Transfer Application) in accordance with the instructions listed on the application. At a minimum, the applicant shall include the following items:

(a) The new sign owner shall provide the department proof of sign ownership.

(b) Written proof of lease, easement, ownership, or consent from the property owner to maintain an outdoor advertising sign shall be furnished by the applicant.

(i) Proof of ownership may consist of a notarized declaration showing the landowner's name and address, the sign owner's name, and the sign location by route, milepost, address, and county; and

(ii) Proof verifying legal access to the sign location from private property, for purposes of maintaining the controlled sign, is also required.

(3) The appropriate non-refundable permit transfer fee shall be submitted with the completed application.

(4) If an ownership transfer application is not submitted to the department within 90 days of the sale or transfer the new sign owner shall submit a new permit application, with the appropriate non-refundable application review fee and any corresponding late fee.

**[R933-2-8. Removal of Illegal Signs.**

(1) Removal Costs: The cost for the removal by the Utah Department of Transportation of an illegal or abandoned sign shall be assessed jointly and severally against the sign owner, landowner, occupant of the land or other responsible person, or any combination thereof, in accordance with Section 72-7-508.

(2) Storage Charges: Illegal or abandoned signs that have been removed by the Department after proper notice to the sign and site owner or occupant of the land shall be stored at the nearest department shed. There shall be a charge of \$25 per month levied as the storage charges. The storage charges shall be in addition to the costs of the removal of the illegal or abandoned sign.

(3) Redemption and Disposal: If the illegal or abandoned sign has not been claimed and redeemed within 30 days from the date of removal, notice to the sign owner, site owner, and occupant of the land shall be given. If the sign is not redeemed within 30 days thereafter, a designated Department official in the area in which the sign is stored shall proceed to dispose of the stored illegal or abandoned sign by either utilizing the material contained therein for Utah Department of Transportation maintenance purposes or destroying the sign. A statement of the sign disposal shall be made and filed with a designated person at the Department.

**[R933-2-8. Sign Alteration Application Requirements.**

(1) Any sign alteration-related activity that is not defined as customary maintenance requires the sign owner to submit an Outdoor Advertising Sign Alteration Application.

(2) Anyone preparing to remodel a controlled sign shall submit a completed application on an approved departmental form (Outdoor Advertising Sign Alteration Application). The form shall be completed in accordance with the instructions on the application. At a minimum, the applicant shall include the following items:

(a) Each application shall be accompanied by a valid and approved building permit or special use permit from the local governing authority, or a written statement from that authority indicating the building permit or special use permit is not required under its ordinances for the proposed sign.

(b) The Application's Location Sketch Addendum shall be completed and attached in accordance with the instructions contained thereon.

(c) The Application's Zoning Verification Addendum shall be completed and signed by the local zoning authority.

(d) Evidence from the sign owner confirming the sign owner has legal access to the sign location from private property, for purposes of alteration and maintenance of the controlled sign.

(e) The appropriate non-refundable application review fee shall be submitted with the completed application.

(3) All approved alteration(s) shall commence within 180 days from the date of the department approval and shall complete all work within 365 days from the date of the department approval.

(4) A retroactive permit fee penalty shall be charged in addition to the non-refundable application review fee to cover additional administrative and inspection costs where an applicant is seeking an alteration permit for a sign that has been altered without prior written approval.

(a) If the sign alterations are not approved the permit holder will return the sign to the original recorded approved permitted state for size and structure.

(5) A conforming or nonconforming sign that is damaged by vandalism or an act of God may be re-erected or changed, or both, upon properly completed Outdoor Advertising Sign Alteration Application and approval of the application.

(a) Nonconforming sign located on a scenic-by-way that is damaged by vandalism or an act of God may only be repaired to the original recorded approved permitted state for size and structure.

**[R933-2-9. Termination of Non-Conforming Use Status.**

(1) The non-conforming use status of a controlled sign shall terminate under the following conditions:

(a) Failure of the sign owner to apply for a renewal permit on or before the date on which the permit expires;

(b) Structural alteration or change of the sign as to height, size, location or direction of sign face not constituting ordinary maintenance or a change of advertising matter;

(c) Destruction by storm, wind, act of nature, fire or vandalism;

(d) Abandonment;

(e) Failure to correct after receiving proper notice pursuant to Section 72-7-508, or failure to ask for a hearing after receiving proper notice pursuant to Section 72-7-508, or failure to file a written response as required by law, or failure to appeal from an adverse decision of the Department, or exhaustion of all legal remedies under Section 72-7-508.

(f) Purchase by the Department under Section 72-7-510.

(g) Acquisition at any time by the Department for highway construction.

**[R933-2-9. Permit Renewal Requirements.**

(1) Permits shall be renewed by the filing of a renewal application and submission of the appropriate non-refundable renewal fee before the first day of July during the designated billing cycle year.

(a) Permits not renewed by the first day of July during the designated billing cycle year are considered suspended.

(i) Suspended permits for conforming and non-conforming signs may be renewed upon submittal of the renewal application, appropriate non-refundable renewal fee, and late fee. The submittal must be received by September 30 of the current billing cycle year.

(ii) The department shall issue a Notice of Agency Action for suspended permits not renewed by September 30 of the current billing cycle year providing the sign owner a voluntary correction time frame prior to revoking the permit. The department shall provide this notice via certified mail to the sign owner as identified within the official sign inventory records maintained by the department.

(2) A renewal time extension may be provided to the sign owner upon the sign owner submitting a written request to the department before the first day of July during the designated billing cycle year. The department may approve such a time extension at the department's sole discretion. Any such extension shall not exceed 30 days in length. Additional time extensions beyond 30 days may only be considered where the department determines extraordinary circumstances exist. The time extension are not subject to Section (1)(a) unless they do not submit payment within the 30 day extension period.

(3) The department may make renewal applications available to the sign owner 90 days prior to the first day of July during the designated billing cycle year. The department will make the renewal applications available to the sign owner no less than 30 days prior to the first day of July of the designated billing cycle year.

(4) Completion of the renewal application prior to the expiration of the existing permit shall be the sole responsibility of the sign owner.

(5) Ensuring the department has the latest billing contact information including a valid email address shall be the sole responsibility of the sign owner.

(6) By signing the renewal application the sign owner certifies the sign site is still under valid lease, easement, or consent to the sign owner, or under the ownership of the sign owner including legal access to the sign location from private property, for purposes of maintaining the controlled sign.

**][R933-2-10. Conforming Sign Becoming Nonconforming -- Removal.**

(1) Any legal conforming sign that becomes noneconforming after May 9, 1967, by reason of law or route classification, may not be required to be removed under the Utah Advertising Act until after the end of the fifth year after it had become noneconforming, except as otherwise provided for by law or contract.

**][R933-2-10. Minimum Sign Maintenance Requirements.**

(1) Signs shall be properly maintained.

(a) Improper maintenance includes:

(i) paint faded or peeling extensively;

(ii) message not visible or illegible;

(iii) sheets or panels loose or sagging;

(iv) structural damage, or leaning; or

(v) abandonment.

(b) A sign with any of the deficiencies listed in Subsection R933-2-10(1)(a) is not in a reasonable state of repair, is in violation of the law, and is subject to permit revocation and removal. The department shall issue a Notice of Agency Action providing the sign owner a voluntary correction time frame prior to revocation and removal. The department shall provide this notice via certified mail to the sign owner as identified within the official sign inventory records maintained by the department.

**][R933-2-11. On-Premise Signs -- Illegal Status -- Removal.**

An on-premise sign loses its on-premise status when the business or activity it advertises has ceased to exist for a period of at least 12 months at the site of the sign, the sign is located within 1,000 feet of a controlled highway, and the message thereon is

visible to the traveling public from that controlled highway. This sign may be removed at the expense of the sign owner or land owner or both without compensation to the sign or site owner as provided in Section 72-7-508 of the Act.

**][R933-2-11. Outdoor Advertising Control and Permit-Related Fees.**

(1) All applicable outdoor advertising control and permit-related fees shall be determined in accordance with Utah Code 63J-1-504 and be contained within the department's approved fee schedule.

(2) Permit applications shall not be processed or reviewed until all applicable outdoor advertising control and permit-related fees have been paid in full.

(3) The fee for permits shall not be prorated.

**][R933-2-12. Directional Signs.**

(1) Directional signs shall conform to federal standards concerning the lighting, size, number, and spacing of the signs. There are no zoning or usage requirements for directional signs.

(2) The following standards apply only to directional signs that are erected and maintained adjacent to the interstate and federal-aid primary highway system, and that are visible from the main traveled way:

(a) A directional sign allowed under Sections 72-7-502 and 72-7-504 is subject to the following restrictions:

(i) No sign may exceed the following limits where all dimensions include border and trim, but exclude supports:

(A) Maximum area - 150 square feet;

(B) Maximum height - 20 feet;

(C) Maximum length - 20 feet.

(ii) A sign may be illuminated, subject to the following:

(A) Signs that are not effectively shielded so as to prevent light from being directed at any portion of the traveled way of an interstate or primary highway, or that cause glare or impair the vision of the driver of any motor vehicle, or that otherwise interfere with any driver's operation of a motor vehicle, are prohibited.

(B) No sign may be so illuminated as to obscure or interfere with the effectiveness of an official traffic sign, device, or signal.

(iii) Each location of a directional sign must be approved by the Department and is subject to the following restrictions:

(A) No directional sign may be located within 2,000 feet of an interchange or intersection at grade within the interstate system or other freeways or the primary system, measured from the nearest point of pavement widening at the exit from or entrance to the main traveled way.

(B) No directional sign may be located within 2,000 feet of a rest area, parkland, or scenic areas.

(C) Directional signs facing the same direction of travel shall be spaced no less than one mile apart.

(D) No more than one directional sign per activity facing the same direction of travel may be erected along a single route approaching the activity.

(E) Signs adjacent to the interstate or primary system shall be located within 15 air miles of the activity they advertise.

(iv) Any area of historical interest shall be approved by the Utah Historical Society before consideration for approval as an area for a directional sign.

~~(b) The following directional signs are prohibited:~~  
~~(i) Signs advertising activities that are illegal under Federal or State law in effect at the location of those signs or activities;~~  
~~(ii) Signs positioned in any manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or to obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic;~~  
~~(iii) Signs erected or maintained upon trees or painted or drawn upon rocks, or other natural features;~~  
~~(iv) Obsolete signs;~~  
~~(v) Signs that are structurally unsafe or in disrepair;~~  
~~(vi) Signs that contain or are illuminated by any flashing or moving light or animated by moving parts;~~  
~~(vii) Signs located in rest areas, parklands, or scenic areas.~~  
~~(3) Any directional sign erected or maintained under the Act and these rules may at any time be removed for cause upon order of the Department after notice and hearing, if requested and timely pursued, under Section 72-7-508.~~

**[R933-2-12. Termination of Nonconforming Use Status.**

~~(1) The nonconforming use status of a controlled sign shall terminate and the status will become illegal under the following conditions:~~  
~~(a) failure of the sign owner to respond to a Notice of Agency Action issued to renew a suspended permit;~~  
~~(b) abandonment;~~  
~~(c) failure to correct an identified outdoor advertising violation or failure to ask for a hearing after receiving proper notice pursuant to Section 72-7-508, failure to file a written response as required by law, or failure to appeal from an adverse decision of the department;~~  
~~(d) purchase by the department under Section 72-7-510;~~  
~~or~~  
~~(e) acquisition at any time by the department for highway construction.~~

**[R933-2-13. Official Signs:**

~~(1) Prerequisites for erection and maintenance:~~  
~~(a) Prior to erection of an official sign the public agency shall submit to the Department in the Region where the sign is to be located, a completed permit application form R-299 along with:~~  
~~(i) Facsimile of the sign message to be erected;~~  
~~(ii) Statement of the official duty or responsibility being performed;~~  
~~(iii) Certified copy of the statute, resolution, or ordinance from the public body showing official action authorizing erection and maintenance of the sign.~~  
~~(b) The sign must be erected off the highway right-of-way, owned and maintained by the public agency, and located within the zoning jurisdiction of the public agency.~~  
~~(c) Standards, Criteria and Restrictions:~~  
~~(i) Only information of general interest to the traveling public may be placed on an official sign. Commercial advertising of a particular service, product or facility is prohibited.~~  
~~(ii) The sign must be within the zoning jurisdiction of the city, town, or other public agency designated by the sign.~~

~~(iii) No city, town or other subdivision of the State may erect or maintain more than one sign at each approach to the off-ramp, facing oncoming traffic at the nearest point of turn off to a city, town or other subdivision and in no event may more than two official signs, one for each direction of travel upon the controlled highway, be erected and maintained by or for the purpose of designating a city or town or other subdivision.~~  
~~(iv) No official sign may be located within 2,000 feet of an interchange or intersection at grade along the interstate or primary highway system, measured from the nearest point of pavement widening at the exit from the main traveled way.~~  
~~(v) No official sign may be so illuminated as to interfere with the effectiveness of, or obscure, an official traffic sign, device, or signal.~~  
~~(vi) Signs that are not effectively shielded so as to prevent light from being directed at any portion of the traveled way of an interstate or primary highway, or that cause glare or impair the vision of the driver of any motor vehicle, or that otherwise interfere with any driver's operation of a motor vehicle, are prohibited.~~  
~~(vii) No sign may be located within 500 feet of a rest area, parkland, cemetery, or scenic area or other official sign.~~  
~~(viii) No sign may be erected at a site prohibited under local zoning. The stricter commercial and industrial zoning and usage requirements applicable to controlled outdoor advertising signs do not apply to official signs, though all other relevant rules apply.~~  
~~(ix) No sign message may be altered without prior written approval by the department.~~  
~~(x) Any official sign erected or maintained under the Act and these Rules may at any time be removed for cause and without compensation after notice and hearing, if required. The owner of any official sign shall remove the sign at its own cost and expense.~~

**[R933-2-13. Termination of On-Premises Status.**

~~An on-premises sign loses its on-premises status when the business or activity it advertises has ceased to exist for a period of 12 months at the site of the sign, and the message thereon is visible to the traveling public from a controlled route. The advertising copy on signs meeting this criterion may be removed at the expense of the sign owner or land owner or both without compensation to the sign or site owner as provided in Section 72-7-508 of the Act.~~

**[R933-2-14. Department Hearings.**

~~Any hearing regarding the legality of a sign shall be held in the region where the sign is located, and shall be held in accordance with the Act, and in accordance with the Utah Administrative Procedures Act and Rule R907-1 unless specifically stated otherwise in a governing statute.~~

**[R933-2-14. Removal of Illegal Signs.**

~~(1) Illegal or abandoned sign(s) removal from private property. The department shall provide the responsible party with a Notice of Agency Action prior to removing any illegal or abandoned sign(s) from private property.~~  
~~(2) Signs placed within the state right-of-way may be removed without prior written notice.~~  
~~(3) Permitted sign(s) affixed to private property that encroach on the state right-of-way may be given written notice to remove the installation from the right-of-way.~~

(4) The cost for the removal by department of an illegal or abandoned sign shall be assessed jointly and severally against the sign owner, landowner, occupant of the land or other responsible person, or any combination thereof, in accordance with Section 72-7-508.

(5) Storage Charges. Illegal or abandoned signs that have been removed by the department shall be stored at the nearest department shed. An appropriate fee shall be charged for storage. The storage charges shall be in addition to the costs of the removal of the illegal or abandoned sign.

(6) Redemption and Disposal. If the illegal or abandoned sign has not been claimed and redeemed within 60 calendar days from the date of removal a designated department official shall proceed to dispose of the stored illegal or abandoned sign by either utilizing the material contained therein for department purposes or destroying the sign. A statement of the sign disposal shall be made and filed with a designated person at the department.

#### **R933-2-15. Directional Signs.**

(1) Directional signs allowed under Section 72-7-504 shall conform to federal standards under 23 CFR Section 750.154.

#### **R933-2-16. Official Signs.**

(1) Prerequisites for erection and maintenance.

(a) Prior to erection of an official sign the public agency shall submit to the Outdoor Advertising Control Program, a completed permit application on an approved departmental form (Outdoor Advertising Permit Application). The form shall be completed in accordance with the instructions on the application.

(b) The sign shall be erected off the highway right-of-way, owned and maintained by the political subdivision, and located within the zoning jurisdiction of the political subdivision.

(2) Standards, Criteria and Restrictions.

(a) Only information of general interest to the traveling public may be placed on an official sign. Commercial advertising of a particular service, product or facility is prohibited.

(b) The sign shall be within the zoning jurisdiction of the city, town, or other public agency designated by the sign.

(c) No city, town or other political subdivision of the state may erect or maintain more than one sign at each approach to the off-ramp, facing oncoming traffic at the nearest point of turn off to a

city, town or other political subdivision and in no event may more than two official signs, one for each direction of travel upon the controlled highway, be erected and maintained by or for the purpose of designating a city or town or other subdivision.

(d) No official sign may be located within 2,000 feet of an interchange or intersection at grade along the interstate highway system, measured from the nearest point of pavement widening at the exit from the main traveled way.

(e) No official sign may be so illuminated as to interfere with the effectiveness of, or obscure, an official traffic sign, device, or signal.

(f) Signs that are not effectively shielded so as to prevent light from being directed at any portion of the traveled way of a controlled route, or that cause glare or impair the vision of the driver of any motor vehicle, or that otherwise interfere with any driver's operation of a motor vehicle, are prohibited.

(g) Any official sign erected or maintained under the Act and this rule may at any time be removed for cause and without compensation after a Notice of Agency Action is issued, if required. The owner of any official sign shall remove the sign at its own cost and expense.

(h) Official signs shall remain static and not be permitted or converted to digital display formats such as CEVMS signs.

(i) An Outdoor Advertising Permit for an Official Sign may not be transferred and may not display off-premises advertising.

#### **R933-2-17. Department Hearings.**

Any hearing regarding an application or conformance to the rule or statute for a sign shall be held in accordance with the Act, and in accordance with the Utah Administrative Procedures Act and Rule R907-1.

#### **KEY: signs**

**Date of Enactment or Last Substantive Amendment:** ~~March 31, 2006~~ **2015**

**Notice of Continuation:** November 14, 2011

**Authorizing, and Implemented or Interpreted Law:** Title 72, Chapter 7, Part 5; 72-1-201

**End of the Notices of Proposed Rules Section**



# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at <http://www.rules.utah.gov/publicat/code.htm>. The rule text may also be inspected at the agency or the Division of Administrative Rules. **REVIEWS** are effective upon filing.

**REVIEWS** are governed by Section 63G-3-305.

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## Agriculture and Food, Plant Industry **R68-10** Quarantine Pertaining to the European Corn Borer

### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 39507  
FILED: 07/10/2015

### NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 4-2-2(1)(k) grants the Commissioner of Agriculture the authority to establish and enforce quarantines in order to protect the agricultural industry of the State of Utah. The statute allows the commissioner to establish quarantine for specific pests, designate the infested area, the products regulated, and specifying conditions governing shipments and issuance of certificates under which products may be shipped.

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 during and since the last five-year review of the rule from interested persons supporting or opposing 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 quarantine for European Corn Borer

continues to protect consumers and ensures that European Corn Borer is kept out of the State of Utah. The European Corn Borer, an introduced species, has been an important pest of corn since the 1920's. Besides feeding on all types of corn, European Corn Borer also attacks and damages hundreds of crop species (e.g., peppers, apples, soybean, cotton, etc.). Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Clark Burgess by phone at 801-538-7188, by FAX at 801-538-7189, or by Internet E-mail at [cburgess@utah.gov](mailto:cburgess@utah.gov)
- ◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at [kmathews@utah.gov](mailto:kmathews@utah.gov)
- ◆ Robert Hougaard by phone at 801-538-7187, by FAX at 801-538-7189, or by Internet E-mail at [rhougaard@utah.gov](mailto:rhougaard@utah.gov)
- ◆ Scott Ericson by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at [sericson@utah.gov](mailto:sericson@utah.gov)

AUTHORIZED BY: LuAnn Adams, Commissioner

EFFECTIVE: 07/10/2015

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## Capitol Preservation Board (State), Administration **R131-6** Board Designation of Space

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 39501  
FILED: 07/06/2015

**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: This rule is authorized by Section 63C-9-301 directing the Board to make rules to exercise jurisdiction over such Capitol Hill facilities and grounds for which it has responsibility to administer.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received in the last five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The legislative direction for the rule still exists. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
CAPITOL PRESERVATION BOARD (STATE)  
ADMINISTRATION  
ROOM E110 EAST BUILDING  
420 N STATE ST  
SALT LAKE CITY, UT 84114-2110  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Alan Bachman by phone at 801-538-3105, by FAX at 801-538-3313, or by Internet E-mail at abachman@utah.gov  
♦ Allyson Gamble by phone at 801-537-9156, by FAX at 801-538-3221, or by Internet E-mail at agamble@utah.gov  
♦ Nicole Alder by phone at 801-538-3240, or by Internet E-mail at nicolealder@utah.gov

AUTHORIZED BY: Allyson Gamble, Executive Director

EFFECTIVE: 07/06/2015

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Capitol Preservation Board (State),  
Administration  
**R131-15**  
State Construction Contracts and Drug  
and Alcohol Testing

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 39502  
FILED: 07/06/2015

**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: This rule is authorized under Subsections 63C-9-301(3)(a) and 63G-6-604(4).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received in the last five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The legislative direction for the rule still exists. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
CAPITOL PRESERVATION BOARD (STATE)  
ADMINISTRATION  
ROOM E110 EAST BUILDING  
420 N STATE ST  
SALT LAKE CITY, UT 84114-2110  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Alan Bachman by phone at 801-538-3105, by FAX at 801-538-3313, or by Internet E-mail at abachman@utah.gov  
♦ Allyson Gamble by phone at 801-537-9156, by FAX at 801-538-3221, or by Internet E-mail at agamble@utah.gov  
♦ Nicole Alder by phone at 801-538-3240, or by Internet E-mail at nicolealder@utah.gov

AUTHORIZED BY: Allyson Gamble, Executive Director

EFFECTIVE: 07/06/2015

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Corrections, Administration  
**R251-709**  
Transportation of Inmates

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 39498  
FILED: 07/02/2015

**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: This rule is authorized under Sections 63G-3-201 and 64-13-10 of the Utah Code. This rule addresses requirements regarding the transportation of inmates in order to provide for public safety and the security of inmates under the jurisdiction of the Department.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were 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 transportation of inmates is still a vital part of our operation. Therefore, this rule should be continued.

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

CORRECTIONS  
ADMINISTRATION  
14717 S MINUTEMAN DR  
DRAPER, UT 84020-9549  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Steven Turley by phone at 801-545-5633, by FAX at 801-545-5726, or by Internet E-mail at [sturley@utah.gov](mailto:sturley@utah.gov)

AUTHORIZED BY: Rollin Cook, Executive Director

EFFECTIVE: 07/02/2015

**Human Services, Administration  
R495-883**

**Children in Care Support Services**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 39500  
FILED: 07/06/2015

**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 Office of Recovery Services (ORS) has the authority to adopt, amend, and enforce rules

necessary to carry out its responsibilities under state law pursuant to Section 62A-11-107. ORS is required to collect child support and third party payments in behalf of children placed in the custody of the State of Utah in accordance with Sections 78A-6-1106, 78B-12-101 et seq., 62A-1-117, 62A-11-301 et seq., and 45 CFR 300-307. Section 78B-12-106 authorizes recovery of support from a natural or adoptive parent whose minor child becomes the ward of the State of Utah, or any other state until the child reaches the age of majority. Section 78B-12-108 requires the parent without physical custody of the child to pay the amount of support ordered without the need to modify the order for the state when the child is outside the home in custody of the state. Sections 78B-12-301 and 78B-12-302 provide ORS the base amounts to be used when establishing or modifying child support orders and Sections 62A-11-320.5 and 62A-11-320.6 provide the authority for ORS to conduct a review and adjustment of a support order when there are substantial changes in circumstances. This rule provides needed information for ORS to provide services to children in the care or custody of the State of Utah pursuant to federal regulations and state laws.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments received since the last five-year review of 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: This rule should be continued because the laws and guidelines that require ORS to establish and modify child support orders and collect support for children who are in the care or custody of the State are still in effect. This rule also provides additional information for ORS to use when establishing and enforcing orders for children in care or custody of the state.

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

HUMAN SERVICES  
ADMINISTRATION  
DHS ADMINISTRATIVE OFFICE  
MULTI STATE OFFICE BUILDING  
195 N 1950 W  
SALT LAKE CITY, UT 84116  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Casey Cole by phone at 801-536-0360, by FAX at 801-536-8509, or by Internet E-mail at [cacole@utah.gov](mailto:cacole@utah.gov)

AUTHORIZED BY: Ann Williamson, Executive Director

EFFECTIVE: 07/06/2015

**Natural Resources, Wildlife Resources  
R657-11  
Taking Furbearers**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 39509  
FILED: 07/13/2015

**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 Sections 23-14-18 and 23-14-19, the Wildlife Board is authorized and required to provide rules to regulate and prescribe the means by which protected wildlife may be taken.

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 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 R657-11 provides the application procedures, standards, and requirements for taking furbearers. The provisions adopted in this rule are effective in providing the standards and requirements for taking furbearers. Continuation of this rule is necessary for continued success of the furbearer program and providing furbearer hunting opportunities.

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: Gregory Sheehan, Director  
EFFECTIVE: 07/13/2015

**Transportation, Operations,  
Construction  
R916-4  
Construction Manager/General  
Contractor Contracts**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 39506  
FILED: 07/09/2015

**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: Pursuant to Utah Code Subsection 63G-6a-106(3)(a), this rule establishes the Department's procedures to procure transportation construction under the Construction Manager/General Contractor (CM/GC) approach authorized in Utah Code Section 63G-6a-1302.

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 any comments regarding this rule since its last substantive amendment.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The most recent substantive amendment became effective 03/27/2015, it is required by statute and imperative that the Department have this rule in effect at this time and for the foreseeable future. Therefore, this rule should be continued.

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:  
♦ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at jimpalmer@utah.gov

AUTHORIZED BY: Carlos Braceras, Executive Director

EFFECTIVE: 07/09/2015

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**Transportation, Program Development  
R926-8  
Guidelines for Partnering with Local  
Governments**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 39504  
FILED: 07/07/2015

**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 72-2-123(1) requires the Transportation Commission to consult with representatives of local governments and make rules adopting guidelines for partnering with counties and municipalities for their help to finance state highway improvement projects through local matching dollars or other local participation methods. Subsection 72-2-123(2) describes the purpose and required contents of the guidelines.

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 Transportation Commission has not received any comments related to Rule R926-8 since the rule was last reviewed in July of 2010.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Subsection 72-2-123(1) is still in effect and requires the Transportation Commission to maintain Rule R926-8. Until Subsection 72-2-123(1) is amended to eliminate the need for Rule R926-8, the Transportation Commission must meet this requirement. Therefore, this rule should be continued.

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:  
♦ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at jimpalmer@utah.gov

AUTHORIZED BY: Carlos Braceras, Executive Director

EFFECTIVE: 07/07/2015

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



## NOTICES OF RULE EFFECTIVE DATES

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State law provides for agencies to make their administrative 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 make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the 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.

Agencies have notified the Division of Administrative Rules that the rules listed below have been made effective.

**NOTICES OF EFFECTIVE DATE** are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

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### Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal & Reenact

REP = Repeal

### Administrative Services

#### Finance

No. 39360 (AMD): R25-10. State Entities Posting of Financial Information to the Utah Public Finance Website  
Published: 06/01/2015  
Effective: 07/08/2015

#### Purchasing and General Services

No. 39366 (AMD): R33-6-109. Only One Bid Received  
Published: 06/01/2015  
Effective: 07/09/2015

No. 39365 (AMD): R33-7-702. Only One Proposal Received  
Published: 06/01/2015  
Effective: 07/09/2015

### Attorney General

#### Administration

No. 39364 (AMD): R105-1. Attorney General's Selection of Outside Counsel, Expert Witnesses and Other Litigation Support Services  
Published: 06/01/2015  
Effective: 07/13/2015

### Commerce

#### Occupational and Professional Licensing

No. 39351 (AMD): R156-20a. Environmental Health Scientist Act Rule  
Published: 06/01/2015  
Effective: 07/09/2015

No. 39343 (AMD): R156-72-102. Definitions  
Published: 06/01/2015  
Effective: 07/09/2015

No. 39350 (AMD): R156-79. Hunting Guides and Outfitters Licensing Act Rule  
Published: 06/01/2015  
Effective: 07/09/2015

### Education

#### Administration

No. 39382 (NEW): R277-200. Utah Professional Practices Advisory Commission (UPPAC), Definitions  
Published: 06/01/2015  
Effective: 07/08/2015

No. 39383 (NEW): R277-201. Utah Professional Practices Advisory Commission (UPPAC), Rules of Procedure: Notification to Educators, Complaints and Final Disciplinary Actions  
Published: 06/01/2015  
Effective: 07/08/2015

No. 39384 (NEW): R277-202. UPPAC Hearing Procedures and Reports  
Published: 06/01/2015  
Effective: 07/08/2015

No. 39385 (NEW): R277-203. Request for Licensure Reinstatement and Reinstatement Procedures  
Published: 06/01/2015  
Effective: 07/08/2015

No. 39386 (NEW): R277-204. Utah Professional Practices Advisory Commission Criminal Background Review  
Published: 06/01/2015  
Effective: 07/08/2015

No. 39387 (NEW): R277-205. Alcohol Related Offenses  
Published: 06/01/2015  
Effective: 07/08/2015

No. 39388 (NEW): R277-206. Drug Related Offenses  
Published: 06/01/2015  
Effective: 07/08/2015

No. 39372 (NEW): R277-417. Prohibiting LEAs and Third Party Providers from Offering Incentives or Reimbursements for Enrollment or Participation  
Published: 06/01/2015  
Effective: 07/08/2015

No. 39373 (NEW): R277-418. Distance, Blended, Online, or Competency Based Learning Program  
Published: 06/01/2015  
Effective: 07/08/2015

No. 39374 (AMD): R277-419. Pupil Accounting  
Published: 06/01/2015  
Effective: 07/08/2015

No. 39375 (AMD): R277-487. Public School Data Confidentiality and Disclosure  
Published: 06/01/2015  
Effective: 07/08/2015

No. 39376 (AMD): R277-490. Beverley Taylor Sorenson Elementary Arts Learning Program  
Published: 06/01/2015  
Effective: 07/08/2015

No. 39378 (AMD): R277-502. Educator Licensing and Data Retention  
Published: 06/01/2015  
Effective: 07/08/2015

No. 39379 (AMD): R277-520. Appropriate Licensing and Assignment of Teachers  
Published: 06/01/2015  
Effective: 07/08/2015

Environmental Quality

Drinking Water

No. 39076 (AMD): R309-500. Facility Design and Operation: Plan Review, Operation and Maintenance Requirements  
Published: 02/01/2015  
Effective: 07/15/2015

No. 39076 (CPR): R309-500. Facility Design and Operation: Plan Review, Operation and Maintenance Requirements  
Published: 06/01/2015  
Effective: 07/15/2015

No. 39399 (AMD): R309-510. Facility Design and Operation: Minimum Sizing Requirements  
Published: 06/01/2015  
Effective: 07/15/2015

Radiation Control

No. 39283 (NEW): R313-27. Medical Use Advisory Committee

Published: 05/01/2015

Effective: 07/09/2015

Financial Institutions

Administration

No. 39370 (REP): R331-14. Rule Governing Parties Who Engage in the Business of Issuing and Selling Money Orders, Traveler's Checks, and Other Instruments for the Purpose of Effecting Third-Party Payments

Published: 06/01/2015

Effective: 07/08/2015

Governor

Economic Development

No. 39263 (NEW): R357-8. Allocation of Private Activity Bond Volume Cap

Published: 05/01/2015

Effective: 07/08/2015

No. 39346 (NEW): R357-10. Small Business Jobs Act or Utah New Market Tax Credit

Published: 06/01/2015

Effective: 07/08/2015

Labor Commission

Adjudication

No. 39380 (AMD): R602-2-4. Attorney Fees

Published: 06/01/2015

Effective: 07/08/2015

Occupational Safety and Health

No. 39381 (AMD): R614-1-7. Inspections, Citations, and Proposed Penalties

Published: 06/01/2015

Effective: 07/08/2015

Money Management Council

Administration

No. 39396 (NEW): R628-15. Certification as an Investment Adviser

Published: 06/01/2015

Effective: 07/13/2015

Natural Resources

Forestry, Fire and State Lands

No. 39314 (AMD): R652-70. Sovereign Lands

Published: 05/15/2015

Effective: 07/06/2015

Wildlife Resources

No. 39362 (AMD): R657-41. Conservation and Sportsman Permits

Published: 06/01/2015

Effective: 07/09/2015

Professional Practices Advisory Commission

Administration

No. 39389 (REP): R686-100. Utah Professional Practices Advisory Commission (UPPAC), Rules of Procedure:

Notification to Educators, Complaints and Final Disciplinary Actions

Published: 06/01/2015

Effective: 07/08/2015

No. 39390 (REP): R686-101. UPPAC Hearing Procedures and Reports

Published: 06/01/2015

Effective: 07/08/2015

No. 39391 (REP): R686-102. Request for Licensure Reinstatement and Reinstatement Procedures

Published: 06/01/2015

Effective: 07/08/2015

No. 39392 (REP): R686-103. Utah Professional Practices Advisory Commission Review of Licensure Due to Background Check Offenses

Published: 06/01/2015

Effective: 07/08/2015

No. 39393 (REP): R686-104. Alcohol Related Offenses

Published: 06/01/2015

Effective: 07/08/2015

No. 39394 (REP): R686-105. Drug Related Offenses

Published: 06/01/2015

Effective: 07/08/2015

Public Service Commission

Administration

No. 39367 (AMD): R746-360. Universal Public Telecommunications Service Support Fund

Published: 06/01/2015

Effective: 07/08/2015

**End of the Notices of Rule Effective Dates Section**



**RULES INDEX  
BY AGENCY (CODE NUMBER)  
AND  
BY KEYWORD (SUBJECT)**

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The Rules Index is a cumulative index that reflects all effective changes to Utah's administrative rules. The current Index lists changes made effective from January 2, 2015 through July 15, 2015. The Rules Index is published in the Utah State Bulletin and in the annual Utah Administrative Rules 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).

Questions regarding the index and the information it contains should be addressed to the Division of Administrative Rules (801-538-3764).

A copy of the **RULES INDEX** is available for public inspection at the Division of Administrative Rules (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

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**RULES INDEX - BY AGENCY (CODE NUMBER)**

**ABBREVIATIONS**

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b>ADMINISTRATIVE SERVICES</b>					
<u>Facilities Construction and Management</u>					
R23-1	Procurement of Construction	39033	R&R	03/03/2015	2015-2/4
R23-2	Procurement of Architect-Engineer Services	39061	REP	03/16/2015	2015-3/4
R23-7	State Construction Contracts and Drug and Alcohol Testing	39482	5YR	06/30/2015	2015-14/139
 <u>Finance</u>					
R25-7	Travel-Related Reimbursements for State Employees	39301	AMD	06/22/2015	2015-10/6
R25-10	State Entities Posting of Financial Information to the Utah Public Finance Website	39360	AMD	07/08/2015	2015-11/4
R25-25-7	Travel-Related Reimbursements for State Employees	39160	AMD	04/21/2015	2015-6/10
 <u>Purchasing and General Services</u>					
R33-1-1	Definitions	38974	AMD	01/28/2015	2014-24/4
R33-4	General Procurement Provisions, Prequalifications, Specifications, and Small Purchases	39327	AMD	06/23/2015	2015-10/11
R33-6-101	Competitive Sealed Bidding; Multiple Stage Bidding; Reverse Auction	38975	AMD	01/28/2015	2014-24/5
R33-6-109	Only One Bid Received	39366	AMD	07/09/2015	2015-11/5
R33-7	Request for Proposals	38976	AMD	01/28/2015	2014-24/6
R33-7-702	Only One Proposal Received	39365	AMD	07/09/2015	2015-11/6
R33-8	Exceptions to Procurement Requirements	39328	AMD	06/23/2015	2015-10/15
R33-12	Terms and Conditions, Contracts, Change Orders and Costs	38977	AMD	01/28/2015	2014-24/9
R33-16-401	Protest Officer May Correct Noncompliance, Errors and Discrepancies	38978	AMD	01/28/2015	2014-24/12
R33-26	State Surplus Property	39084	NSC	01/28/2015	Not Printed
R33-26	State Surplus Property	39271	AMD	06/10/2015	2015-9/4
R33-26-202	Information Technology Equipment	39042	AMD	03/31/2015	2015-2/33
 <b>AGRICULTURE AND FOOD</b>					
<u>Animal Industry</u>					
R58-7	Livestock Markets, Satellite Video Livestock Auction Market, Livestock Sales, Dealers, and Livestock Market Weighpersons	39075	5YR	01/13/2015	2015-3/67
R58-11	Slaughter of Livestock and Poultry	39073	5YR	01/13/2015	2015-3/67
R58-17	Aquaculture and Aquatic Animal Health	39074	5YR	01/13/2015	2015-3/68
R58-21	Trichomoniasis	39086	5YR	01/21/2015	2015-4/37

Plant Industry

R68-1	Utah Bee Inspection Act Governing Inspection of Bees	39237	5YR	03/24/2015	2015-8/33
R68-2	Utah Commercial Feed Act Governing Feed	39471	5YR	06/29/2015	2015-14/139
R68-10	Quarantine Pertaining to the European Corn Borer	39507	5YR	07/10/2015	Not Printed
R68-12	Quarantine Pertaining to Mint Wilt	39408	5YR	05/21/2015	2015-12/33
R68-22	Industrial Hemp Research	39148	NEW	04/22/2015	2015-6/14

Regulatory Services

R70-101	Bedding, Upholstered Furniture and Quilted Clothing	39223	5YR	03/16/2015	2015-7/57
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ALCOHOLIC BEVERAGE CONTROL

Administration

R81-1-3	General Policies	39156	AMD	04/28/2015	2015-6/16
R81-1-6	Violation Schedule	39158	AMD	04/28/2015	2015-6/18
R81-1-26	Criminal History Background Checks	39329	AMD	06/24/2015	2015-10/17
R81-2-1	Special Orders of Liquor by Public	39154	AMD	04/28/2015	2015-6/22
R81-2-9	Accepting Credit Cards as Payment for Liquor	39330	AMD	06/24/2015	2015-10/20
R81-3-5	Special Orders of Liquor by Public	39155	AMD	04/28/2015	2015-6/23
R81-3-19	Credit Cards	39331	AMD	06/24/2015	2015-10/21
R81-4E	Resort Licenses	39059	5YR	01/08/2015	2015-3/69

ATTORNEY GENERAL

Administration

R105-1	Attorney General's Selection of Outside Counsel, Expert Witnesses and Other Litigation Support Services	39032	AMD	03/26/2015	2015-2/34
R105-1	Attorney General's Selection of Outside Counsel, Expert Witnesses and Other Litigation Support Services	39099	AMD	03/26/2015	2015-4/4
R105-1	Attorney General's Selection of Outside Counsel, Expert Witnesses and Other Litigation Support Services	39363	EMR	05/12/2015	2015-11/171
R105-1	Attorney General's Selection of Outside Counsel, Expert Witnesses and Other Litigation Support Services	39364	AMD	07/13/2015	2015-11/13

AUDITOR

Administration

R123-6	Allocation of Money in the Property Tax Valuation Agency Fund	39136	AMD	04/08/2015	2015-5/8
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CAPITOL PRESERVATION BOARD (STATE)

Administration

R131-2	Capitol Hill Complex Facility Use	39025	AMD	02/24/2015	2015-2/41
R131-6	Board Designation of Space	39501	5YR	07/06/2015	Not Printed
R131-9	Art and Exhibits	39266	EXD	04/08/2015	2015-9/87
R131-15	State Construction Contracts and Drug and Alcohol Testing	39502	5YR	07/06/2015	Not Printed

COMMERCE

Administration

R151-4-109	Extension of Time and Continuance of Hearing	39144	AMD	04/10/2015	2015-5/9
R151-14-3	Adjudicative Proceedings	39034	AMD	02/24/2015	2015-2/49

Consumer Protection

R152-1	Utah Division of Consumer Protection: "Buyer Beware List"	39281	5YR	04/15/2015	2015-9/83
R152-1	Utah Division of Consumer Protection: "Buyer Beware List"	39273	AMD	06/08/2015	2015-9/5

RULES INDEX

R152-39	Child Protection Registry Rules	39282	5YR	04/15/2015	2015-9/83
<u>Occupational and Professional Licensing</u>					
R156-17b	Pharmacy Practice Act Rule	39056	5YR	01/05/2015	2015-3/69
R156-17b	Pharmacy Practice Act Rule	39018	AMD	02/24/2015	2015-2/51
R156-20a	Environmental Health Scientist Act Rule	39306	5YR	04/27/2015	2015-10/101
R156-20a	Environmental Health Scientist Act Rule	39351	AMD	07/09/2015	2015-11/20
R156-24b-302b	Qualifications for Licensure - Examination Requirements	39092	AMD	03/24/2015	2015-4/9
R156-26a-501	Unprofessional Conduct	39055	AMD	04/02/2015	2015-3/7
R156-28-304	Continuing Professional Education	39233	AMD	05/27/2015	2015-8/6
R156-31b	Nurse Practice Act Rule	39132	AMD	04/07/2015	2015-5/10
R156-31b-202	Advisory Peer Education Committee Created -- Membership - Duties	38981	AMD	01/22/2015	2014-24/13
R156-31b-609	Standards for Out-of-State Programs Providing Clinical Experiences in Utah	38980	AMD	01/22/2015	2014-24/14
R156-37	Utah Controlled Substances Act Rule	39015	AMD	02/24/2015	2015-2/80
R156-37f-102	Definitions	39020	AMD	02/24/2015	2015-2/84
R156-44a-609	Standards for Out-of-State Programs Providing Certified Nurse Midwife Clinical Experiences in Utah	39176	AMD	05/11/2015	2015-7/2
R156-47b	Massage Therapy Practice Act Rule	38915	AMD	04/21/2015	2014-22/16
R156-47b	Massage Therapy Practice Act Rule	38915	CPR	04/21/2015	2015-6/42
R156-47b-302a	Qualifications for Licensure - Equivalent Education and Training	39238	AMD	05/28/2015	2015-8/7
R156-60a	Social Worker Licensing Act Rule	38979	AMD	01/22/2015	2014-24/15
R156-60d	Substance Use Disorder Counselor Act Rule	38964	AMD	01/22/2015	2014-24/17
R156-61	Psychologist Licensing Act Rule	38957	AMD	06/15/2015	2014-24/19
R156-61	Psychologist Licensing Act Rule	38957	CPR	06/15/2015	2015-9/80
R156-63a	Security Personnel Licensing Act Contract Security Rule	39293	AMD	06/22/2015	2015-10/22
R156-63b	Security Personnel Licensing Act Armored Car Rule	39294	AMD	06/22/2015	2015-10/24
R156-70a-302	Qualification for Licensure - Examination Requirements	39177	AMD	05/27/2015	2015-7/3
R156-71-202	Naturopathic Physician Formulary	39151	AMD	04/21/2015	2015-6/25
R156-72-102	Definitions	39343	AMD	07/09/2015	2015-11/28
R156-79	Hunting Guides and Outfitters Licensing Act Rule	39350	AMD	07/09/2015	2015-11/29
R156-83	Online Prescribing, Dispensing, and Facilitation Licensing Act Rule	39298	5YR	04/23/2015	2015-10/102
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**ABBREVIATIONS**

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

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