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Nancy L. Lancaster, Editor

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SPECIAL NOTICES

COMMUNITY AND ECONOMIC DEVELOPMENT COMMUNITY DEVELOPMENT, LIBRARY

PUBLIC NOTICE OF AVAILABLE UTAH STATE PUBLICATIONS

The Utah State Library Division has made available Utah State Publications List No. 02-14, dated July 8, 2002 (<http://library.utah.gov/02-14.html>); and List No. 02-15, dated July 19, 2002 (<http://library.utah.gov/02-15.html>). For copies of the complete lists, contact the Utah State Library Division at: 1950 West 250 North, Suite A, Salt Lake City, UT 84116-7901; phone: (801) 715-6777; or the Division of Administrative Rules, PO Box 141007, Salt Lake City, UT 84114-1007; phone: (801) 538-3218; FAX: (801) 538-1773; or view them on the World Wide Web at the addresses above.

DAR NOTE: This is the last notice that will be published in the Utah State Bulletin. The lists are published on the State Library Division's website (<http://library.utah.gov>) and notice is also sent to Utah libraries which post this information.

End of the Special Notices Section

Notices of Proposed Rules Begin on the Following Page

NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between July 2, 2002, 12:00 a.m., and July 15, 2002, 11:59 p.m. are included in this, the August 1, 2002, issue of the *Utah State Bulletin*.

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

Following the RULE ANALYSIS, the text of the PROPOSED RULE is usually printed. New rules or additions made to existing rules are underlined (e.g., example). Deletions made to existing rules are struck out with brackets surrounding them (e.g., [~~example~~]). Rules being repealed are completely struck out. A row of dots in the text (· · · · ·) indicates that unaffected text was removed to conserve space. If a PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of each rule that is too long to print is available from the filing agency or from the Division of Administrative Rules.

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least September 3, 2002. The agency may accept comment beyond this date and will list the last day the agency will accept comment in the RULE ANALYSIS. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency to hold a hearing on a specific PROPOSED RULE. Section 63-46a-5 (1987) requires that a hearing request be received "in writing not more than 15 days after the publication date of the PROPOSED RULE."

From the end of the public comment period through November 29, 2002, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than 31 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

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

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

The Proposed Rules Begin on the Following Page.

**Administrative Services, Fleet
Operations
R27-4
Vehicle Replacement and Expansion of
State Fleet**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 25079

FILED: 07/12/2002, 09:32

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: A section (R27-4-3) was added to this rule in anticipation of a legislative change. However, the change was not made in the Utah Code; therefore this section will need to be removed.

SUMMARY OF THE RULE OR CHANGE: Removes Section R27-4-3 entitled "Agreements Made Pursuant to Section 63A-9-401(7)" from this rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 63A-9-401(1)(a), 63A-9-401(c)(v), 63A-9-401(c)(ix), 63A-9-401(c)(xi), and 63A-9-401(c)(xii)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: This change will cause no change in the state budget, because it was based on an expected change in the Utah Code which did not happen.
- ❖ LOCAL GOVERNMENTS: This change will cause no change in local government budget, because it was based on an expected change in the Utah Code which did not happen.
- ❖ OTHER PERSONS: This change will have no effect on any other persons, because it was based on an expected change in the Utah Code which did not happen.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no compliance costs associated with this rule change, because it was based on an expected change in the Utah Code which did not happen.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to this rule were based on an anticipated change in the Utah Code that was not made. Therefore, there will be no fiscal impact on businesses.

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

ADMINISTRATIVE SERVICES
FLEET OPERATIONS
Room 4120 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Alison Taylor at the above address, by phone at 801-538-3306, by FAX at 801-538-1773, or by Internet E-mail at alison.taylor@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/03/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 09/04/2002

AUTHORIZED BY: Steve Saltzgiver, Director

R27. Administrative Services, Fleet Operations.

R27-4. Vehicle Replacement and Expansion of State Fleet.

R27-4-1. Authority.

(1) This rule is established pursuant to Subsections 63A-9-401(1)(a), 63A-9-401(1)(c)(v), 63A-9-401(1)(c)(ix), 63A-9-401(1)(c)(x), 63A-9-401(1)(c)(xi) and 63A-9-401(1)(c)(xii), which require the Division of Fleet Operations (DFO) to: coordinate all purchases of state vehicles; make rules establishing requirements for the procurement of state vehicles, whether for the replacement or upgrade of current fleet vehicles or fleet expansion; make rules establishing requirements for cost recovery and billing procedures; make rules establishing requirements for the disposal of state vehicles; make rules establishing requirements for the reassignment and reallocation of state vehicles and make rules establishing rate structures for state vehicles.

(a) All agencies exempted from the DFO replacement program shall provide DFO with a complete list of intended vehicle purchases prior to placing the order with the vendor.

(b) DFO shall work with each agency to coordinate vehicle purchases to make sure all applicable mandates, including but not limited to alternative fuel mandates, and safety concerns are met.

(c) DFO shall assist agencies, including agencies exempted from the DFO replacement program, in their efforts to insure that all vehicles in the possession, control, and/or ownership of agencies are entered into the fleet information system.

(2) Pursuant to Subsection 63-38-3.5(8)(f)(ii), vehicles acquired by agencies, or monies appropriated to agencies for vehicle purchases, may be transferred to DFO and, when transferred, become part of the Consolidated Fleet Internal Service Fund.

R27-4-2. Fleet Standards.

(1) Prior to the purchase of replacement and legislatively approved expansion vehicles for each fiscal year, the Fleet Vehicle Advisory Committee (FVAC) shall, on the basis of input from user agencies, recommend to DFO a standard vehicle and the features and miscellaneous equipment to be included in said vehicle for each vehicle class in the fleet.

(2) DFO shall, after reviewing the recommendations made by the FVAC, determine and establish, for each fiscal year, the standard replacement vehicle, along with included features and miscellaneous equipment for each vehicle class in the fleet.

(3) DFO shall establish lease rates designed to recover, in addition to overhead and variable costs, the capital cost associated with acquiring a standard replacement vehicle for each vehicle class in the fleet.

(4) DFO shall establish replacement cycles according to vehicle type and expected use. The replacement cycle that applies to a particular vehicle supposes that the vehicle will be in service for a specified period of time and will be driven an optimum number of miles within that time. Whichever of the time or mileage criterion is reached first shall result in the vehicle's replacement.

~~**[R27-4-3. Agreements made pursuant to Section 63A-9-401(7).**~~

~~— (1) Agreements made pursuant to Section 63A-9-401(7) shall be permitted only in cases where the vehicles that are the subject matter of the agreements were, or are, funded from sources other than state appropriations.~~

~~— (2) Agreements made pursuant to Section 63A-9-401(7) shall, at a minimum, contain:~~

~~— (a) a precise definition of each duty or function that is being allowed to be performed; and~~

~~— (b) a clear description of the standards to be met in performing each duty or function allowed; and~~

~~— (c) a provision for periodic administrative audits by either the DFO or the Department of Administrative Services; and~~

~~— (d) a representation that the procurement or disposal of the vehicles that are the subject matter of the agreement shall be coordinated with DFO, and that alternative fuel vehicles shall be purchased by the agency or institution of higher education, when necessary, to insure state compliance with federal AFV mandates; and~~

~~— (e) a representation that the purchase price is less than or equal to the state contract price for the make and model being purchased; and in the event that the state contract price is not applicable, that the provisions of Section 63-56-1 shall be complied with; and~~

~~— (f) a representation that all the information whose entry into DFO's fleet information system would be required if the vehicles that are the subject matter of the agreement were funded with state appropriations, shall be entered into DFO's fleet information system; and~~

~~— (g) a date on which the agreement shall terminate if the agreement has not been previously terminated or renewed.~~

~~— (3) An agreement made pursuant to Section 63A-9-401(7) may be terminated by DFO if the results of administrative audits conducted by either DFO or the Department of Administrative Services reveal a lack of compliance with the terms of the agreement.]~~

R27-4-4. Vehicle Replacement.

(1) All state fleet motor vehicles shall, subject to budgetary constraints, be replaced when the vehicle meets the first of either the mileage or time component of the established replacement cycle criteria.

(2) Prior to the purchase of replacement motor vehicles, DFO shall provide each agency contact with a list identifying all vehicles that are due for replacement, and the standard replacement vehicle for the applicable class that has been established by DFO after reviewing the recommendations of the FVAC that will be purchased to take the place of each vehicle on the list.

(3) Agencies may request that state fleet motor vehicles in their possession or control that have a history of excessive repairs, but have not reached either the mileage or time component of the applicable replacement cycle, be replaced. The request to replace motor vehicles with a history of excessive repairs is subject to budgetary constraints and the approval of the Director of DFO or the director's designee.

(4) Agencies may petition the Executive Director of the Department of Administrative Services, or the executive director's designee, for a review in the event that the Director of DFO or the director's designee denies a request for the replacement of motor vehicles with a history of excessive repairs.

(5) In the event that the replacement vehicle is not delivered to the agency by the vendor, the agency shall have five working days to pick-up the replacement vehicle from DFO, after receiving official notification of its availability. If the vehicles involved are not exchanged within the five-day period, a daily storage fee will be assessed and the agency will be charged the monthly lease fee for both vehicles.

(6) DFO is responsible for insuring that the state motor vehicle fleet complies with United States Department of Energy alternative fuel vehicle (AFV) mandates. DFO may require that a certain number of replacement vehicles, regardless of the requesting agency, be alternate fuel vehicles to insure compliance with said AFV mandates.

R27-4-5. Fleet Expansion.

(1) Any expansion of the state motor vehicle fleet requires legislative approval.

(2) The agency requesting a vehicle that will result in fleet expansion shall be required to provide proof of the requisite legislative approval for the procurement of an expansion vehicle and any additional features and miscellaneous equipment, before DFO is authorized to purchase the expansion vehicle.

(3) For the purposes of this rule, an agency shall be deemed to have the requisite legislative approval under the following circumstances only:

(a) The procurement of expansion vehicles is explicitly authorized by the Appropriations Committee during the general legislative session; or

(b) The procurement of expansion vehicles is explicitly authorized by a special session of the legislature convened for the express purpose of approving fleet expansion.

(4) For the purposes of this rule, only the following shall constitute acceptable proof of legislative approval of the requested expansion:

(a) A letter, signed by the agency's Chief Financial Officer, citing the specific line item in the appropriations bill providing said authorization; or

(b) Written verification from the agency's analyst in the Governor's Office of Planning and Budget (GOPB) indicating that the request for expansion was authorized and funded by the legislature.

(5) Upon receipt of proof of legislative approval of an expansion from the requesting agency, DFO shall provide to the State Division of Finance copies of the proof submitted in order for the Division of Finance to initiate the process for the formal transfer of funds from the requesting agency to DFO. In no event shall DFO purchase expansion vehicles for requesting agencies until the Division of Finance has completed the process for the formal transfer of funds.

(6) When the expansion vehicle is procured, the vehicle shall be added to the fleet and a replacement cycle established.

(7) DFO is responsible for insuring that the state motor vehicle fleet complies with United States Department of Energy alternative fuel vehicle (AFV) mandates. DFO may require that a certain number of expansion vehicles, regardless of the requesting agency, be alternate fuel vehicles to insure in compliance with said AFV mandates.

R27-4-6. Vehicle Feature and Miscellaneous Equipment Upgrade.

(1) Additional feature(s) or miscellaneous equipment to be added to the standard replacement vehicle in a given class, as established by DFO after reviewing the recommendations of the Fleet Vehicle Advisory Committee (FVAC), that results in an increase in vehicle cost shall be deemed a feature and miscellaneous equipment upgrade. A feature or miscellaneous equipment upgrade occurs when an agency requests:

(a) That a replacement vehicle contains a non-standard feature. For example, when an agency requests that an otherwise standard replacement vehicle have a diesel rather than a gasoline engine, or that a vehicle contain childproof locks.

(b) The installation of additional miscellaneous equipment not installed by the vehicle manufacturer. For example, when an agency requests that light bars or water tanks be installed on an otherwise standard replacement vehicle.

(2) Requests for feature and miscellaneous equipment upgrades shall be made in writing and:

(a) Present reasons why the upgrades are necessary in order to meet the agency's needs, and

(b) Shall be signed by the requesting agency's director, or the appropriate budget or accounting officer.

(3) All requests for vehicle feature and/or miscellaneous equipment upgrades shall be subject to review and approval by the Director of DFO or the director's designee. Vehicle feature and/or miscellaneous equipment upgrades shall be approved when in the judgment of the Director of DFO or the director's designee, the requested feature and/or miscellaneous equipment upgrades are necessary and appropriate for meeting the agency's needs.

(4) Agencies may petition the Executive Director of the Department of Administrative Services, or the executive director's designee, for a review in the event that the Director of DFO or the director's designee denies a request for a feature and/or miscellaneous equipment upgrade.

(5) Agencies obtaining approval for feature and/or miscellaneous equipment upgrades shall, prior to the purchase of the vehicle, pay in full to DFO, a feature and/or miscellaneous equipment upgrade rate designed to recover the total cost associated with providing the additional feature(s) and/or miscellaneous equipment, unless the requesting agency otherwise negotiates an agreement with DFO for payments to be made in installments, and provided that the terms of the installment agreement do not delay the payment of the general fund debt.

(6) In the event that an agreement providing for the payment of a feature and/or miscellaneous equipment upgrade in installments is reached, the agency shall indemnify and make DFO whole for any losses incurred resulting from damage to, loss or return of the vehicle and/or equipment prior to the receipt of all payment installments by DFO.

R27-4-7. Agency Installation of Miscellaneous Equipment.

(1) The director of the Division of Fleet Operations, with the approval of the Executive Director of the Department of Administrative Services, may enter into Memoranda of Understanding allowing customer agencies to install miscellaneous equipment on or in state vehicles if:

(a) the agency or institution has the necessary resources and skills to perform the installations; and

(b) the agency or institution has received approval for said miscellaneous equipment as required by R27-4-6.

(2) Each memorandum of understanding for the installation of miscellaneous equipment shall, at a minimum, contain the following:

(a) a provision that monthly lease fees shall be charged to the agency from the date of the agency's receipt of the replacement vehicle as required under R27-4-9(7)(b); and

(b) a provision that said agency shall indemnify and hold DFO harmless for any claims made by a third party that are related to the installation of miscellaneous equipment in or on state vehicles in the agency's possession and/or control; and

(c) a provision that said agency shall indemnify DFO for any damage to state vehicles resulting from installation or de-installation of miscellaneous equipment; and

(d) a provision that agencies with permission to install miscellaneous equipment shall enter into the DFO fleet information system the following information regarding the miscellaneous equipment procured for installation in or on state vehicles, whether the item is held in inventory, currently installed on a vehicle, or sent to surplus;

(i) item description or nomenclature; and

(ii) manufacturer of item; and

(iii) item identification information for ordering purposes; and

(iv) procurement source; and

(v) purchase price of item; and expected life of item in years; and

(vi) warranty period; and

(vii) serial number;

(viii) initial installation date; and

(ix) current location of item (warehouse, vehicle number); and

(x) anticipated replacement date of item; and

(xi) actual replacement date of item; and

(xii) date item sent to surplus; and

SP-1 number.

(e) a provision requiring the agency or institution with permission to install being permitted to install miscellaneous equipment to obtain insurance from the Division of Risk Management in amounts sufficient to protect itself from damage to, or loss of, miscellaneous equipment installed on state vehicles. Agencies or institutions with permission to install miscellaneous equipment shall hold DFO harmless for any damage to, or loss of miscellaneous equipment installed in state vehicles.

(f) a provision that DFO shall provide training and support services for the fleet information system and charge agencies with permission to install miscellaneous equipment an MIS fee to recover these costs.

(g) a date on which the agreement shall terminate if the agreement has not been previously terminated or renewed.

(3) Agreements permitting agencies or institutions to install miscellaneous equipment in or on state vehicles may be terminated if there is a lack of compliance with the terms of the agreement by the state agency or institution.

R27-4-8. Vehicle Class Differential Upgrade.

(1) For the purposes of this rule, requests for vehicles other than the planned replacement vehicle established by DFO after reviewing the recommendations of the Fleet Vehicle Advisory Committee (FVAC), that results in an increase in vehicle cost shall be deemed a vehicle class differential upgrade. For example, a vehicle class differential upgrade occurs when, regardless of additional features and/or miscellaneous equipment:

(a) The replacement vehicle requested by the agency, although within the same vehicle class as the vehicle being replaced, is not the standard replacement vehicle established by DFO for that class. For example, an agency requests a Ford Focus instead of a Chevrolet Cavalier, the standard vehicle in the compact sedan class for FY 2001.

(b) The agency requests that a vehicle be replaced with a more expensive vehicle belonging to another class. For example, when an agency requests to have a standard ½ ton truck replaced with a standard ¾ ton truck, or a compact sedan be replaced with a mid-size sedan.

(2) Requests for vehicle class differential upgrades shall be made in writing and:

(a) Present reasons why the upgrades are necessary in order to meet the agency's needs, and

(b) Shall be signed by the requesting agency's director or the appropriate budget or accounting officer.

(3) All requests for vehicle class differential upgrades shall be subject to review and approval by the Director of DFO or the director's designee. Vehicle class differential upgrades shall be approved only when:

(a) In the judgment of the Director of DFO or the director's designee, the requested vehicle upgrade is necessary and appropriate for meeting the demands of changing operational needs for which the planned replacement vehicle is clearly inadequate or inappropriate;

(b) In the judgment of the Director of DFO or the director's designee, the requested vehicle upgrade is necessary and appropriate for meeting safety, environmental, or health or other special needs for drivers or passengers.

(4) Agencies may petition the Executive Director of the Department of Administrative Services, or the executive director's designee, for a review in the event that the Director of DFO or the director's designee denies a request for a vehicle class differential upgrade.

(5) Agencies obtaining approval for vehicle class differential upgrade(s) shall pay to DFO, in full, prior to the purchase of the vehicle, a vehicle class differential upgrade rate designed to recover the difference in cost between the planned replacement vehicle and the actual replacement vehicle when the replacement vehicle is a more expensive vehicle belonging to the same or another class.

R27-4-9. Cost Recovery.

(1) State vehicles shall be assessed a lease fee designed to recover depreciation costs, and overhead costs, including AFV and MIS fees, and where applicable, the variable costs, associated with each vehicle.

(2) Lease rates are calculated by DFO according to vehicle cost, class, the period of time that the vehicle is expected to be in service, the optimum number of miles that the vehicle is expected to accrue over that period, and the type of lease applicable:

(a) A capital only lease is designed to recover depreciation plus overhead costs, including AFV and MIS fees, only. All variable costs, such as fuel and maintenance, are not included in the lease rate.

(i) Capital only leases are subject to DFO approval; and

(ii) Shall be permitted only when the requesting agency provides proof that its staffing, facilities and other infrastructure costs, and preventive maintenance and repair costs are less than, or equal to those incurred by DFO under the current preventive maintenance and repair services contract.

(iii) DFO shall, upon giving approval for a capital only lease, issue a delegation agreement to each agency.

(b) A full-service lease is designed to recover depreciation and overhead costs, including AFV and MIS fees, as well as all variable costs.

(3) DFO shall review agency motor vehicle utilization on a quarterly basis to identify vehicles in an agency's possession or control that, on the basis of the applicable replacement cycle, are either being under-utilized or over-utilized.

(4) DFO shall provide the results of the motor vehicle utilization review to each agency for use in agency efforts to insure full utilization of all state fleet motor vehicles in its possession or control.

(5) In the event that a vehicle is turned in for replacement as a result of reaching the optimum mileage allowed under the applicable replacement cycle mileage schedule, prior to the end of the period of time that the vehicle is expected to be in service, a rate containing a shorter replacement cycle period that reflects actual utilization of the vehicle being replaced may be implemented for said vehicle's replacement.

(6) In the event that a vehicle is turned in for replacement as scheduled, but is not in compliance with optimum mileage allowed under the applicable replacement cycle, a rate containing a longer replacement cycle period that reflects actual utilization of the vehicle being replaced may be implemented for said vehicle's replacement.

(7) DFO shall begin the monthly billing process when the agency receives the vehicle.

(a) Agencies that choose to keep any vehicle on the list of vehicles recommended for replacement after the receipt of the replacement vehicle, pursuant to the terms of a memorandum of understanding between the leasing agencies and DFO that allows the agency to continue to possess or control an already replaced vehicle, shall continue to pay a monthly lease fee on the vehicle until it is turned over to the Surplus Property Program for resale. Vehicles that are kept after the receipt of the replacement vehicle shall be deemed expansion vehicles for vehicle count report purposes.

(b) Agencies that choose to install miscellaneous equipment to the replacement vehicle, in house, shall be charged a monthly lease fee from date of receipt of the replacement vehicle. If DFO performs the installation, the billing process shall not begin until the agency has received the vehicle from DFO.

R27-4-10. Executive Vehicle Replacement.

(1) Executive Vehicles shall be available to only those with employment positions that have an assigned vehicle as part of a compensation package in accordance with state statute.

(a) Each fiscal year DFO shall establish a standard executive vehicle type and purchase price.

(b) Executives may elect to replace their assigned vehicle at the beginning of each elected term, or appointment period, or as deemed necessary for the personal safety and security of the elected or appointed official.

(c) When the executive leaves office, the vehicle shall be sold in accordance with State Surplus Property Program policies and procedures.

(2) Executives shall have the option of choosing a vehicle other than the standard executive vehicle.

(a) The alternative vehicle selection should not exceed the standard executive vehicle price parameter guidelines.

(b) In the event that the agency chooses an alternative vehicle that exceeds the standard vehicle guidelines, the agency shall pay for

the difference in price between the vehicle requested and the standard executive vehicle.

R27-4-11. Reservation of Vehicle Allocation for Surrendered Vehicles.

(1) This section implements that part of Item 59 of S.B. 1 of the 2002 General Session which requires the Division of Fleet Operations to "create a capitalization credit program that will allow agencies to divest themselves of vehicles without seeing a future capitalization cost if programs require replacement of the vehicle."

(2) Except as provided in paragraph 3 of this section, DFO shall, in the event that an agency voluntarily surrenders a vehicle to DFO, hold the vehicle allocation open for the surrendering agency, for a period not to exceed the remainder the fiscal year within which the surrender takes place.

(3) The surrendering agency's failure to request the return of the vehicle surrendered prior to the end of the fiscal year within which the surrender took place, shall result in the removal of the surrendered vehicle or allotment from the state fleet and effect a reduction in state fleet size.

(4) DFO shall not hold vehicle allocations for an agency when the vehicle that is being surrendered:

(a) has been identified for removal from the state fleet in order to comply with legislatively mandated reductions in state fleet size; or

(b) is identified as a "do not replace" vehicle in the fleet information system; or

(c) is a state vehicle not purchased by DFO; or

(d) is a seasonal vehicle that has already been replaced.

(5) Any agency that fails to request the return of a voluntarily surrendered vehicle prior to the end of the fiscal year within which the surrender took place, must comply with the requirements of R27-4-5, Fleet Expansion, to obtain a vehicle to replace the one surrendered.

R27-4-12. Inter-agency Vehicle Reassignment or Reallocation Guidelines.

(1) DFO is responsible for state motor vehicle fleet management, and in the discharge of that responsibility, one of DFO's duties is to insure that the state is able to obtain full utilization of, and the greatest residual value possible for state vehicles.

(2) DFO shall, on a quarterly basis, conduct a review of state fleet motor vehicle utilization to determine whether the vehicles are being utilized in accordance with the mileage requirements contained in the applicable replacement cycles.

(3) DFO shall provide the results of the motor vehicle utilization review to each agency for use in agency efforts to insure full utilization of all state fleet vehicles in its possession or control.

(4) In conducting the review, DFO shall collect the following information on each state fleet vehicle:

(a) year, make and model;

(b) vehicle identification number (VIN);

(c) actual miles traveled per month;

(d) driver and/or program each vehicle is assigned to;

(e) location of the vehicle;

(f) class code and replacement cycle.

(4) Agencies shall be responsible for verifying the information gathered by DFO.

(5) Actual vehicle utilization shall be compared to the scheduled mileage requirements contained in the applicable

replacement cycle, and used to identify vehicles that may be candidates for reassignment or reallocation, reclassification, or elimination.

(6) In the event that intra-agency reassignment or reallocation of vehicles fails to bring vehicles into compliance with applicable replacement cycle mileage schedules within a replacement cycle, DFO may, in the exercise of its state motor vehicle fleet management responsibilities, reassign, reallocate or eliminate the replacement vehicles for vehicles that are chronically out of compliance with applicable replacement cycle mileage requirements to other agencies to ensure that all vehicles in the state fleet are fully utilized.

(7) Agencies required to relinquish vehicles due to a reassignment or reallocation may petition the Executive Director of the Department of Administrative Services, or the executive director's designee, for a review of the reallocation or reassignment made by DFO. However, vehicles that are the subject matter of petitions for review shall remain with the agencies to which they have been reassigned or reallocated until such time as the Executive Director of the Department of Administrative Services or the executive director's designee renders a decision on the matter.

R27-4-13. Disposal of State Vehicles.

(1) State vehicles shall be disposed of in accordance with the requirements of Section 63A-9-801 and Rule R28-1.

KEY: fleet expansion vehicle replacement

2002

63A-9-401(1)(a)

63A-9-401(c)(v)

63A-9-401(c)(ix)

63A-9-401(c)(xi)

63A-9-401(c)(xii)



**Commerce, Occupational and
Professional Licensing**

R156-77

**Professional Geologist Licensing Act
Rules**

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE No.: 25092

FILED: 07/15/2002, 16:31

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The 2002 Legislature enacted Title 58, Chapter 77 (H.B. 96), requiring licensure for professional geologists. This rule is being enacted to clarify the provisions of that new statute. (DAR NOTE: H.B. 96 is found at UT L 2002 Ch 218, and was effective May 6, 2002.)

SUMMARY OF THE RULE OR CHANGE: This new rule provides the following: definitions, education requirements, experience requirements, examination requirements, renewal cycle-procedures, clarification on exemption from licensure in

Subsection 58-77-304(1), unprofessional conduct and seal requirements.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-77-101, and Subsections 58-1-106(1) and 58-1-202(1)(a)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Adds American Geological Institute's Guidelines for Ethical Professional Conduct, April 2, 1999

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The Division will incur costs of approximately \$100 to print this rule once it is made effective. Any costs incurred will be absorbed by the Division in the current budget.
- ❖ LOCAL GOVERNMENTS: Proposed rule does not affect local governments.
- ❖ OTHER PERSONS: Persons seeking licensure as a professional geologist will be impacted. An applicant for licensure is required by rule to complete at a minimum an undergraduate degree. The cost of an undergraduate degree can vary greatly depending on the university attended. After January 1, 2004, an applicant for licensure as a professional geologist must also take and pass the Association of State Boards of Geology (ASBOG) Fundamentals of Geology (FG) and Principles and Practice of Geology (PG) examinations. The cost of both examinations is estimated to cost approximately \$350-\$400. The Division is unable to determine how many persons will be applying for licensure as a professional geologist. The following fees which are identified are as a result of newly enacted statute and not these rules, but the Division wanted all applicants for licensure as a professional geologist to be aware of the licensing fees involved. New application: \$150; Renewal fee (every two years): \$120; Education/Enforcement Surcharge added to new application and renewal fees: \$15.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Persons seeking licensure as a professional geologist will be impacted. An applicant for licensure is required by rule to complete at a minimum an undergraduate degree. The cost of an undergraduate degree can vary greatly depending on the university attended. After January 1, 2004, an applicant for licensure as a professional geologist must also take and pass the ASBOG FG and PG examinations. The cost of both examinations is estimated to cost approximately \$350-\$400. The Division is unable to determine how many persons will be applying for licensure as a professional geologist. The following fees which are identified are as a result of newly enacted statute and not these rules, but the Division wanted all applicants for licensure as a professional geologist to be aware of the licensing fees involved. New application: \$150; Renewal fee (every two years): \$120; Education/Enforcement Surcharge added to new application and renewal fees: \$15.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: In accordance with Title 58, Chapter 77, the Division is proposing this rule to begin administering the new licensing requirements for professional geologists. Included in this rule are the licensing requirements

for education, training and testing, all of which will create a business impact for the geology business community. The only cost that can be estimated at this point is the cost of examinations, which is in the range of \$350-\$400. However, the cost of education will depend upon the university attended by the applicant. It is also unclear how many people will seek licensure under this new statute. Ted Boyer, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Lynn Bernhard at the above address, by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at lbernhard@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/03/2002

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 8/16/2002 at 9:00 AM, 160 East 300 South, Conference Room 428 (4th Floor), Salt Lake City, Utah.

THIS RULE MAY BECOME EFFECTIVE ON: 09/04/2002

AUTHORIZED BY: J. Craig Jackson, Director

R156. Commerce, Occupational and Professional Licensing. R156-77. Professional Geologist Licensing Act Rules. R156-77-101. Title.

These rules are known as the "Professional Geologist Licensing Act Rules".

R156-77-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 77, as used in Title 58, Chapters 1 and 77, or these rules:

- (1) "ASBOG" means Association of State Boards of Geology.
- (2) "Geosciences", as used in Subsection 58-77-302(4)(a), means an earth science degree, which results in sufficient geological knowledge to enable the practice of geology before the public.
- (3) "Qualified individual", as used in Section R156-77-302c, means a person who is licensed as a professional geologist in a recognized jurisdiction, or who otherwise meets the requirements for licensure as defined in Sections 58-77-302 and R156-77-302b and R156-77-302c.
- (4) "Practice of geology before the public" does not include the following aspects of paleontology:
 - (a) taxonomy;
 - (b) biologic analysis of organisms; or
 - (c) the human context of a site.

(5) "Practice of geology before the public" does not include the following aspects of the practice of anthropology and archeology:

- (a) archeological survey, excavation, and reporting;
 - (b) production of archeological plan views, profiles, and regional overviews; or
 - (c) investigation and reporting of artifacts or deposits that are modified or affected by past human behavior.
- (6) "Principal", as used in Subsection 58-77-102(5), means the licensee assigned to and personally accountable for the production of specified professional geologic projects within an organization.
- (7) "Recognized jurisdiction", as used in Subsection R156-77-302d(2), means any state, district or territory of the United States that issues a license for a professional geologist, and whose licensure requirements include:

- (a) a bachelors or post graduate degree in the geosciences from an accredited institution or equivalent foreign education as determined by the International Credentialing Association and the Division in collaboration with the board;
 - (b) documented qualifying experience requirements similar to the experience requirements found in Subsection 58-77-302(5) and Section R156-77-302; and
 - (c) passing the ASBOG Fundamentals of Geology (FG) and the ASBOG Principles and Practice of Geology (PG) Examination.
- (8) "Unprofessional conduct", as defined in Title 58, Chapters 1 and 77, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-77-502.

R156-77-103. Authority - Purpose.

These rules are adopted by the division under the authority of Subsection 58-1-106(1) to enable the division to administer Title 58, Chapter 77.

R156-77-104. Organization - Relationship to Rule R156-1.

The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.

R156-77-302b. Qualifications for Licensure - Education Requirements.

(1) In accordance with Section 58-77-302, the education requirements for graduates of an approved geoscience program are as follows:

- (a) an earned bachelors or masters degree in geology from an accredited institution; or
- (b) an earned bachelor or post-graduate degree in the geosciences from an accredited institution including the completion of a minimum of 24 semester or 36 quarter hours in upper level or graduate geology courses, which includes one or more of the following subject areas:
 - (i) structural geology;
 - (ii) geophysics;
 - (iii) sedimentology/stratigraphy/paleontology;
 - (iv) mineralogy/petrology/geochemistry;
 - (v) engineering geology/environmental geology;
 - (vi) hydrogeology/hydrology;
 - (vii) geomorphology/remote sensing;
 - (viii) economic geology/petroleum geology; and
 - (ix) field geology.

(2) In accordance with Section 58-1-302, an applicant who has been educated in a foreign country shall submit a course-by-course accreditation evaluation completed by International Credentialing Association to determine program equivalency.

R156-77-302c. Qualifications for Licensure - Experience Requirements.

In accordance with Subsection 58-77-302(5), active professional practice requirements are clarified or established as follows:

- (1) Professional practice shall be obtained after completing the minimum educational requirement for licensure.
- (2) One year of active professional practice shall consist of a minimum of 2,000 hours of geological work experience under the supervision of a qualified individual, or in responsible charge as permitted by law.
- (3) No more than 2,000 hours of active professional practice may be gained in any 12 month period of time.
- (4) Qualifying work engagements consist of a range of activities included in the practice of geology consisting of more than the performance or supervision of geological work activities that are routine, such as routine sampling, laboratory work, or geological drafting, where the elements of initiative, scientific judgment and decision-making are lacking.
- (5) Three years of geologic research or teaching activity in upper division or graduate level geology classes at an accredited university is equivalent to one year of qualifying experience.

R156-77-302d. Qualifications for Licensure - Examination Requirements.

(1) In accordance with Subsection 58-77-302(6), except as otherwise provided in Subsection (2) or(3), the examination requirements for licensure as a professional geologist after January 1, 2004 are established as follows:

- (a) the ASBOG Fundamentals of Geology ("FG") Examination with a passing score as recommended by the ASBOG; and
 - (b) the ASBOG Principles and Practice of Geology ("PG") Examination with a passing score as established by the ASBOG.
- (2) The ASBOG FG Examination shall not be required for an applicant who:
- (a) has practiced as a principal for five years of the last seven years preceding the date of the license application;
 - (b) was not required to pass the ASBOG FG Examination for initial licensure from the recognized jurisdiction the applicant was originally licensed; and
 - (c) has passed the ASBOG PG Examination.
- (3) The ASBOG FG and PG Examinations shall not be required for an applicant who:
- (a) has practiced as a principal for five years during the last seven years preceding the date of the license application;
 - (b) has been licensed for 20 years preceding the date of the license application; and
 - (c) who was not required to pass the ASBOG FG and PG Examination for initial licensure from the recognized jurisdiction the applicant was originally licensed, but was required to pass a predecessor exam established by the recognized jurisdiction.

R156-77-303. Renewal Cycle - Procedures.

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

R156-77-304. Exemption from Licensure.

The exemption from licensure in Subsection 58-77-304(1) is defined or clarified as follows: An "employee" or "subordinate", as

used therein and elsewhere in Title 58, Chapter 77, or these rules, means an individual who:

- (1) is not licensed as a professional geologist;
- (2) works with, for, or provides professional geologic services on work initiated by a person licensed as a professional geologist; and
- (3) works only under the administration, charge, control, command, authority, oversight, guidance, jurisdiction, regulation, management, and authorization of a person licensed as a professional geologist.

R156-77-501. Unprofessional Conduct.

"Unprofessional conduct" includes:

- (1) submitting an incomplete final plan, specification, report or set of plans to:
 - (a) a client, when the licensee represents, or could reasonably expect the client to consider the plan, specification, report or set of plans to be complete and final; or
 - (b) to a government official for the purpose of obtaining a permit;
 - (2) failing as a principal to exercise responsible charge;
 - (3) failing as a supervisor to exercise supervision of an employee, subordinate, associate or drafter; or
 - (4) failing to conform to the accepted and recognized standards and ethics of the profession including those stated in the "American Geological Institute's Guidelines for Ethical Professional Conduct", April 2, 1999, which is hereby incorporated by reference.

R156-77-601. Seal Requirements.

- (1) In accordance with Section 58-77-601, the seal design and implementation shall be:
 - (a) each seal shall be a circular seal, 1-1/2 inches minimum diameter;
 - (b) each seal shall include the licensee's name, license number, "State of Utah", and "Licensed Professional Geologist";
 - (c) each seal shall be signed and dated with the signature and date appearing across the face of each seal imprint;
 - (d) each original set of final geologic map, cross-section, sketch, drawing, plan, or report prepared, as a minimum, shall have the original seal imprint, original signature and date placed on the cover or title sheet;
 - (e) a seal may be a wet stamp, embossed, or electronically produced; and
 - (f) copies of the original set of plans, specifications, reports, maps, sketches, surveys, drawings, documents and plats which contain the original seal, original signature and date are permitted, if the seal, signature and date is clearly recognizable.

KEY: licensing, professional geologists, geology
2002
58-1-106(1)
58-1-202(1)(a)
58-77-101



Education, Administration
R277-402
 Incentives for Excellence in Public
 Schools

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 25098

FILED: 07/15/2002, 18:36

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is repealed because the funding and the program at the Utah State Office of Education no longer exist.

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

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

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** There is no anticipated cost to the state budget. There may be some savings to the state. The state will no longer pay anything for new programs that were previously funded at 50% by this rule.
- ❖ **LOCAL GOVERNMENTS:** There is no anticipated cost to local government. There may be some savings to school districts because there will be no matching funds which sometimes came from school district funds.
- ❖ **OTHER PERSONS:** There is no anticipated cost or savings to other persons. Individuals never paid for this program.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Persons never paid for this program.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at clear@usoe.k12.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/03/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 09/04/2002

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.

~~[R277-402. Incentives for Excellence in Public Schools.~~

~~**R277-402-1. Definitions.**~~

~~—A. "Eligible donors" means private enterprise, including the business community and entities oriented to making a profit in their work; nonprofit entities, including foundations, civic clubs, and associations; and persons making personal donations.~~

~~—B. "Public Education Foundation" means a nonprofit organization formed for the purpose of generating private funds for a school, school district, or other educational effort.~~

~~—C. "Educational excellence" means programs, practices, learning materials, and equipment which have direct impact upon the instruction of students and result in increased student performance in the required state school curriculum.~~

~~—D. "Board" means the Utah State Board of Education.~~

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

~~—F. "Reallocated" means the distribution of state funds originally allocated to a district which were not matched by that district and are thus available to other districts which can match the unused funds.~~

~~**R277-402-2. Authority and Purpose.**~~

~~—A. This rule is authorized under Article X, Section 3 of the State Constitution which vests general control and supervision of public education in the Board, Section 53A-4-202, U.C.A. 1953, which assigns to the Board the responsibility for developing standards and administering funds for a program promoting educational excellence, and Section 53A-1-401(3), U.C.A. 1953, which permits the Board to adopt rules in accordance with its responsibilities.~~

~~—B. This rule establishes standards and procedures for the Incentives for Excellence in Public Schools Program and for administering associated funds.~~

~~**R277-402-3. Division of State Appropriation.**~~

~~—A. State funds appropriated under this program are allocated as specified in Section 53A-4-202, U.C.A. 1953.~~

~~—B. State matching funds earmarked for an eligible district are disbursed to the district according to the following schedule:~~

~~—(1) April 1—Districts must have applied for Incentives for Excellence funds.~~

~~—(2) After April 1, if a district has not applied and qualified for Incentives for Excellence funds, monies will be reallocated to other school districts under the same program guidelines. Districts qualifying for reallocated funds will be notified and asked to submit a letter of intent to apply for reallocated monies.~~

~~—(3) May 1—Qualifying districts must have applied for reallocated funds.~~

~~**R277-402-4. Eligibility.**~~

~~—To participate in this program, a district must:~~

~~—A. Appoint, with the approval of the local board of education, an on-going committee which shall include representatives from education, business, and the nonprofit sectors of the community to function as a public education foundation, an advisory board, or in another role appropriate to the purposes of the law.~~

~~—B. Designate an employee of the district to administer the plan, maintain contact with the Office, and coordinate the matching process.~~

~~**R277-402-5. Funding Process.**~~

~~—A. A district is eligible to receive funds when the following criteria are met:~~

~~—(1) it has identified how the money is to be used;~~

~~—(2) it has identified how expenditures meet the Educational Excellence definition;~~

~~—(3) it has verified the receipt and sources of the district's match. At least 50 percent of the district's match must be from sources other than existing PTA funds. A PTA may participate above the 50% level when it is part of an overall partnership program which involves the community in raising funds for approved incentive projects. In such cases, the revenue source is designated as community donations gathered by the PTA.~~

~~—B. Requests for portions of the state's match may be made until April 1 of the fiscal year.~~

~~—C. The match must be private dollar for public dollar, and may not be in kind.~~

~~—D. A verification of the district's match, signed by the local project administrator and the district superintendent, must be completed for each portion of the state's matching monies.~~

~~—E. Funds made available for match during a given fiscal year must be matched during that same fiscal year but may be spent in subsequent years.~~

~~—F. An application for each school or project shall be completed in full and submitted to the USOE.~~

~~**R277-402-6. Fiscal and Reporting Procedures.**~~

~~—A. The Office develops uniform accounting and reporting procedures, forms, and deadlines for this program.~~

~~—B. Funds received under this program may not be used for salaries, out of state travel, building construction, or indirect costs. Stipends, contracts, or honoraria are allowable.~~

~~**R277-402-7. Waivers.**~~

~~—The State Superintendent may grant a written request for a waiver of a requirement or deadline which a district finds unduly limiting.~~

~~**KEY: public education, financial incentives*, education foundations*, school/business partnerships***~~

~~**1992**~~

~~**Notice of Continuation September 12, 1997**~~

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

~~**53A-4-202**~~

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

▼ ————— ▼

Education, Administration
R277-403
 Productivity Project Studies: Classified
 Employee Program

NOTICE OF PROPOSED RULE

(Repeal)
 DAR FILE NO.: 25099
 FILED: 07/15/2002, 18:36

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is repealed because the funding for this specific program no longer exists.

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

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

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There is no anticipated cost or savings to state government. The state will no longer pay for productivity ideas under this rule.
- ❖ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government. There was no previous cost to school districts--no change. Districts may have submitted proposals. No longer can be reimbursed or receive incentive.
- ❖ OTHER PERSONS: There is no anticipated cost or savings to other persons. Individuals can no longer expect money for cost savings ideas.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Individuals can no longer expect money for cost savings ideas.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at clear@usoe.k12.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/03/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 09/04/2002

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.

~~[R277-403. Productivity Project Studies: Classified Employee Program.~~

~~**R277-403-1. Definitions.**~~

~~— A. "Productivity for Classified Employees" means improving the efficiency of classified employees in the public schools, which should include training components, classified staffing formulas, and preventative maintenance formulas.~~

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

~~— C. "USOE" means the Utah State Office of Education.~~

~~**R277-403-2. Authority and Purpose.**~~

~~— A. This rule is authorized by Article X, Section 3 of the Utah Constitution which vests the general control and supervision of public education in the Board, Section 53A-1-401(4), U.C.A. 1953, which directs the Board to adopt rules to promote productivity in the public school system, and Section 53A-1-401(3), U.C.A. 1953, which allows the Board to adopt rules in accordance with its responsibilities.~~

~~— B. The purpose of this rule is to specify standards and procedures which must be met to qualify for funds allocated to the Board for productivity programs.~~

~~**R277-403-3. Application for Funds; Award Procedures; Eligibility.**~~

~~— A. An individual, school, or district may apply for productivity funds by submitting a concept paper through a local school district office to the USOE.~~

~~— B. Concept papers shall be reviewed and evaluated by an appointed committee of the USOE.~~

~~— C. From the concept papers submitted, those submitting the most creative and promising ideas shall be invited to submit full proposals. Technical assistance in the preparation of proposals is available upon request.~~

~~— D. Applications for grants shall be reviewed and rated by a team consisting of USOE staff, local district personnel, and, as needed, outside consultants.~~

~~— E. The findings and recommendations of the review teams shall be consolidated and presented to the State Superintendent of Public Instruction who shall make recommendations to the Board which shall make the final selection.~~

~~**R277-403-4. Grant Types.**~~

~~— A. Applicants may submit classified productivity project studies which are designed to improve the efficiency of classified employees in the public schools.~~

~~— B. Applications must address one of the following types of productivity project studies:~~

~~— (1) an innovative or developmental project which addresses productivity;~~

~~— (2) a planning project which proposes to study or analyze an idea prior to a future request for funds to pilot test or implement the studied concepts;~~

~~— (3) where funds remain, projects which propose to duplicate a proven productivity project developed and tested in another district would be considered for replication.~~

KEY: educational planning

1987

Notice of Continuation September 12, 1997

Art X Sec 3

53A-1-401(4)

53A-1-401(3)]



Education, Administration
R277-441
 Alternative Experimental Pilot Programs

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 25108

FILED: 07/15/2002, 18:40

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is repealed because the funding and specific program no longer exist.

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

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no anticipated cost or savings to the state budget for pilot/experimental education programs beginning in the 2002 school year. There may be minimal savings to the Utah State Office of Education because it will no longer need to administer the program.

❖ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government. School districts will not receive specific funds for these programs but may find funds within the school district.

❖ OTHER PERSONS: There is no anticipated cost or savings to other persons. Only school districts, never persons, received funds.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Only school districts, never persons, received funds.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at clear@usoe.k12.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/03/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 09/04/2002

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.~~[R277-441. Alternative Experimental Pilot Programs.~~~~**R277-441-1. Definitions.**~~~~— A. "Board" means the Utah State Board of Education.~~~~— B. "Certificated teachers" means instructors in the public schools who hold licenses issued by the Board which attest to the fact that the holders have satisfied the requirements for employment in the public school system as outlined in R277-502.~~~~— C. "Superintendent" means the State Superintendent of Public Instruction.~~~~— D. "USOE" means the Utah State Office of Education.~~~~**R277-441-2. Authority and Purpose.**~~~~— A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision over public schools in the Board, Section 53A-17a-132(4)(b) which directs the Board to select schools for the pilot programs and develop selection criteria, and by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.~~~~— B. The purpose of this rule is to establish criteria and procedures for schools and school districts to receive alternative experimental pilot program funds.~~~~**R277-441-3. Selection of Schools.**~~~~— A. Funds shall be allocated to school districts for specific elementary schools selected by the review team.~~~~— B. Up to three elementary schools shall be selected for funding in each school year that funds are appropriated or available.~~~~— C. Proposals shall be received at the Superintendent's office as designated by the application.~~~~**R277-441-4. Required Selection Criteria.**~~~~— A. The school shall provide:~~~~— (1) a minimum of five hours per day of 2-12 instruction time;~~~~— (2) a minimum of 1100 hours per year of instruction time in grades 2-12;~~~~— (3) that the minimum instruction time of hours per day and hours per year is offered by certificated teachers;~~~~— (4) a significant increase, identified in the proposal, over the previous year of instruction time devoted to the core subjects designated in R277-700-10;~~~~— (5) a suggested and projected long-term student plan that encourages students to complete their elementary education in five rather than six and complete public school education in ten instead of the traditional 12 years;~~

- (6) increased teacher specialization in grades K-6; and
- (7) a projected school year calendar which begins no later than August of the school year that funds are appropriated or available.

R277-441-5. Recommended Selection Criteria.

- A. Priority shall be given to school proposals which include:
 - (1) Two to three hours per day of time devoted to any combination of:
 - (a) instruction in subjects such as music, art, technology, foreign language and citizenship;
 - (b) instruction by certificated and non-certificated instructors and volunteers;
 - (c) city and county recreation programs; and
 - (d) community service activities.
 - (2) Schools, city and county recreation programs such as intramural, leagues and clubs;
 - (3) Opportunities, facilities and supervisors for community service by students;
 - (4) After hours school use for two or three hours per day for two or three school days per week or Saturdays;
 - (5) Use of school facilities for a variety of child parent, adult and technology skill building opportunities or activities;
 - (6) Use of school facilities during extended holiday and summer breaks; and
 - (7) A long term commitment from the district to continue the priorities identified in the proposal.

R277-441-6. Distribution of Funds.

- A. The schools selected to receive funding shall be identified as determined in the application process.
- B. The funding shall be provided monthly from the USOE.

R277-441-7. Evaluation.

- The USOE and school districts with selected schools shall collaborate on an annual evaluation of program effectiveness and student progress.

KEY: public schools, school year, extended year*
 1994
 Notice of Continuation September 30, 1999
 Art X Sec 3
 53A-17a-132(4)(e)
 53A-1-401(3)]



Education, Administration
R277-452
 Procedures for Filing Comprehensive
 Capital Outlay Plan

NOTICE OF PROPOSED RULE
 (Repeal)
 DAR FILE No.: 25100
 FILED: 07/15/2002, 18:37

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is repealed because the law no longer exists that made the rule necessary.

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

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

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** There is no anticipated cost to state government. There may be some savings in administration costs at the State Office of Education to review plans. Some oversight previously providing -- savings in staff time/costs.
- ❖ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. Local school boards/school districts will now be responsible, perhaps using consultants, to ensure wise planning and spending on capital projects.
- ❖ **OTHER PERSONS:** There is no anticipated cost or savings to other persons. Persons had no expenses previously/no savings now.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Persons had no expenses previously/no savings now.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at clear@usoe.k12.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/03/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 09/04/2002

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.
~~**R277-452. Procedures for Filing Comprehensive Capital Outlay Plan.**~~

R277-452-1. Definitions.

- A. "Board" means the Utah State Board of Education.
- B. "USOE" means the Utah State Office of Education.
- C. "Comprehensive Capital Outlay Plan" means a plan outlining current school buildings, their location, and their usage, with a description of future school buildings, their location, and their usage.

R277-452-2. Authority and Purpose.

- A. This rule is authorized by Article X, Section 3 of the Utah Constitution which vests general control and supervision of public education in the Board, and Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities.
- B. The purpose of this rule is to outline the procedures to be followed by local boards in submitting a comprehensive capital outlay plan to the Board.

R277-452-3. Submission of Plan.

- A. A local board of education shall file a comprehensive capital outlay plan with the Board once every five years. It shall also file a revised plan each time changes are adopted by the local board.
- B. Review of plan by USOE
- (1) Upon receipt of a plan, the State Superintendent of Public Instruction shall notify the district submitting the plan of the plans acceptance, rejection, or need for modification.
- (2) The notice shall:
- (a) be given within 60 days of receipt of the plan;
- (b) include reasons for rejection or need for modification; and
- (c) advise the local board of the process to appeal the determination.
- (3) The Board shall approve the plan if it is in accordance with generally accepted projection standards and techniques or unless an exception made by the State Superintendent is justified.
- C. Within a reasonable time following a determination of rejection or need for modification, district and USOE staff shall meet to agree to a plan acceptable to the USOE and the district.

R277-452-4. Appeal Procedures.

- A. A local board receiving notification of rejection or need for modification of its plan, may, after the meeting required under Subsection R277-452-3, make a written request for a hearing with the Board.
- B. The written request shall include:
- (1) justification for the request, including an explanation of the district and USOE's inability to reach agreement;
- (2) what part of the plan necessitates reconsideration by the Board; and
- (3) other relevant facts for reconsideration.
- C. The local board may present its position to the Board orally.
- D. The State Superintendent of Public Instruction may make written and oral recommendations to the Board concerning the Board's reconsideration.
- E. No later than the first regular meeting of the Board after the appeal hearing, the Board shall make a final determination regarding the plan. The State Superintendent of Public Instruction shall notify the local board of the Board's decision.
- F. The decision of the Board is the final administrative determination on the matter.

KEY: educational facilities, educational planning
October 5, 1998
Art X Sec 3
53A-1-401(3)]



Education, Administration
R277-455
Standards and Procedures for Building
Plan Review

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 25107

FILED: 07/15/2002, 18:40

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is repealed because the law no longer exists that made the rule necessary. The law was seen as duplicative and burdensome to school districts.

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

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

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There is no anticipated cost to the state budget. There may be some savings in staff time without required review.
- ❖ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government. Most of the requirements are still in place with other state or federal entities; no increased review by local school boards due to repeal of this rule.
- ❖ OTHER PERSONS: There is no anticipated cost or savings to other persons. Other persons were never affected, only state and local boards.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Other persons were never affected, only the State and local boards of education.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at clear@usoe.k12.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/03/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 09/04/2002

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.**~~R277-455. Standards and Procedures for Building Plan Review.~~****R277-455-1. Definitions.**

— A. "USOE" means the Utah State Office of Education.

— B. "Building Code" means all of the following which are available at the Division of Facilities Construction and Management and from the USOE Finance and Statistics Division:

— (1) "Uniform Building Code (UBC)" as promulgated by the International Conference of Building Officials (ICBO);

— (2) "National Electrical Code (NEC)" as promulgated by the National Fire Protection Association (NFPA);

— (3) "Uniform Plumbing Code (UPC)" as adopted by the International Association of Plumbing and Mechanical Officials (IAPMO);

— (4) "Uniform Mechanical Code (UMC)" as promulgated by the ICBO and IAPMO;

— (5) "Utah Energy Code" as adopted by the American Society of Heating, Refrigeration, and Air Conditioning Engineers, Inc./Illuminating Engineers Society (ASHRAE/IES);

— (6) "Americans with Disabilities Act Handbook"; and

— (7) "Utah State Fire Marshal Laws, Rules and Regulations."

— C. "Schematic drawing" means a first, single line drawing of the layout of a facility showing the general orientation and development of a project.

— D. "Preliminary plan" means a further development of a schematic drawing illustrating the size and character of a project including plans, elevations, and other necessary drawings giving the size and character of the structure, the mechanical system, the electrical system, and an estimate of the construction cost.

— E. "Final plans" means the plans and specifications from which the project is to be constructed.

— F. "State Superintendent" means the State Superintendent of Public Instruction or his or her designee.

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

R277-455-2. Authority and Purpose.

— A. This rule is authorized by Section 53A-20-102 which requires the State Superintendent to approve specified district building projects, Section 53A-20-104 which requires the State Superintendent to enforce state statutes relative to district building projects, Sections 53A-1-402(1)(d) and 53A-20-102(2)(c) which allow the Board to adopt rules relative to district building projects and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

— B. The purpose of this rule is to specify the standards and procedures by which proposed building construction plans are approved by the State Superintendent.

R277-455-3. Submissions.

— A. If the total annual accumulative cost of a building project exceeds \$100,000, before the project is let for bid, the district shall submit to the State Superintendent for review and approval:

— (1) at least one set of the preliminary plan for the project as soon as the plans are completed; and

— (2) one set of the final plans, with the signed approval of the State Fire Marshal, the State Health Department or local Health Department, and the State Division of Facilities Construction and Management, where applicable under Subsection 3(C).

— B. All school districts prior to bid shall submit to the State Fire Marshal:

— (1) one set of the preliminary plan of a building project as soon as it is completed; and

— (2) one set of the final plan for approval.

— C. All school districts constructing facilities in whole or in part with state funds shall submit for approval project plans and specifications to the State Division of Facilities Construction and Management prior to bid in accordance with Section 26-29-4.

— D. All districts shall provide one set of the "as built" plans to the Board. School districts shall maintain "as built" plans.

— E. Plans for proposed building sites shall be submitted to the State Superintendent for approval.

— F. Prior to the adoption of a change order affecting educational adequacy, life safety, or access to persons with disabilities, it shall be submitted to the State Superintendent for approval.

R277-455-4. Criteria for Approval.

— A. To receive approval of a proposed building site, the local school district must certify that:

— (1) the site is well located;

— (2) the site is of adequate size;

— (3) staff of the Utah Geological Survey have reviewed and recommended approval of the geologic hazards report provided by the school district geotechnical consultant; and

— (4) the location of the site has been determined after consultation with appropriate local government authorities in accordance with Section 53A-20-108.

— B. School districts shall have a procedure to review geologic hazards in screening potential school facility sites prior to acquisition.

— C. To receive approval of proposed building plans, the local school district must provide evidence that:

— (1) the plans meet the requirements of Section 53A-20-102;

— (2) the school district has provided for inspection by an inspector qualified under criteria established by R156-56-11, Uniform Building Standard Rules, and the State Superintendent; and

— (3) the school district has provided the notice required by Section 53A-20-108.

R277-455-5. Procedures.

— A. The USOE shall review preliminary plans upon receipt. Recommendations, suggestions, and comments resulting from the review are sent by letter to the affected school district superintendent and the architect. Meetings with the district superintendent, USOE staff, district staff, and the architect to resolve problems revealed by the review may be initiated by the USOE staff, the district

superintendent, or the architect. The review of a preliminary plan represents the major review of the USOE. The USOE shall make every effort to resolve problems relating to the approval of plans prior to the submission of the final plans.

— B. Upon receipt, the USOE reviews final plans in light of the preliminary review and any subsequent discussions. Approval of the plans is given by the State Superintendent if the final plans meet the criteria of Section 4(B).

— C. Upon receipt, the USOE considers requests for site approval. The State Superintendent approves requests that meet the criteria of Section 4(A) unless there is justification for exception.

— D. Upon receipt, requests for approval of change orders are reviewed by the USOE and, if appropriate, submitted to the State Fire Marshal, State Health Department and State Building Board for approval. Approval or rejection of the change order is made on the basis of compliance with building code specifications, statutory and administrative rule requirements, and Fire Marshal and Building Board approval.

— E. Approval of plans and specifications and of change orders is signified by the signature of the authorized person on the document.

KEY: educational facilities

August 1, 2000

Notice of Continuation February 26, 1999

53A-20-102

53A-20-104

53A-1-402(1)(d)

53A-1-401(3)

53A-20-108

26-29-4]

Education, Administration

R277-459

Teachers' Supplies and Materials Appropriation

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 25095

FILED: 07/15/2002, 18:35

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to include teachers from charter schools and from the Edith Bowen Laboratory School to be eligible to receive the appropriation for teachers' supplies and materials. This language is based on 2002 legislation in H.B. 3, Supplemental Appropriations Act II. (DAR NOTE: H.B. 3 is found at UT L 2002 Ch 330, and was effective on March 26, 2002.)

SUMMARY OF THE RULE OR CHANGE: The rule now includes charter school teachers and Edith Bowen Laboratory School teachers as eligible to receive the teachers' supplies and materials appropriation.

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

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There is no anticipated cost or savings to state budget because charter schools have previously received these funds for their teachers, as public schools.
- ❖ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government; funds come from the state.
- ❖ OTHER PERSONS: There is no anticipated cost or savings to other persons; charter school teachers, as public school teachers, have previously and will continue to receive funds for materials and supplies.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The money comes from the state budget to all public school teachers.

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

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

EDUCATION

ADMINISTRATION

250 E 500 S

SALT LAKE CITY UT 84111-3272, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at clear@usoe.k12.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/03/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 09/04/2002

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.

R277-459. Teachers' Supplies and Materials Appropriation.

R277-459-1. Definitions.

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

[C]B. "[Full-time equivalent teaching position]Classroom teacher" means a permanent teacher position filled by one or more [job sharing]teachers employed by a school district, the Utah Schools for the Deaf and the Blind, the Edith Bowen Laboratory School, and charter schools and paid on the teachers' salary schedule or a charter school salary schedule. Teachers shall be employed for an entire contract period and shall provide instructional [or counseling]services to students.

[B]C. "Field trip" means a district, [ATC]or school authorized excursion for educational purposes.

D. "Teaching supplies and materials" means both expendable and nonexpendable items that are used for educational purposes by teachers in classroom activities and may include such items as:

(1) paper, pencils, workbooks, notebooks, supplementary books and resources;

(2) laboratory supplies, e.g. photography materials, chemicals, paints, bulbs (both light and flower), thread, needles, bobbins, wood, glue, sandpaper, nails and automobile parts;

(3) laminating supplies, chart paper, art supplies, and mounting or framing materials;

(4) This definition should be broadly construed in so far as the materials are used by the teacher for instructional purposes in classrooms, lab settings, or in conjunction with field trips.

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

R277-459-2. Authority and Purpose.

A. This rule is authorized under Utah Constitution Article X, Section 3 which gives general control and supervision of the public school system to the Board, by Section 53A-1-402(1)(b) which directs the Board to establish rules and minimum standards for school programs, and by state legislation which provides a designated appropriation for teacher classroom supplies and materials.

B. The purpose of this rule is to distribute money ~~[to]~~through school districts, ~~[ATCs and]~~the Utah Schools for the Deaf and the Blind, the Edith Bowen Laboratory School, and charter schools to ~~[allocate to]~~classroom teachers ~~[and counselors]~~ for school materials and supplies and field trips.

R277-459-3. Distribution of Funds.

A. Each school district, ~~[ATC and]~~the Utah Schools for the Deaf and the Blind, the Edith Bowen Laboratory School, and charter schools shall provide the USOE with a teacher count of full-time ~~[equivalent teaching positions]~~classroom teachers, as defined above, as of October 1 of each year.

B. The USOE shall distribute funds ~~[to]~~through each school district, ~~[ATC and]~~the Utah Schools for the Deaf and the Blind, the Edith Bowen Laboratory School, and charter schools proportionally per ~~[full-time equivalent teaching]~~eligible position to the extent of the appropriation.

C. Individual teachers shall designate the uses for their allocations within the ~~[guidelines]~~criteria of this rule. Districts and other eligible schools shall develop procedures and timelines to facilitate the intent of the appropriation.

D. Each school district shall ensure that each eligible individual ~~[in a full-time equivalent teaching position]~~has the opportunity to receive the proportionate share of the appropriation.

E. If a teacher has not spent or committed to spend the individual allocation by April 1, the school or district may make the excess funds available to other teachers or may reserve the money for use by teachers the following years.

F. These funds are to supplement, not supplant, existing funds for these purposes.

G. These funds are to be accounted for by the district or eligible school using state or district procurement and accounting policies.

R277-459-4. Other Provisions.

A. Districts, ~~[ATCs and]~~the Utah Schools for the Deaf and the Blind, the Edith Bowen Laboratory School, and charter schools shall allow, but not require, teachers to jointly use their allocations.

B. Districts, ~~[ATCs and]~~the Utah Schools for the Deaf and the Blind, the Edith Bowen Laboratory School, and charter schools shall allow part-time or job-sharing teachers a proportionate allocation.

KEY: teachers, supplies~~≠~~

~~[September 1, 2000]~~**2002**

Notice of Continuation July 12, 2000

Art X Sec 3

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



Education, Administration **R277-465** Character Education Funding

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 25106

FILED: 07/15/2002, 18:40

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is repealed because the funding no longer exists.

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

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. Overall state budgets have been cut with this program specifically eliminated.

❖ LOCAL GOVERNMENTS: There is no anticipated cost or saving to local government. Local boards of education may use general block grant funds for character education.

❖ OTHER PERSONS: There is no anticipated cost or savings to other persons. Other persons were never affected.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Persons were never affected.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at clear@usoe.k12.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/03/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 09/04/2002

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.

~~R277-465. Character Education Funding.~~

~~R277-465-1. Definitions.~~

- ~~— A. "Board" means the Utah State Board of Education.~~
- ~~— B. "Core Curriculum" means minimum academic standards provided through courses as established by the Board which shall be completed by all students K-12 as a requisite for graduation from Utah's secondary schools.~~
- ~~— C. "USOE" means the Utah State Office of Education.~~
- ~~— D. "Character education" means any program or activity integrated into the Core Curriculum and designed to teach students principles of character that will help them avoid high risk behaviors and learn to function as caring, productive citizens in society.~~
- ~~— E. "Utah State Public Education Strategic Plan (Strategic Plan)" means the written plan presented to the Utah Legislature in January, 1992 for improving public education in Utah. A copy of the Strategic Plan is available in the Office of the State Superintendent of Public Instruction.~~

~~R277-465-2. Authority and Purpose.~~

- ~~— A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of the public school system under the Board, by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities and by Section 53A-17a-131.6 which provides that the Board develop rules for the distribution of funds appropriated for the character education program.~~
- ~~— B. The purpose of this rule is to clarify criteria and procedures for distributing funds for character education programs.~~
- ~~— C. The purpose of character education is to teach students principles such as integrity, social responsibility, and the importance of the work ethic in order to help them avoid high risk behaviors and learn to function as caring, productive citizens in society.~~

~~R277-465-3. Application Process.~~

- ~~— A. School districts shall complete a written application for character education funding and submit the application to the USOE Character Education Specialist by deadlines designated by the USOE.~~
- ~~— B. The application shall present a systematic and comprehensive district plan and include proposed student materials, parent involvement and teacher training components.~~
- ~~— C. Application may request funding for up to three years.~~
- ~~— D. The application shall:~~
 - ~~— (1) include the name of the school district and contact person;~~
 - ~~— (2) identify the names and positions of the district character education committee including parent membership;~~
 - ~~— (3) describe the district character education plan;~~
 - ~~— (4) describe how the application meets the criteria described in Section 53A-17a-131.6 for the use of character education funds;~~

- ~~— (5) include a process for evaluating character education activities undertaken as part of the plan;~~
- ~~— (6) include a description of how the character education activities of the plan shall be integrated into the Core Curriculum and support the State Strategic Plan;~~
- ~~— (7) include a process for seeking approval of the local board and local character education committee of all teaching materials, curriculum materials, course outlines and evaluation instruments used in programs and activities funded with this money; and~~
- ~~— (8) describe how the program will continue after the funding period.~~

~~R277-465-4. Distribution of Funds and Reporting Requirements.~~

- ~~— A. Character education grants of \$20,000 to \$30,000 shall be awarded annually to eight to twelve school districts.~~
- ~~— B. Decisions regarding awards shall be based on the quality of the completed application and the probable effectiveness of the plan.~~
- ~~— C. Character education funds shall be used for:~~
 - ~~— (1) implementing curriculum within the classroom that provides for the direct instruction of students;~~
 - ~~— (2) student materials, parent involvement, and teacher training.~~
- ~~— D. Funding priority shall be given to plans that:~~
 - ~~— (1) will be implemented under the direction of a district character education committee;~~
 - ~~— (2) involve parents with educators in all phases of the design, implementation, and evaluation of the program.~~
 - ~~— (3) have integrated character education into Core Curriculum classes.~~
- ~~— E. Districts receiving funds shall prepare and submit a year-end report that:~~
 - ~~— (1) details how the funds were expended during the program period;~~
 - ~~— (2) identifies any funds not expended;~~
 - ~~— (3) includes a request to carry forward any program funds not expended or obligated during the approved program period with a plan for expenditure of remaining funds with USOE approval;~~
 - ~~— (4) includes results of a yearly program evaluation and an outline of changes planned in response to evaluation information.~~

~~R277-465-5. Waivers.~~

- ~~— The State Superintendent of Public Instruction may grant a written request for a waiver of a requirement or deadline which a district finds unduly restrictive. A request that is granted shall be consistent with state and federal law and the express purposes of this rule.~~

~~KEY: curricula, character education*~~

~~October 16, 1995~~

~~Notice of Continuation October 13, 2000~~

~~Art X Sec 3~~

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

~~53A-17a-131.6]~~



Education, Administration
R277-467
 Modernizing School Library Media
 Center Collections

NOTICE OF PROPOSED RULE

(Repeal)
 DAR FILE NO.: 25110
 FILED: 07/15/2002, 18:40

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is repealed because the funding no longer exists.

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

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no anticipated cost to the state budget. There may be minimal administration savings to the Utah State Office of Education because it will no longer need to administer the program.

❖ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government. Local boards may choose to develop programs with block grant funds.

❖ OTHER PERSONS: There is no anticipated cost or savings to other persons. Other persons were never affected.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Persons were never affected.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at clear@usoe.k12.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/03/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 09/04/2002

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.

~~[R277-467. Modernizing School Library Media Center Collections.~~

~~**R277-467-1. Definitions.**~~

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

~~— B. "USOE" means the Utah State Office of Education.~~

~~— C. "Library books" means trade books that support the school curriculum and books for recreational reading interests. This definition does not include textbooks or books used solely for classroom instruction.~~

~~— D. "School library media collections" means those collections of resources, in a variety of formats and delivery systems, used for information and support of reading skills instruction and practice. Such collections shall be managed and housed in the individual school library media center or are acquired by library media personnel for electronic access.~~

~~**R277-467-2. Authority and Purpose.**~~

~~— A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public schools in the Board, by 1996 Laws of Utah, Chapter 321, Section 36(3) which directs the Board to develop rules to distribute one-time monies for school library media collections, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.~~

~~— B. The purpose of this rule is to provide for distribution of one-time monies to school districts for school library media collections during the 1996-97 school year.~~

~~**R277-467-3. Distribution of Funds.**~~

~~— A. Each Utah school shall receive an allocation from the appropriation for library media reference resources as follows:~~

~~— (1) elementary schools, through grade six, shall receive \$2,000 per school;~~

~~— (2) junior high/middle/intermediate schools, through grade nine, shall receive \$2,200 per school;~~

~~— (3) senior high school shall receive \$2,400 per school; and~~

~~— (4) Multi-level schools shall receive the appropriation as determined by the highest grade in the school.~~

~~— B. Following the base distribution, the remaining funds shall be distributed to districts on a per-pupil basis.~~

~~— C. Schools shall spend these fund allocations only for library media collection materials including library books and CD-ROM-based library media reference resources. CD-ROM-based library media reference resources may include encyclopedias and index databases.~~

~~**R277-467-4. Accountability and Evaluation.**~~

~~— The USOE Library Media Specialist may review individual schools to determine if funds were expended consistently with the purpose of this rule and the law.~~

~~KEY: libraries, educational media[±]
 April 29, 1997
 Notice of Continuation November 30, 2001
 Art X Sec 3
 53A-1-401(3)]~~

Education, Administration

R277-472

Reading Performance Improvement
 Awards Program

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 25101

FILED: 07/15/2002, 18:38

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is repealed because the funding no longer exists.

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

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

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There is no anticipated cost to the state budget. There may be minimal administrative savings to the Utah State Office of Education because it will no longer need to administer the program.
- ❖ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government. Local boards may choose to develop programs with block grant funds.
- ❖ OTHER PERSONS: There is no anticipated cost or savings to other persons. Other persons were never affected.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Persons were never affected.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at clear@usoe.k12.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/03/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 09/04/2002

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.

~~[R277-472. Reading Performance Improvement Awards Program.~~

~~**R277-472-1. Definitions.**~~

~~— A. "ASCII (American Standard Code for Information Interchange)" means a binary code for text as well as communications and printer control. It is used for most communications and is the built-in character code in most minicomputers and all personal computers.~~

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

~~— C. "CRT (Criterion Reference Test)" means the Utah State Core assessment end-of-level test designed to assess student mastery of the reading Core Curriculum in grades K-3.~~

~~— D. "Ethical administration of assessments" means that educators should not violate general ethical standards concerning theft, cheating, lying or similar violations as they relate to the testing or evaluation process. Also, the definition includes educational defensibility test preparation activity that raises student test scores is INAPPROPRIATE unless it simultaneously increases student mastery of the content domain tested.~~

~~— E. "Significant reading performance improvement" means:~~

~~— (1) students shall be assessed using the State CRTs, an Informal Reading Inventory, and a diagnostic reading instrument selected from the state approved list. In addition to these three, schools may use other instruments to demonstrate reading performance improvement;~~

~~— (2) schools shall provide documentation of performance on the designated assessments showing student performance in reading; and~~

~~— (3) the majority of the students in the school (i.e., more than 50 percent) shall have improved their reading performance on at least two-thirds of the reading assessments given to students.~~

~~— F. "USOE" means the Utah State Office of Education.~~

~~**R277-472-2. Authority and Purpose.**~~

~~— A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-3-402.11(2)(b) which requires the Board to make rules for program participation, and Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities.~~

~~— B. The purpose of this rule is to provide an application process and standards for school participation in the Reading Performance Improvement Awards Program.~~

~~**R277-472-3. Application Process and Distribution of Funds.**~~

~~— A. Awards shall be made to individual schools and funds allocated to school districts to distribute to designated schools for K-3 programs.~~

~~— B. Schools shall use existing documents and data (e.g. application for State Literacy Program funds, application for school trust lands funds, grant applications, accreditation data) to apply for this award.~~

~~— C. Upon submission of an application for any grant that addresses reading, a school should indicate the desire to receive funds for the funds awarded under this rule.~~

~~— D. Any application that outlines a program that is currently being implemented in a school may be used to apply for these funds.~~

~~— E. The application that is submitted by schools to the district shall include:~~

~~— (1) identification of current performance in reading, including student level baseline data for all instruments used to document significant reading performance improvement, submitted as an ASCII file;~~

~~— (2) an explanation of procedures to be implemented for monitoring student progress to ensure accountability, including ethical administration of the assessment measures at uniform times throughout the school year;~~

~~— (3) a description of the school's reading program(s);~~

~~— (4) a plan for professional development and training for school staff to support implementation of the program(s); and~~

~~— (5) a listing of the resources and materials needed to implement the plan. Any resources needed to implement the plan are the responsibility of the school.~~

~~— F. Applications shall be collected at the district office and reviewed by district staff to ensure that the application requirements have been met, and forwarded by the district to the Evaluation and Assessment Coordinator at the Utah State Office of Education no later than November 15 of each year. End of year outcome data shall be submitted by each successful applicant in the same format as baseline data to USOE no later than September 30 of each year.~~

~~— G. USOE staff shall review the applications received from the districts each year and identify those that have met the criteria for showing significant reading performance improvement.~~

~~— H. Those that have documented significant reading performance improvement will be rank ordered according to the amount of improvement made.~~

~~— I. Nine schools that have shown the greatest improvement will be identified.~~

~~— J. USOE staff shall submit the names of the schools showing the greatest improvement to the Board for approval to receive \$1,000 each.~~

~~— K. Schools receiving funding shall be notified by October 15.~~

R277-472 4. Limitation on Funds.

~~Funds shall be used exclusively for purposes set forth in Section 53A-3-402.11(2)(a)(ii) (i.e., to purchase books and other reading materials).~~

KEY: reading, academic performance

November 16, 1999

Art X-See 3

53A-3-402.11(2)(b)

53A-1-401(3)]



Education, Administration **R277-478** Block Grant Funding

NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE NO.: 25096

FILED: 07/15/2002, 18:35

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the repeal and reenact is to provide for significant changes to the block grant.

SUMMARY OF THE RULE OR CHANGE: The reenacted rule combines different funds together into three new blocks. The repealed rule included in the local discretionary block: truancy prevention and intervention; character education; alternative middle school programs; unrestricted local program; incentives for excellence; Educational Technology Initiative (ETI); school nurses; experimental and developmental; and reading initiative; the reenacted rule includes in the local discretionary block: maintenance and operation costs; capital outlay; department services; and a distribution formula for local discretionary block grant programs. The repealed rule in the special populations block grant included: Families, Agencies, and Communities Together (FACT); gang prevention and intervention; youth in custody; Math, Engineering, Science Achievement (MESA); Alternative Language Services (ALS); highly impacted schools; adult education; regular at risk; homeless and minority; accelerated learning programs; and pregnancy prevention; the reenacted rule in the special populations block grant emphasizes improving student academic success with priority for interventions for students not performing to Utah Performance Assessment System for Students (U-PASS) standards and also includes a funding formula. The repealed rule included funding for professional development and career ladders; the reenacted rule has a third block called quality teaching that provides a formula and requires the school district to have a long-term professional development plan, but also still provides for an optional career ladder program.

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no anticipated cost or savings to state government. The revised blocks give local school boards greater spending discretion.

❖ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government. Local school boards will have greater discretion.

❖ OTHER PERSONS: There is no anticipated cost or savings to other persons. Only local school boards are affected.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons; funding is only to local school boards.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at clear@usoe.k12.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/03/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 09/04/2002

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.
~~[R277-478. Block Grant Funding.~~
~~R277-478-1. Definitions.~~

~~—A. "Adult basic education" means a program funded through the state using state and federal funds to provide instruction for adults whose inability to compute or speak, read, or write the English language below the ninth grade level substantially impairs their ability to find or retain employment commensurate with their real ability.~~

~~—B. "Alternative Language Services (ALS)" means researched-based, instructional programs that are compatible with the Board's PRINCIPLES OF EQUITY FOR UTAH'S PUBLIC SCHOOLS and that meet the needs of children speaking a language other than English in the public school system. Programs shall be designed to enable students to achieve competence in English and to meet school grade promotion and graduation requirements as determined by the Board and school districts.~~

~~—C. "Alternative Middle School Program" means an educational placement outside of the traditional school setting for students ages 11-15 that integrates middle school characteristics outlined in Section 53A-11-909(5).~~

~~—D. "Block grant funding formula" means a plan for the distribution of funds to school districts based upon a district's total WPUs in K-12, and the necessarily existent small schools portion of the Minimum School Basic program.~~

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

~~—F. "Character education" means any program or activity integrated into the Core Curriculum which is designed to teach students principles of character that will help them avoid high risk behaviors and learn to function as caring, productive citizens in society.~~

~~—G. "Educational Technology Initiative" means a program as outlined in Section 53A-1-701.~~

~~—H. "Experimental and Developmental Program" means a program that is in the testing, research or expansion stage that demonstrates the potential to improve education.~~

~~—I. "Fiscal Year (FY)" means the twelve month period from July 1 through June 30 during which state funds are distributed.~~

~~—J. "Highly Impacted Schools" means schools with identified risk factors for student success including: high student mobility, high percentage of students eligible for free school lunch, high percentage of ethnically diverse students, high percentage of student with limited English proficiency, and large percentage of students from single parent families.~~

~~—K. "Homeless student" means a student who meets the federal definition of homeless for purpose of funding under the McKinney Act, 42 USCA, Sections 11431 through 11434.~~

~~—L. "Incentives for Excellence" is a program providing for programs, practices, learning materials, and equipment which have direct impact upon the instruction of students and which result in increased student performance in the Core Curriculum.~~

~~—M. "Math, Engineering, Science Achievement program (MESA)" means a course or courses offered during the regular school day or a club held after school that involves identified students and addresses identified district objectives with designated minority and female students.~~

~~—N. "Professional development" means activities approved under R277-501 for the purpose of satisfying requirements of Section 53A-6-104 for educator license renewal.~~

~~—O. "Request for proposal (RFP)" means a competitive application process used to identify programs that best meet requirements established by the Board.~~

~~—P. "USOE" means the Utah State Office of Education.~~

R277-478-2. Authority and Purpose.

~~—A. This rule is authorized under Utah Constitution, Article X, Section 3, which vests general control and supervision of public education in the Board, and Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities.~~

~~—B. The purpose of this rule is to establish criteria and procedures for distributing discretionary block grant funds and to provide for appropriate monitoring, reporting, and accountability.~~

R277-478-3. Local Discretionary Block Grant Programs.

~~—A. Districts may allocate any amount received for programs within this block to other programs within this block.~~

~~—B. Districts shall adhere to identified law, rules or criteria for all programs for which the local board of education chooses to expend block grant funds.~~

~~—C. Programs for which local discretionary block grant funds may be spent include:~~

~~—(1) Truancy Intervention and Prevention as defined and outlined in R277-607;~~

~~—(2) Character Education as defined and outlined in Section 53A-13-101(4) and R277-465. Additionally, monies shall be used to provide inservice training to teachers on the use and teaching of character education materials and to acquaint teachers with the requirements in the Utah Constitution and state statutes to teach qualities of character.~~

~~—(3) Alternative Middle School programs as defined and outlined in Section 53A-11-909;~~

~~—(4) Unrestricted Local Program—monies may be used for the following:~~

~~—(a) maintenance and operation costs;~~

- (b) capital outlay and debt service; or
- (c) a combination of maintenance and operation costs and capital outlay and debt service.
- (d) Expenditures shall meet criteria and accountability standards consistent with the purposes of this rule and
- (e) be reported to the Board in annual budget and financial reports.
- (5) Incentives for Excellence
 - (a) A school district shall use its allocation to promote a strong partnership between public education and private enterprise, to seek additional financial support from the business community, and to enhance its educational excellence; and
 - (b) School districts are encouraged under this program to develop projects that rely on matching private and public monies to promote educational excellence.
- (6) Educational Technology Initiative as defined and outlined by Sections 53A-1-701 through 707;
 - (a) Monies may be used to maintain existing programs and for inservice programs required to implement the technology; and
 - (b) Each school district shall develop a comprehensive inservice plan and report expenditures for teacher training to the USOE.
- (7) School Nurses as defined and outlined by Section 53A-11-204;
- (8) Experimental and Developmental Programs as defined and outlined by Sections 53A-15-103, 53A-17a-132 and R277-416;
- (9) Reading Initiative as defined and outlined in Section 53A-1-606.5;
- (10) Local discretionary program; expenditures shall:
 - (a) meet criteria and accountability standards consistent with the purposes of this rule.
 - (b) be reported to the Board in annual budget and financial reports.

R277-478-4. Special Populations Block Grant Programs.

- A. Except for programs for which funds are awarded through the RFP process, districts may allocate any amount received for Special Population Programs to other programs within the Special Population Programs' category. Funds may also be used to supplement RFP programs.
- B. Districts shall adhere to identified law, rules or criteria for all programs for which the local board of education chooses to expend Special Population Program funding.
- C. RFP programs include:
 - (1) FACT (Families, Agencies, and Communities Together);
 - (2) Gang Prevention and Intervention;
 - (3) Youth in custody — a district shall serve all populations identified in the law; and
 - (4) MESA (Math, Engineering, and Science Achievement).
- D. Non RFP programs include:
 - (1) Alternative language Services as defined and outlined in R277-716;
 - (2) Highly Impacted Schools as defined and outlined in Section 53A-15-701 and R277-464;
 - (3) Adult Education as defined and outlined in Sections 53A-15-401, 53A-17a-119 and R277-733;
 - (4) Regular At risk as defined and outlined in Section 53A-17a-121 and R277-760;
 - (5) Homeless and Minority as defined and outlined in Section 53A-17a-121(4) and R277-616;

- (6) Accelerated Learning programs (including Gifted and Talented, Advanced Placement, and Concurrent Enrollment) as defined and outlined in Section 53A-17a-120, R277-711, R277-712 and R277-713; and
- (7) Pregnancy prevention — upon submission of a program consistent with Sections 53A-13-101, 76-7-321 through 325, R277-752 and this rule.

R277-478-5. Professional Development and Career Ladders.

- A. The Board shall distribute funds for teacher professional development programs and teacher career ladders to school districts.
- B. Career ladder programs shall be funded under and consistent with:
 - (1) Sections 53A-9-101 through 105,
 - (2) Section 53A-17a-124, and
 - (3) R277-526.
- C. \$10,000,000 of the professional development appropriation shall be distributed to school districts for teacher professional development days beyond the regular school year.
 - (1) For purposes of this appropriation, each district shall add two days designated for professional development to its annual calendar beginning with the 2001-2002 school year.
 - (2) Professional development days shall be scheduled by the district and approved by the local board of education.
 - (3) Funding for professional development days shall be used to implement and train educators for the Utah Performance Assessment System for Students consistent with Section 53A-3-701(5)(a)(i).
 - (4) Districts/schools are encouraged to use existing professional development models that are based on research and best practice to provide training for educators.
 - (5) Districts/schools are encouraged to work with other districts or schools that have common characteristics and goals to maximize resources and funding where possible.
 - (6) The funds received by a district from this appropriation shall be used to pay classroom teachers for the two additional days and may include other licensed employees as identified by the district.

R277-478-6. Hold Harmless Funds.

- Districts shall spend hold harmless funds received under Section 53A-17a-131.16 for local discretionary block programs or consistent with professional development criteria.

KEY: educational expenditures, block grant funding*

August 1, 2001

Art X Sec 3

53A-1-401(3)]

R277-478. Block Grant Funding.

R277-478-1. Definitions.

- A. "Board" means the Utah State Board of Education.
- B. "Core Curriculum (Core)" means minimum academic standards provided through courses as established by the Board which shall be mastered by all students K-12 as a requisite for graduation from Utah's secondary schools.
- C. "Fiscal Year (FY)" means the twelve month period from July 1 through June 30 during which state funds are distributed.
- D. "Limited English proficient (LEP)" means a student who:
 - (1) is aged 3 through 21;
 - (2) was not born in the United States or whose native language is a language other than English and comes from an environment where a language other than English is dominant; or

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

(4) is migratory and whose native language is other than English and comes from an environment where a language other than English is dominant; and

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

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

R277-478-2. Authority and Purpose.

A. This rule is authorized under Utah Constitution, Article X, Section 3, which vests general control and supervision of public education in the Board, and Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to establish criteria and procedures for distributing block grant funds and to provide for appropriate monitoring, reporting, and accountability.

R277-478-3. Local Discretionary Block Grant Programs.

A. Districts and charter schools shall use Local Discretionary Block Grant funds for:

(1) maintenance and operation costs;

(2) capital outlay; and

(3) debt service.

B. Local Discretionary Block Grant funds shall be distributed using the following formula:

(1) Eight percent of the total local discretionary block grant appropriation shall be divided into 41 equal shares.

(2) Each district shall receive one share.

(3) One share shall be divided equally among all charter schools except charter schools which were once existing district schools.

(4) The remaining portion of the local discretionary block grant appropriation (ninety two percent) shall be divided among the districts and charters based upon their total WPU's in K-12, and the necessarily existent small schools portion of the Minimum School Basic program.

C. Local discretionary program expenditures shall:

(1) meet criteria and accountability standards consistent with the purposes of this rule.

(2) be reported to the Board in annual budget and financial reports.

R277-478-4. Interventions for Student Success Block Grant.

A. Districts and charter schools shall use Interventions for Student Success Block Grant funds to improve student academic success, with priority given to interventions on behalf of students not performing to standards as determined by U-PASS test results.

B. Each school district and charter school governing board shall develop a plan for the expenditure of Interventions for Student Success Block Grant funds. In developing the plan, districts should consider involving educators from Core areas identified in R277-700.

C. The plan shall specify anticipated results; it may include continuing existing programs to improve students' academic success for which funds were appropriated before FY 2003.

D. Each local school board and charter school governing board shall approve its plan for the expenditure of the block grant funds in an open public meeting under Sections 52-4-1 through 10 before the funds are designated for specific programs.

E. By September 1 of each year, each local school board and charter school governing board shall submit a copy of its plan, a letter of assurance to the Board that its plan was approved in an open and public meeting, and a copy of the local board minutes of the meeting in which the plan was approved.

F. If a local school board or charter school governing board fails to submit the documents specified in R277-478-4E to the Board by September 1, the Board shall withhold the distribution of Interventions for Student Success Block Grant funds until documentation required under this rule is provided.

G. Interventions for Student Success Block Grant funds shall be distributed using the following formula:

(1) Seventy seven percent of the total student success block grant appropriation shall be allocated using the Local Discretionary Block Grant formula as outlined in R277-478-3B.

(2) The remaining portion of the Interventions for Student Success Block Grant funds (twenty three percent) shall be allocated on the basis of the number of LEP students as determined by Title IX, Part A, Section 9101(25) in each district or charter school for the prior fiscal year.

R277-478-5. Quality Teaching Block Grant.

A. Districts and charter schools shall use Quality Teaching Block Grant funds to implement school and school district comprehensive, long-term professional development plans required under Section 53A-3-701.

B. Each local school board shall, as provided by Section 53A-3-701, review and either approve or recommend modifications for each school's comprehensive, long-term professional development plan within the district so that each school's plan is compatible with the district's comprehensive, long-term professional development plan.

C. Each local school board and charter school governing board shall approve in an open public meeting a plan to spend Quality Teaching Block Grant funds to implement the school district's or charter school's comprehensive, long-term professional development plan. In developing the plan, districts and charter schools should consider involving educators from every core area.

D. By September 1 of each year, the local school board and charter school governing board shall submit a copy of its plan, a letter of assurance to the Board that the plan was approved in an open and public meeting, and a copy of the local board minutes of the meeting in which the plan was approved.

E. If a local school board or charter school governing board fails to submit the documents specified in R277-478-5D to the Board by September 1, the Board shall withhold the distribution of Quality Teaching Block Grant funds until documentation required under this rule is provided.

F. Career Ladder Programs

(1) Districts and charter schools may choose to implement a career ladder program of their own design with money received under the Quality Teaching Block Grant.

(2) If a career ladder program is funded, districts and charter schools shall ensure that their school and district professional development plans are consistent with Section 53A-3-701(iv).

(3) Districts and charters shall also report to the Board how the career ladder funds were spent consistent with Section 53A-9-106.

G. Quality Teaching Block Grant funds shall be distributed using the following formula: thirty percent of the total Quality Teaching Block Grant funds shall be distributed on the basis of the number of full-time equivalent teachers employed by the district or charter school for the immediately previous school year. The remaining seventy percent of the funds shall be distributed on the basis of the number of WPU's in the basic programs of the Minimum School Program for the immediately previous school year.

KEY: educational expenditures, block grant funding 2002
Art X Sec 3
53A-1-401(3)

Education, Administration

R277-521

Professional Specialist Licensing

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 25097

FILED: 07/15/2002, 18:36

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is amended to provide specifically for evaluation of documentation and to emphasize the need for background checks.

SUMMARY OF THE RULE OR CHANGE: The amendment requires review of documentation and requires a criminal background check.

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. Costs of a background check are borne by the individual.

❖ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government. Only a state-level review is required.

❖ OTHER PERSONS: Applicants for this license will pay \$60 for a Federal Bureau of a Investigation (FBI) and Bureau of Criminal Identification (BCI) background check.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Applicants for this license will pay \$60 for a FBI and BCI background check.

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

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

EDUCATION
 ADMINISTRATION

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at clear@usoe.k12.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/03/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 09/04/2002

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.

R277-521. Professional Specialist Licensing.

R277-521-1. Definitions.

[E]A. "Accredited college or university" means a school or institution which is sanctioned through a review process by a regional or national accrediting agency recognized by the United States Department of Education.

[C]B. "License" means an authorization issued by the Board which permits the holder to serve in a professional capacity in ~~the~~ public school[s] administration.

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

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

[D]E. "Volunteer or work experience with the public schools" means regular time spent at specific volunteer assignments such as school board member; regular school district employee; regular classroom volunteer or tutor; or local, regional or state PTA board member under the direction of licensed personnel.

R277-521-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-6-10[+]4(1) which authorizes the Board to issue ~~[certificates]~~ licenses for ~~[teachers, supervisors, administrators, and other professionals]~~ educators, and Section 53A-1-401(3) allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to establish standards for licencing of professional specialists and administrators.

R277-521-3. Level 1 License.

A. Finance and Statistics: An individual employed at least 20 hours per week in a school district or by the Board ~~shall~~ may be eligible for this license if the individual satisfies the following:

(1) has a minimum of a Bachelor's degree from an accredited college or university in accounting, finance, business statistics or a related area; and

(2) can demonstrate at least minimal experience in education which may include:

(a) four semester hours or the quarter hour equivalent from an accredited college or university in education-related classes;

(b) a minimum of five hours of USOE or district inservice in education related classes; or

(c) volunteer or work experience or education experience with the public schools.

(3) submits documentation of education courses or related experience, or both, for evaluation and approval by section/department staff.

B. Law and Legislation: An individual employed at least 20 hours per week by a school district or by the Board, ~~shall~~ may be eligible for the professional specialist license if the individual satisfies the following:

(1) active member of the Utah State Bar; and

(2) can demonstrate at least minimal experience in education which may include:

(a) four semester hours or the quarter hour equivalent from an accredited college or university in education-related classes;

(b) a minimum of five hours of USOE or district inservice in education related classes; or

(c) volunteer or work experience or education experience with the public schools.

(3) submits documentation of education courses or related experience, or both, for evaluation and approval by section/department staff.

C. Evaluation and Assessment: An individual employed at least 20 hours per week by a school district or by the Board, shall be eligible for the professional specialist license if the individual satisfies the following:

(1) has a minimum of a Bachelor's degree from an accredited college or university in psychology, education, or educational psychology; and

(2) can demonstrate at least minimal experience in education which may include:

(a) four semester hours or the quarter hour equivalent from an accredited college or university in education-related classes;

(b) a minimum of five hours of USOE or district inservice in education related classes; or

(c) volunteer or work experience or education experience with the public schools.

(3) submits documentation of education courses or related experience, or both, for evaluation and approval by section/department staff.

R277-521-4. Level 2 License.

A. Finance and Statistics: An individual employed at least 20 hours per week in a school district or by the Board shall be eligible for this license if the individual satisfies all applicable conditions under R277-521-3A and the following:

(1) has completed a Masters degree in accounting, finance, business statistics or a related area, or CPA (certified public accountant) from an accredited college or university; and

(2) provides documentation of significant educational experience such as:

(a) 10-12 hours education-related or supervisor-approved course work; or

(b) 20 hours USOE or district inservice in education-related classes; or

(3) provides documentation of significant volunteer or work experience as demonstrated by increased levels of responsibilities as defined under R277-521-1D or education experience.

B. Law and Legislation: An individual employed at least 20 hours per week in a school district or by the Board shall be eligible

for this license if the individual satisfies all applicable conditions under R277-521-3B and the following:

(1) has completed 20 semester hours or equivalent quarter hours from an accredited college or university in:

(a) educational administration; or

(b) educational instruction; or

(c) supervisor-approved course work; or

(2) provides documentation of significant educational experience such as:

(a) 10-12 hours education-related or supervisor-approved course work; or

(b) 20 hours USOE or district inservice in education-related classes; or

(3) provides documentation of significant volunteer or work experience as demonstrated by increased levels of responsibilities as outlined under R277-521-1D.

C. Evaluation and Assessment: An individual employed at least 20 hours per week in a school district or by the Board shall be eligible for this license if the individual satisfies all applicable conditions under R277-521-3C and the following:

(1) has completed 20 semester hours or equivalent quarter hours beyond the Bachelor's degree from an accredited college or university in:

(a) educational psychology; or

(b) supervisor-approved course work; and

(2) provides documentation of significant educational experience such as:

(a) 10-12 hours education-related or supervisor-approved course work; or

(b) 20 hours USOE or district inservice in education-related classes; or

(3) significant volunteer or work experience as demonstrated by increased levels of responsibilities as outlined under R277-521-1D.

R277-521-5. Level 3 License.

A. Finance and Statistics: An individual employed at least 20 hours per week in a school district or by the Board shall be eligible for this license if the individual satisfies all applicable conditions under R277-521-3A and R277-521-4A and the following:

(1) has completed a Doctorate or Masters degree in accounting, finance, business statistics or a related area, and a CPA consistent with Section 53A-6-103(9)(d); and

(2) has earned a teacher, counselor, or administrative license.

B. School Law and Legislation: An individual employed at least 20 hours per week in a school district or by the Board shall be eligible for this license if the individual satisfies all applicable conditions under R277-521-3B and R277-521-4B and the following:

(1) has completed a Doctorate other than law consistent with Section 53A-6-103(9)(d) and at least a Masters degree in a USOE-approved area of study; and

(2) has earned a teacher, counselor, or administrative license.

C. Evaluation and Assessment: An individual employed at least 20 hours per week in a school district or by the Board shall be eligible for this license if the individual satisfies all applicable conditions under R277-521-3C and R277-521-4C and the following:

(1) has completed a Doctorate consistent with Section 53A-6-103(9)(d); and

(2) has earned a teacher, counselor, or administrative license.

R277-521. Other Requirements.

A. An applicant for licensing under R277-521 shall satisfy the criminal background check requirements under Section 53A-6-401.

B. An applicant for licensing under R277-521 shall satisfy professional development requirements under Section 53A-6-104(2) and R277-501.

KEY: education, license^[z]
[September 15, 1999]2002
 Art X Sec 3
 53A-6-10[4]4(1)
 53A-1-401(3)



Education, Administration
R277-526
 Career Ladders in Education

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 25102
 FILED: 07/15/2002, 18:38

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is repealed because the law and funding no longer exist.

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

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-9-102(1)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated cost to the state budget. There may be minimal administrative savings to the Utah State Office of Education because it will no longer need to administer the program.

❖ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government. Local boards may choose to develop programs with block grant funds.

❖ OTHER PERSONS: Teachers who may have benefited from the Career Ladder program may still receive some compensation from a local board Career Ladder program.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Persons were never affected.

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

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

EDUCATION
 ADMINISTRATION
 250 E 500 S
 SALT LAKE CITY UT 84111-3272, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at clear@usoe.k12.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM ON 09/03/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 09/04/2002

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.**[R277-526. Career Ladders in Education.****R277-526-1. Definitions.**

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

~~— B. "Career Ladder plan" means a compensation system developed by a school district, with cooperation from parents, educators, and school administrators of the district, which is designed to require, recognize and reward quality performance of educators. A Career Ladder plan may also further professional development for licensed educators.~~

~~— C. "Career Ladder Levels" means a component of a Career Ladder consisting of multiple levels to which an educator is assigned. Assignment, compensation, and progress within the system are dependent upon individual qualifications.~~

~~— D. "Career Ladder committee" means a group of citizens, parents, educators and administrators designated by a local board.~~

~~— E. "Educator" means a licensed person who is paid on the teachers' salary schedule and whose primary function is to provide instructional or counseling services to students in the public schools.~~

~~— F. "Educator Evaluation System" means a procedure developed by a school district, with cooperation from parents, educators, and school administrators of the district, which provides a reasonably fair, consistent, and objective evaluation of educator performance.~~

~~— G. "Educator Performance" means the functional ability of an educator as determined by instructional competency, teaching effectiveness, or student progress.~~

~~— H. "Extended Contract Days" means an element of a Career Ladder which provides for additional paid, non-teaching days beyond the regular school year.~~

~~— I. "Individual Extended Contract" means the extension of an individual contract of an educator.~~

~~— J. "Job Enlargement/Extra Pay for Extra Work" means an element of a career ladder which provides additional compensation to individual educators or teams of educators for instruction and curriculum-related responsibilities which are in addition to regular duties and address district or building goals.~~

~~— K. "LEAs" means local education agencies, Utah Schools for the Deaf and the Blind, Edith Bowen Laboratory School and Applied Technology Centers.~~

~~— L. "Line of Evidence" means data used to verify educator performance. This may include peer reviews, student progress data, parent or student survey results, administrator evaluation, or other verification of performance.~~

—M. "Performance Bonus" means a component of a career ladder which provides compensation to educators who, through a formal evaluation process, are judged to be outstanding in regular classroom performance.

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

—O. "Per diem" means payment for food and lodging as determined by the current district rate.

—P. "Daily stipend" means the educator's rate of pay as determined by the individual's per hour or per day salary schedule or a flat rate not to exceed the state maximum of \$250.00 per day.

—Q. "Eligible teacher trainer" means a licensed Utah educator designated to provide training, mentoring or services to other school district employees using Career Ladder funds.

—R. "Costs for eligible teacher trainers" means per diem and daily stipends.

—S. "Induction program" means a program of guidance and evaluation for teachers during their provisional employment.

—T. "Mentor" means a licensed teacher, trained to guide a new teacher during her probationary teaching period.

R277 526 2. Authority and Purpose.

—A. This rule is authorized under Utah Constitution Article X Section 3 which vests general control and supervision of the public schools in the Board, Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities, and Section 53A-9-102(1) which directs the Board to adopt policies and guidelines about the Career Ladder program.

—B. This rule defines standards and procedures by which school districts may receive funds administered by the Board for Career Ladders. Career Ladder programs shall increase student performance by: (1) enhancing teacher job performance; (2) identifying and rewarding excellent classroom instruction; (3) enriching the learning climate, and; (4) restructuring the instructional process to enhance the organizational effectiveness at the school and district levels.

R277 526 3. Plan Approval, Application, and Modification.

—A. The Board shall grant final approval for funding to Career Ladder plans which meet all Board and statutory standards.

—B. The State Superintendent of Public Instruction, or a designee, shall develop forms and procedures, and establish deadlines for administration of the Career Ladder Program. The Superintendent may, upon written request, waive deadlines for reasons consistent with law or the express purpose of this rule.

—C. Funds may be used to pay the actual cost of substitutes for educators released to perform necessary Career Ladder tasks specified in the approved Career Ladder plan.

—D. Any modification of a Board approved Career Ladder plan shall be approved in writing by the Career Ladder committee, the local board, and the Board.

R277 526 4. Career Ladder Committee.

—A. Under the direction of the local board of education, each district shall establish a Career Ladder committee.

—B. A district shall establish a plan for selecting Career Ladder committee members and shall set terms of service for members.

—C. The committee shall develop, implement, and evaluate the district's Career Ladder plan.

—D. The Career Ladder plan shall include provisions for communication between the Career Ladder committee and educators, administrators, parents, and others.

—E. Applications for Career Ladder funds shall include documentation that the plan was developed with cooperative action among citizens, educators, school administrators, and the local board.

R277 526 5. Career Ladder Plan Components.

—A. A Career Ladder plan may provide for performance bonuses. If an LEA chooses to use Career Ladder money for performance bonuses for teachers, the school district shall have or develop a plan that describes qualification procedures and includes a remuneration schedule. Plans may provide for teams of educators to earn performance bonuses based on qualitative and quantitative assessment of student progress.

—B. Each plan shall present a Career Ladder level system with multiple levels beyond the basic license. The plan shall include nomenclature, criteria for placement, job descriptions, and a remuneration schedule for Career Ladder levels.

—(1) Advancement on Ladder levels is contingent upon effective teaching performance.

—(2) Each plan shall describe how teaching performance shall be measured and how student progress shall be evaluated.

—C. A plan may include funds for Job Enlargement/Extra Pay for Extra Work. If this segment is included in the Career Ladder plan, the plan shall describe the procedures and application process for assigning appropriate responsibilities. Job enlargement positions shall be related to the Core Curriculum and shall not be solely administrative or extracurricular in nature.

—D. The plan may include funds for extended non-teaching days for all eligible educators for instruction and curriculum related responsibilities which address district or school goals.

—E. A district Career Ladder plan may designate funds for in-service to include per diem expenses, daily stipends and costs for eligible consultants and teacher trainers.

—F. Plans may include a program of guidance and evaluation for teachers during their provisional employment periods. If a district chooses to include a teacher induction component, the plan may include provisions for training, mentoring, monitoring and evaluating provisional teacher effectiveness and for assessing student progress.

R277 526 6. Career Ladder Educator Evaluation System.

—A. Each district shall use an educator evaluation system to evaluate its educators for placement, participation, and advancement on the Career Ladder. The educator evaluation system shall be consistent with Section 53A-10-101 through 111 which requires the participation by classroom teachers and administrators in development of the evaluation program at the district level.

—B. A written description of the system shall be available to educators and the school community.

R277 526 7. Career Ladder Plan Evaluation.

—A. A Career Ladder plan shall be reviewed and evaluated annually.

—B. Annual evaluations shall include documentation, shall account for funds expended, shall describe progress toward identified Career Ladder goals and shall be sent to the State Superintendent.

—C. Career Ladder plans shall be revised, as necessary, to reflect changes in legislation.

~~R277-526-8. Reports.~~

~~— A. The Board shall require an annual report from each participating district due on June 30 of each year.~~

~~— B. The report shall include the Career Ladder plan evaluation for the current school year ending June 30, a plan for the upcoming year and other information requested by the State Superintendent.~~

~~R277-526-9. Negotiations.~~

~~— A. Neither the Career Ladder appropriation to a school district nor the Board's Career Ladder standards are subject to negotiations between a local board and its employees.~~

~~— B. District negotiations concerning Career Ladders shall be limited to and consistent with 53A-17a-124(2)(e).~~

~~KEY: education, faculty, professional competency~~**~~August 1, 2001~~****~~Notice of Continuation October 20, 1997~~****~~Art X Sec 3~~****~~53A-1-401(3)~~****~~53A-9-102(1)~~**

Education, Administration

R277-701

Values Education

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 25111

FILED: 07/15/2002, 18:40

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is repealed because the funding no longer exists.

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

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no anticipated cost to the state budget. There may be minimal administrative savings to the Utah State Office of Education because it will no longer need to administer the program.

❖ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government. Local boards may choose to develop programs with block grant funds.

❖ OTHER PERSONS: There is no anticipated cost or savings to other persons. Other persons were never affected.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Persons were never affected.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at clear@usoe.k12.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/03/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 09/04/2002

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.~~[R277-701. Values Education.~~**~~R277-701-1. Definitions.~~**

~~— A. "Values" means principles or standards of worth.~~

~~— B. "Value judgments" means judgments which rate things with respect to their worth.~~

~~— C. "Values education" means the systematic effort to help students identify, acquire, and act upon personal and basic societal principles and human needs.~~

~~— D. "Board" means the Utah State Board of Education.~~

~~R277-701-2. Authority and Purpose.~~

~~— A. This rule is authorized under Article X, Section 3 of the Utah Constitution which vests general control and supervision of public education in the Board, Section 53A-1-401(3), U.C.A. 1953, which allows the Board to adopt rules in accordance with its responsibilities and Section 53A-1-402(1)(e), U.C.A. 1953, which directs the Board to adopt rules regarding curriculum and instruction.~~

~~— B. The purpose of this rule is to specify standards for values education programs in school districts.~~

~~R277-701-3. Values Education.~~

~~— Values education shall be included and primarily taught in the social studies curriculum of kindergarten through grade twelve. There shall be universal responsibility among all teachers for values education.~~

~~R277-701-4. Subject Matter.~~

~~— A. Values education programs shall meet the requirements of Sections 53A-13-101, U.C.A. 1953.~~

~~— B. Students shall be taught to value the rights and freedoms embodied in the founding documents, including the Declaration of Independence and the Constitutions of the United States and of the State of Utah, and to assume the commensurate personal and societal responsibilities which assure the perpetuation of those freedoms.~~

~~— C. The school shall provide the setting and opportunities to teach by example and role modeling the following values:~~

- ~~— (1) each individual has dignity and worth;~~
~~— (2) a free society requires respect for persons, property, and principles;~~
~~— (3) each individual has a right to learn and the freedom to achieve;~~
~~— (4) each individual, regardless of race, creed, color, sex, ethnic background, or economic status, shall have equal opportunity;~~
~~— (5) each individual has the right to personal liberties so long as the rights of others are not violated;~~
~~— (6) each individual is responsible for personal choices and actions;~~
~~— (7) each individual has a responsibility to the total society;~~
~~— (8) a democratic government is based on rule of the majority with guaranteed protection of the rights of the minority;~~
~~— (9) a democratic society is based on law;~~
~~— (10) problems should be solved through reason and orderly processes;~~
~~— (11) individuals should be tolerant of the religious beliefs of others and shall have freedom to exercise their own religious beliefs within the context of appropriate activity; and~~
~~— (12) each individual has the right to work, to pursue an occupation, and to gain satisfaction from personal efforts.~~
- ~~— D. Students shall be assisted in developing skill in value analysis in harmony with their maturity.~~
- ~~— E. Students must be taught to recognize that there are inherent and inevitable value conflicts of both a personal and societal nature. Students must be assisted in developing skills to deal effectively with these value conflict situations.~~

~~R277-701-5. Methods.~~

- ~~— A. Materials used in values education must be sensitive to the community's values, disclosed to parents, and available to parents for review upon request.~~
- ~~— B. Pre-service and in-service programs shall be provided for training teachers in values development. Teacher preparation programs shall ensure that teacher candidates have the requisite knowledge base and are appropriately prepared to teach the concepts embodied in the statutes. State and local education agency in-service activities shall emphasize values education where appropriate.~~
- ~~— C. Methods and procedures for teaching values shall facilitate change in behavior based upon the guided choice of the individual. Emphasis shall be upon individual student self-discipline and obligation. Programs to regulate inappropriate behavior shall be implemented.~~

~~KEY: education, curricula~~

~~1987~~

~~Notice of Continuation January 14, 1998~~

~~Art X Sec 3~~

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

~~53A-1-402(1)(e)~~



Education, Administration

R277-716

Alternative Language Services (ALS)

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE No.: 25103

FILED: 07/15/2002, 18:38

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is repealed because the funding no longer exists.

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

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

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. Funds previously designated for "alternative language services" have been placed in the "Interventions for Student Success Block Grant Program."
- ❖ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government. Local school boards may use block grant funds to provide these services; some level of ALS services are required by federal law.
- ❖ OTHER PERSONS: There is no anticipated cost or savings to other persons. ALS funding previously supported district programs and were not paid to individual persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. ALS funding previously supported district programs and were not paid to individual persons.

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

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

EDUCATION
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 250 E 500 S
 SALT LAKE CITY UT 84111-3272, or
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DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at clear@usoe.k12.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/03/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 09/04/2002

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.**[R277-716. Alternative Language Services (ALS).****R277-716-1. Definitions.**

— A. "Alternative Language Services (ALS)" means researched-based, instructional programs and is compatible with the Board's PRINCIPLES OF EQUITY FOR UTAH'S PUBLIC SCHOOLS and which meet the needs of children speaking a language other than English in the public school system. Programs shall be designed to enable students to achieve competence in English and to meet school grade promotion and graduation requirements as determined by the Board and school districts. Such programs are included in the following models:

— (1) "Special alternative instructional program," such as an English as a Second Language (ESL) program, means instruction designed for students of limited English proficiency. Such programs are not transitional or developmental education programs but are designed to meet the particular linguistic and instructional needs of the students enrolled. Such programs shall provide both structured English language instruction and special instructional services which allow the student to achieve competence in the English language.

— (2) "Transitional bilingual education" means a model designed for a student of limited English proficiency which provides structured English instruction to allow a student to achieve competency in the English language, using the student's primary language as a medium of instruction. Insofar as possible, such instruction shall incorporate the cultural heritage of students in the program.

— (3) "Developmental bilingual education" means full time instruction using both English and a second language. Such instruction is designed to help students achieve competence in English and a second language, while mastering subject matter skills. Such instruction shall, to the extent necessary, be in all courses of study. Classes in programs of developmental bilingual education shall be comprised of equal numbers of students whose primary language is English and limited English proficient students whose primary languages are the second languages of instruction and study in the program.

— B. "Students with bilingual needs" means students whose primary or home language is other than English (PHLOTE); and:

— (1) who are monolingual speakers of a language other than English;

— (2) who speak a language other than English and have limited oral proficiency or limited literacy in English or limited proficiency in both;

— (3) who have equal oral knowledge of another language and English; but lack cognitive and academic English skills; or

— (4) who speak predominantly English but have limited cognitive and academic skills in English.

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

— D. "A Limited English proficient (LEP)" student means a student who meets one or more of the following conditions:

— (1) was born outside of the United States or whose native language is not English;

— (2) comes from an environment where a language other than English is dominant; or

— (3) is American Indian or Alaska Native and comes from an environment where a language other than English has a significant impact on the student's level of English language proficiency; and

— (4) who because of Subsections (1), (2) and (3) has sufficient difficulty speaking, reading, writing, or understanding the English language that the student is denied the opportunity to learn

successfully in an English-only classroom or to participate fully in society.

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

R277-716-2. Authority and Purpose.

— A. This rule is authorized under Utah Constitution, Article X, Section 3, which vests general control and supervision of public education in the Board; by the U.S. Department of Education Title VI Regulation (34 C.F.R. Part 100) which prohibits practices of discrimination when based on race, color or national origin; and by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

— B. The purpose of this rule is to:

— (1) direct that school districts provide alternative language services to students;

— (2) provide standards and criteria for those services and programs; and

— (3) distribute funds to districts to offset costs in providing alternative language services to designated students.

R277-716-3. Classification, Identification and Assessment of Students.

— A. School districts shall determine a student's primary language upon entrance in a district school. School districts shall request information identifying a student's national origin and primary language upon registration in a district school and shall keep such information in the student's permanent record file. Information obtained from the registration form shall be supplemented by additional assessments conducted by the school and approved by the USOE.

— B. Districts shall classify LEP students, as necessary, using categories specified for students with educational needs for ALS. Students shall be classified based on information gathered from assessments required in Subsection R277-716-3C. Such classification shall assist the USOE in determining the need and providing funds to assist districts in providing an equal educational opportunity to each student with ALS education needs.

— C. Language Assessment Requirements

— (1) Districts shall use instruments approved by the USOE;

— (2) Such instruments shall be administered by a school district employee trained in the interpretation of the specific tests.

— (3) Tests shall be evaluated by a school district employee trained in the interpretation of the specific test.

— D. Special education assessment tools shall not be used to assess English language proficiency.

— E. Parents shall be notified about their children's placement in alternative language programs. Communication to parents shall be in the parent's preferred language.

R277-716-4. Endorsement Requirement.

— By the completion of school year 2000-2001, teachers whose primary assignment is to provide English language instruction to LEP students shall have an endorsement in English as a Second Language or in Bilingual Education.

R277-716-5. Program Components.

— A. An ALS (Alternative Language Services) program shall include the following:

— (1) The designation of procedures for identifying primary or home language of students.

—(2) School district employee(s) trained for administering the language proficiency assessment instruments to students whose primary or home language is other than English.

—(3) A program design using a model that is research based and has demonstrated effectiveness in meeting the needs of LEP students.

—(4) Licensed employees who are appropriately endorsed in accordance with the ALS program design(s) selected by the school district.

—(5) Evaluation standards for measuring the progress of students including program exit criteria.

—(6) Plans for monitoring student performance for a minimum of two years after students exit the program.

—(7) A comprehensive system for staff development.

—(8) Services to LEP students who qualify for special education.

Services:

—(a) shall be in compliance with IDEA 1997 (PL 105-17); and

—(b) shall be provided with special education funds for students who qualify for special education.

—(9) Appropriate language development and culturally relevant materials specifically designed for language acquisition.

—(10) Procedures for parent involvement.

R277-716-6. Distribution of Funds and Reporting.

—A. The USOE shall provide ALS funding to school districts based on the number of students identified as LEP in the district and based on the district's conformity with R277-716-5.

—B. The USOE shall distribute \$500,000 appropriated by the Legislature to school districts through a competitive request for proposal process. The funding shall support literacy/reading instruction for licensed or endorsed ESL or bilingual educators.

—C. Applications for one-time funding shall be available through the USOE. Timelines stated in the application shall apply.

—D. A school district that accepts ALS funds shall provide the USOE with a year-end report as requested.

KEY: public education, alternative language services*

August 1, 2000

Notice of Continuation January 14, 1998

Art X Sec 3

53A-1-401(3)



Education, Administration

R277-732

Community Education

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE No.: 25109

FILED: 07/15/2002, 18:40

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is repealed because the funding no longer exists.

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

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. No specific state funding has been allocated for a number of years.

❖ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government. Local school boards may provide community school programs from block grant funds.

❖ OTHER PERSONS: Local school boards may determine to offer school community school programs or courses and charge participants to make the programs self-supporting. The costs are too speculative to estimate.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Local school boards may determine to offer school community school programs or courses and charge participants to make the programs self-supporting. The costs are too speculative to estimate.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at clear@usoe.k12.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/03/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 09/04/2002

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.

~~[R277-732. Community Education.~~

R277-732-1. Definitions.

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

—B. "Community education" means a philosophical concept based upon a partnership between the community and education where each views the other as a valuable resource in developing the community, improving community living, and developing a common process toward the end of individualized education. It consists of two parts: public involvement in education decision making and the community school as a delivery system of educational services.

~~R277-732-2. Authority and Purpose.~~

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

~~— B. The purpose of this rule is to specify standards governing community education programs.~~

~~R277-732-3. Program Standards.~~

~~— A. Community education programs and funds shall support the following criteria:~~

~~— (1) the public is involved in determining the role the schools shall play in solving individual and community problems through planning, solving problems, making recommendations, and evaluating roles;~~

~~— (2) the public is involved in education decision making and sharing of responsibility and accountability at all appropriate levels;~~

~~— (3) the community school, acting as a community center, is a delivery system of educational services for the community;~~

~~— (4) educational services are designed to serve the needs of all segments of the community; and~~

~~— (5) programs and services are offered at community schools or other convenient locations in cooperation and coordination with other organizations, agencies, and institutions which provide community services.~~

~~— B. State funds may be used for any of the following:~~

~~— (1) salaries;~~

~~— (2) professional and technical services;~~

~~— (3) insurance, communication, advertising, printing;~~

~~— (4) travel;~~

~~— (5) miscellaneous purchased services;~~

~~— (6) food; and~~

~~— (7) indirect costs restricted.~~

~~— C. The Board may develop forms, deadlines, or accounting and reporting procedures to administer this program.~~

KEY: ~~community schools~~

1987

Notice of Continuation January 14, 1998

Art X Sec 3

53A-1a-104

53A-1-401(3)]



Education, Administration

R277-740

Subchapter One of the Education Improvement and Consolidation Act of 1981

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 25104

FILED: 07/15/2002, 18:39

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is repealed because the funding no longer exists.

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

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. No specific state funding has been allocated for a number of years.

❖ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government. Local school boards continue to receive federal funding previously authorized by this rule under different federal regulations.

❖ OTHER PERSONS: There is no anticipated cost or savings to other persons. Other persons were never affected.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Persons were never affected.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at clear@usoe.k12.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/03/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 09/04/2002

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.

~~[R277-740. Subchapter One of the Education Improvement and Consolidation Act of 1981.~~

~~R277-740-1. Definitions.~~

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

~~— B. "Chapter One Funds" means funds made available by the Federal Government under the Education Improvement and Consolidation Act of 1981 for instruction in basic skills for disadvantaged, migrant, Indian, handicapped, neglected, and delinquent children.~~

~~**R277-740-2. Authority and Purpose.**~~

~~—A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-402(3) which permits the Board to administer funds made available through programs of the Federal Government and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.~~

~~—B. The purpose of this rule is to specify standards and procedures for Chapter One Funds.~~

~~**R277-740-3. Standards and Procedures.**~~

~~—The Board incorporates by reference Subchapter One of the Education Improvement and Consolidation Act of 1981, 20 U.S.C.A. Sections 2701 through 2854. The Board shall follow the standards and procedures of this section in administering Chapter One funds. This information is available from the Chapter One Section at the Utah State Office of Education.~~

~~**KEY: exceptional children, education finance 1987**~~

~~**Notice of Continuation March 13, 1998**~~

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

~~**53A-1-402(3)**~~

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



Education, Administration

R277-742

Truancy Prevention Support Centers

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 25105

FILED: 07/15/2002, 18:39

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is repealed because the law and funding no longer exist.

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

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

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. There are no longer specific state funds allocated for grants for truancy prevention support centers.
- ❖ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government. The majority of school districts never applied for grants for truancy prevention support centers; they never took advantage of the funding.
- ❖ OTHER PERSONS: There is no anticipated cost or savings to other persons. The rule provided for grants to school districts and never benefited individuals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The rule provided for

grants to school districts and never benefited affected persons.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at clear@usoe.k12.ut.us

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/03/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 09/04/2002

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.

~~**[R277-742. Truancy Prevention Support Centers.**~~

~~**R277-742-1. Definitions.**~~

- ~~—A. "Board" means the Utah State Board of Education.~~
- ~~—B. "USOE" means the Utah State Office of Education.~~
- ~~—C. "Truancy support center" means a location designated by the school or district where truant, suspended, or expelled students are assigned or sent by school administrators, law enforcement officials, or court personnel.~~
- ~~—D. "Truant student" means a student who has excessive unexcused absences from school, as determined by school or district policy and communicated to students, parents and faculty.~~

~~**R277-742-2. Authority and Purpose.**~~

- ~~—A. This rule is authorized by Utah Constitution Article X Section 3 which vests general control and supervision of the public education system in the Board, Section 53A-11-106 which directs the Board to provide grants to school districts to provide and staff truancy support centers, and 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.~~
- ~~—B. The purpose of this rule is to establish criteria and procedures for distributing funds to school districts for the establishment of truancy support centers.~~

~~**R277-742-3. Distribution of Applications and Funds.**~~

- ~~—A. Grant applications shall be provided and distributed by the USOE.~~
- ~~—B. Completed grant forms shall be submitted through school districts to the USOE according to deadlines established by the USOE.~~

- C. Grants shall be reviewed by a team composed of USOE staff, other state agency representatives, community representatives, and school district personnel.
- D. The team shall submit recommendations for funding to the Board or designee for final approval.
- E. Districts shall be notified of awards within one month of funding approval by the Board or designee.
- F. Grants shall be awarded to no more than two Utah school districts for purposes identified in the approved proposals.
- G. School district(s) shall be selected for funding based on an analysis of the following factors:
 - (1) the proposed use of funds awarded under this rule as they supplement other at risk funding received by the district(s);
 - (2) the extent of interagency collaboration (list other agencies with which the grant applicant currently coordinates services and the types of services jointly provided); and
 - (3) documentation of previous successful efforts to:
 - (a) reduce student truancy and
 - (b) provide effective alternative services for truant, suspended, or expelled students.

R277-742-4. Evaluation and Reports.

— Each school selected for funding shall be required to submit an annual evaluation report to the USOE.

KEY: truancy
September 4, 1997
Art X Sec 3
53A-11-106
53A-1-401(3)]

▼ ————— ▼
Environmental Quality, Air Quality
R307-220-4
Section III, Small Municipal Waste
Combustion Units

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 25087
 FILED: 07/15/2002, 11:10

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To allow compliance with the carbon monoxide (CO) emission limit in 2 steps, require compliance with all emission limits except CO by May 13, 2002, and to make minor corrections.

SUMMARY OF THE RULE OR CHANGE: The only source affected by this rule is Wasatch Energy Systems (WES). WES has achieved early compliance with all new federal emission limits except that for CO, and the Plan is revised to provide for a 2-step compliance process for CO. Revisions require that WES meet a CO limit of 100 parts per million by dry volume, measured as the geometric mean of a 24-hour block average until the date one year after Environmental Protection Agency (EPA) approval of the Utah Plan. After that date, the CO limit is the federal limit of 100 parts per million by dry volume,

measured as the arithmetic average of a 4-hour block average. Additionally, the compliance schedule for all pollutants, including dioxins and furans, is also being revised to May 13, 2002. The revised compliance schedule for all pollutants except CO is more stringent than the federal emission guideline and the current Plan. The compliance schedule for CO is in accordance with the earliest compliance date required by the federal emission guideline. With specifications of increments of progress, the CO compliance date could be extended to December of 2005.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104; 40 CFR Part 60, Subpart BBBB

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Section III, Small Municipal Waste Combustion Units.

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The only affected source is WES. There is no change in cost for the state budget, as WES is regulated under 40 CFR Part 70 and thus pays fees to cover the cost of regulation.
- ❖ LOCAL GOVERNMENTS: The only affected source, WES, is owned by a group of local governments in Davis County. This revision to the Plan allows WES to postpone costs of compliance with the carbon monoxide standard, thus postponing costs for the citizens of those local governments.
- ❖ OTHER PERSONS: No other persons are affected by the change in the Plan.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only affected source, WES, is owned by a group of local governments in Davis County. This revision to the Plan allows WES to postpone costs of compliance with the carbon monoxide standard, thus postponing costs for the citizens of those local governments.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The only affected businesses are those that dispose of waste through Wasatch Energy Systems and thus can postpone their share of the costs to meet the carbon monoxide emission limit, and businesses that design, manufacture and install pollution control equipment, who will not receive revenue from any upgrade needed to comply with the carbon monoxide emissions limit until later.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Jan Miller at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at janmiller@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/03/2002

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 8/19/2002 at 7:00 PM, Layton City Council Chambers, 437 N. Wasatch Dr, Layton.

THIS RULE MAY BECOME EFFECTIVE ON: 10/02/2002

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

R307. Environmental Quality, Air Quality.
R307-220. Emission Standards: Plan for Designated Facilities.
R307-220-4. Section III, Small Municipal Waste Combustion Units.

Section III, Small Municipal Waste Combustion Units, as most recently adopted by the Air Quality Board on [~~September 5, 2001~~]October 2, 2002, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

KEY: air pollution, landfills[~~and~~], environmental protection, incinerators
~~[November 1, 2001]2002~~
 Notice of Continuation March 26, 2002
 19-2-104



Health, Epidemiology and Laboratory Services, Epidemiology
R386-710
Early Warning Reporting

NOTICE OF PROPOSED RULE
 (Repeal)
 DAR FILE No.: 25074
 FILED: 07/08/2002, 11:40

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: With the passage in the 2002 Legislature of H.B. 231, this rule is obsolete and unnecessary. (DAR NOTE: H.B. 231 is found at UT L 2002 Ch 155, and was effective May 6, 2002.)

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

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-1-30 and 26-6-3

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: During the Olympics, a heightened disease surveillance program was funded by various private, local, state, and federal resources. This rule supported that

reporting. Repealing this rule will return reporting to pre-Olympic levels that can be sustained within existing appropriations. Thus, repealing the rule will have a positive impact on state budgets by not requiring reporting that cannot be funded within existing appropriations.

❖ LOCAL GOVERNMENTS: During the Olympics, a heightened disease surveillance program was funded by various private, local, state, and federal resources. This rule supported that reporting. Repealing this rule will return reporting to pre-Olympic levels that can be sustained within historical spending levels for local governments. Thus, repealing the rule will have a positive impact on local government budgets by not requiring reporting that cannot be funded within historical spending levels.

❖ OTHER PERSONS: During the Olympics, a heightened disease surveillance program was funded by various private, local, state, and federal resources. This rule supported that reporting. Repealing this rule will return reporting to pre-Olympic levels that can be sustained within historical spending levels. Thus, repealing the rule will have a positive impact on health care providers and others that would otherwise be required to report by not requiring reporting that cannot be funded within historical spending levels.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Repealing the rule will reduce compliance costs for affected persons by restoring reporting requirements to pre-Olympic levels.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This reduction in reporting requirements that will occur by repeal of this rule will have a positive fiscal impact on businesses. Rod L. Betit

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Robert Rolfs at the above address, by phone at 801-538-6386, by FAX at 801-538-6694, or by Internet E-mail at rrolfs@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/03/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 09/04/2002

AUTHORIZED BY: Rod Betit, Executive Director

R386. Health, Epidemiology and Laboratory Services, Epidemiology.**[R386-710. Early Warning Reporting.****R386-710-1. Purpose and Authority.**

— This rule establishes a reporting and review system to identify diseases and injurious exposures that are of uncertain origin, including terrorist attacks. It is authorized by Sections 26-1-30, 26-6-3.

R386-710-2. Definitions.

— As used in this rule:

— (1) "emergency center" means:

— (a) a health care facility licensed under the provisions of Title 26, Chapter 21, Utah Code, that operates an emergency department; or

— (b) a clinic that provides emergency or urgent health care to an average of 20 or more persons daily.

— (2) "encounter" means an instance of an individual presenting at the emergency center who satisfies the criteria in section R386-710-4.

— (3) "diagnostic information" means an emergency center's record of individuals who present for emergency or urgent treatment, including the reason for the visit, chief complaint, presenting diagnosis, and final diagnosis.

R386-710-3. Reporting Encounters.

— (1) An emergency center operating within the state shall report the preceding day's encounters to the Department by:

— (a) allowing Department representatives or agents to review its diagnostic information to identify encounters; or

— (b) reviewing its diagnostic information and reporting all encounters by 9:00 a.m. the following day.

— (2) The emergency center may remove all identifying patient information from its report, except information sufficient to allow the emergency center to identify the individual to conduct further investigation pursuant to section R386-710-6.

R386-710-4. Encounter Criteria.

— Encounter criteria that require a report are diagnostic information that indicate the presence of one of the following syndromes:

— (1) respiratory infection with fever;

— (2) bloody diarrhea;

— (3) gastroenteritis (diarrhea or vomiting) without blood;

— (4) febrile illness with rash;

— (5) meningitis, encephalitis, or unexplained acute encephalopathy or delirium;

— (6) suspected acute viral hepatitis;

— (7) illicit drug related episode;

— (8) sepsis or unexplained shock;

— (9) unexplained death with history of fever;

— (10) botulism-like syndrome;

— (11) lymphadenitis with fever; and

— (12) other criteria that the Department has reasonably determined to be indicative of disease outbreaks or injurious exposures of uncertain origin.

R386-710-5. Report Contents.

— The emergency center's report shall include the following information for each encounter:

— (1) facility name;

— (2) patient identifier that allows linkage with patient record for follow-up investigation if needed;

— (3) date of visit;

— (4) time of visit;

— (5) patient's age

— (6) patient's sex

— (7) patient's zip code for patient's residence;

— (8) syndrome that was detected;

— (9) diagnostic information and, if transmitted electronically, diagnostic codes assigned to the visit; and

— (10) whether the patient was admitted to hospital.

R386-710-6. Epidemiological Review.

— For each encounter, an emergency center shall allow a Department representative or agent to review the emergency center's medical record on the patient to assess whether the patient's illness may indicate a public health threat.

R386-710-7. Penalties.

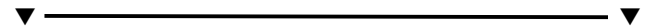
— Pursuant to Section 26-23-6, any person that violates any provision of this rule may be assessed an administrative civil money penalty not to exceed \$2,500 upon an administrative finding of a first violation and up to \$5,000 for a subsequent similar violation within two years. A person may also be subject to penalties imposed by a civil or criminal court, which may not exceed \$5,000 or a class B misdemeanor for the first violation and or a class A misdemeanor for any subsequent similar violation within two years.

KEY: disease reporting

January 15, 2002

26-1-30

26-6-3]



Health, Community and Family Health Services, Health Education Services

R402-5

Birth Defects Reporting

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 25076

FILED: 07/11/2002, 08:42

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment addresses issues/concerns raised by some hospitals about the current rule that was last amended in August 2001. This proposed change extends the time for hospitals to report to the Birth Defect Network, clarifies the issue regarding emergency visits/outpatient visits vs. hospitalizations of infants with birth defects, eliminate two definitions, and reduces the penalties that apply for violation of the rule. (DAR NOTE: The previous amendment was published in the June 1, 2001, Bulletin under DAR No. 23731 and was effective August 9, 2001.)

SUMMARY OF THE RULE OR CHANGE: Eliminates Cytogenetic Laboratory and Fetal Death definitions; and changes wording in Section R402-5-3 to include the wording "admits a patient" and "within 40 days of discharge". In Section R402-5-7, the penalty clause is modified to reduce the penalties.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-30

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This amendment neither imposes nor eliminates workload on the state and, therefore, no costs or savings are anticipated.

❖ LOCAL GOVERNMENTS: This amendment imposes no measurable additional workload on the local governments that operate hospitals. There may be negligible savings from the clarification on when reporting is due, outpatient vs. admission, and the reduction in possible penalties. These savings are difficult to quantify.

❖ OTHER PERSONS: This amendment imposes no measurable additional workload on entities that operate hospitals. There may be negligible savings from the clarification on when reporting is due, outpatient vs. admission, and the reduction in possible penalties. These savings are difficult to quantify.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This proposed rule change does not impose any new or increased compliance costs because no additional time or effort is needed to comply with the change. Current compliance costs may be reduced by the clarification of when reports are due. Waiting until after discharge may simplify the process of gathering information for reporting.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change is in response to comments from regulated hospitals and addresses concerns about when reports are due. It should have a small positive impact on businesses. Rod L. Betit

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

HEALTH
COMMUNITY AND FAMILY HEALTH SERVICES,
HEALTH EDUCATION SERVICES
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Marcia Feldkamp at the above address, by phone at 801-538-6953, by FAX at 801-584-8488, or by Internet E-mail at mfeldkamp@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/03/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 09/04/2002

AUTHORIZED BY: Rod Betit, Executive Director

R402. Health, Community and Family Health Services, Health Education Services.

R402-5. Birth Defects Reporting.

R402-5-1. Purpose and Authority.

This rule establishes reporting requirements for birth defects for births in Utah and for birth-defect related test results. Sections 26-1-30(2)(c), (d), (e), (g), (p), (t), 26-10-1(2), and 26-10-2 authorize this rule.

R402-5-2. Definitions.

As used in this rule:

(1) [~~"Cytogenetics laboratory"~~] means a laboratory in Utah that conducts genetic analysis of samples taken from humans.

~~—(2)—~~ "Birthing center" means a birthing center licensed under Title 26, Chapter 21.

(~~3~~)2 "Birth defect" means a congenital anomaly listed in the ICD-9-CM (International Classification of Diseases, 9th Revision, Clinical Modification, established by the United States Center for Health Statistics) with a diagnostic code from 740.0 to 759.9 or in the ICD-10 (International Classification of Diseases, 10th Revision, established by the World Health Organization) with a diagnostic code from Q00-Q99.

~~[(4) "Fetal death" means the delivery of a dead fetus that is of 20 weeks or more gestation, calculated from the date the last menstrual period began to the date of delivery.]~~

~~—(5)—~~(3) "Hospital" means general acute hospital, children's speciality hospital, remote-rural hospital licensed under Title 26, Chapter 21.

R402-5-3. Reporting by Hospitals and Birthing Centers.

~~[The hospital or birthing center where there is a live birth with a birth defect, any outcome of pregnancy where a birth defect is detected, or admission of a child under 24 months of age with a birth defect shall report or cause to report to the department within 40 days after any such event the following:]~~ Each hospital or birth center that admits a patient and detects a birth defect as a result of any outcome of pregnancy, or admits a child under 24 months of age with a birth defect shall report or cause to report to the department within 40 days of discharge the following:

- (1) child's name;
- (2) child's date of birth;
- (3) mother's name;
- (4) mother's date of birth;
- (5) delivery hospital;
- (6) birth defects diagnoses;
- (7) mother's state of residency at delivery;
- (8) child's sex; and
- (9) mother's zip code.

R402-5-4. Reporting by Laboratories.

~~[Any]~~ Each laboratory operating in the state that identifies a human chromosomal or genetic abnormality or other evidence of a birth defect shall report the following on a calendar quarterly basis to the department within 40 days of the end of the preceding calendar quarter:

- (1) if live born, child's name and date of birth;

- (2) mother's name;
- (3) mother's date of birth;
- (4) date the sample is accepted by the laboratory;
- (5) test conducted;
- (6) test result; and
- (7) mother's state of residency at delivery.

R402-5-5. Record Abstraction.

Hospitals and birthing centers required to report pursuant to this rule as well as community health care providers who participate voluntarily shall allow personnel from the department or its contractors to abstract information from the mother's and child's files on their demographic characteristics, family history of birth defects, prenatal information and outcomes of that and other pregnancies by that mother.

R402-5-6. Liability.

As provided in Title 26, Chapter 25, persons who report, either voluntarily or as required by this rule, information covered by this rule may not be held liable for reporting the information to the Department of Health.

R402-5-7. Penalties.

[As required by Section 63-46a-3(5): Any hospital, birthing center, or laboratory that violates any provision of this rule may be assessed a civil money penalty not to exceed the sum of \$5,000 or be punished for violation of a class B misdemeanor for the first violation and for any subsequent similar violation within two years for violation of a class A misdemeanor as provided in Section 26-23-6.] Pursuant to Section 26-23-6, any person that willfully violates any provision of this rule may be assessed an administrative civil money penalty not to exceed \$1,000 upon an administrative finding of a first violation and up to \$3,000 for a subsequent similar violation within two years. A person may also be subject to penalties imposed by a civil or criminal court, which may not exceed \$5,000 or a class B misdemeanor for the first violation and a class A misdemeanor for any subsequent similar violation within two years.

KEY: birth defects, birth defect reporting

~~August 9, 2001~~ **2002**

26-1-30(2)(c), (d), (e), (g), (p), (t)

26-10-1(2)

26-10-2

26-25-1

▼ ————— ▼

**Health, Health Systems Improvement,
Primary Care and Rural Health**

R434-10

**Physicians and Physician Assistants
Grant and Scholarship Program**

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 25071

FILED: 07/05/2002, 15:17

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Statutory authority for the rule was repealed by the 2002 Legislature. A new advisory committee for health care provider loans was created. New rules will be proposed consistent with S.B. 113. (DAR NOTE: S.B. 113 is found at UT L 2002 Ch 307, and was effective March 26, 2002.)

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

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 9

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The Department, pursuant to S.B. 113, is still required to administer a loan repayment program for health care providers. This rule change in isolation would reduce work demands for the Department. However, replacement rules consistent with S.B. 113 will replace this rule. It is hoped that the new rules can be simpler and therefore some savings may result to state government.

❖ **LOCAL GOVERNMENTS:** Local governments benefit from the loan repayment program since many of these providers work for local health departments and other local agencies. This rule repeal will not reduce that benefit to local government. If the replacement rules as they support a single committee can be simpler, some savings may result to local government.

❖ **OTHER PERSONS:** Private persons benefit from the loan repayment program in that health care in rural and other underserved areas is increased by this program. If the replacement rules as they support a single committee can be simpler, some savings may result to health care providers, clinics, and hospitals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The rule is being repealed, therefore there are no compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The new advisory committee created by S.B. 113 should have a positive impact on businesses as the structure for awarding these loans is simplified. Rod L. Betit

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT,
PRIMARY CARE AND RURAL HEALTH
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Lyle Odendahl at the above address, by phone at 801-538-6878, by FAX at 801-538-6306, or by Internet E-mail at lyleodendahl@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/03/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 09/04/2002

AUTHORIZED BY: Rod Betit, Executive Director

R434. Health, Health Systems Improvement, Primary Care and Rural Health.

~~R434-10. Physicians and Physician Assistants Grant and Scholarship Program.~~

~~R434-10-1. Purpose.~~

~~— This rule, R434-10, provides criteria for the implementation of the Physicians and Physician Assistants Grant and Scholarship Program and the award of grant funds to physicians and physician assistants willing to work in a medically underserved rural area of the state and the award of funds to train physicians and physician assistants to practice medicine in a medically underserved rural area of the state.~~

~~R434-10-2. Definitions.~~

~~— The definitions as they appear in Section 26-9-202 apply. In addition:~~

~~— (1) "Approved Site" means an eligible site which is approved by the committee pursuant to Subsection 26-9-204(2)(a).~~

~~— (2) "Department" means the Utah Department of Health.~~

~~— (3) "Designated health professional shortage area" means a service area designated by the Secretary of Health and Human Services as having insufficient primary care physicians.~~

~~— (4) "Eligible Site" means a hospital or medical clinic that the committee has designated as meeting the eligibility criteria established by the committee and is in a medically underserved rural area pursuant to Subsection 26-9-202 (4).~~

~~— (5) "Grant" means a grant of funds under a contract to defray educational loans.~~

~~— (6) "Obligated service" means service in a medical specialty needed at an approved site for a minimum of two years or a longer period to which the applicant agrees in a grant or scholarship contract.~~

~~— (7) "Postgraduate training" means medical training in one of the following:~~

~~— (a) a postgraduate training program in the United States accredited by the Accreditation Committee on Graduate Medical Education;~~

~~— (b) a postgraduate training program in the United States accredited by the American Osteopathic Association Bureau of Professional Education;~~

~~— (c) a postgraduate training program in Canada accredited by the Royal College of Physicians and Surgeons of Canada.~~

~~— (8) "Physician Scholarship" means an award of money for educational expenses given to a person under a contract where the person agrees to accept the award in exchange for practicing medicine in a medical specialty needed, as determined by the committee, in an approved site following completion of postgraduate training.~~

~~— (9) "Physician Assistant Scholarship" means an award of money for educational expenses given to a person under a contract where the person agrees to accept the award in exchange for practicing medicine as a physician assistant in an approved site.~~

~~R434-10-3. Physician Grant Administration.~~

~~— (1) The department may provide a grant to repay loans taken for physician educational expenses.~~

~~— (2) The physician grant recipient may not enter into any other similar contracts until he satisfies the obligated service described in the grant.~~

~~— (3) For a physician grant recipient with a four year contract the state shall provide 20% of the grant at the completion of the first three months, 20% of the grant at the completion of year one, 20% at the completion of year two, 20% at the completion of year three, and 20% at the completion of year four.~~

~~— (4) For a physician grant recipient with a three year contract the state shall provide 25% of the grant at the completion of the first three months, 25% of the grant at the completion of year one, 25% at the completion of year two, and 25% at the completion of year three.~~

~~— (5) For a physician grant recipient with a two year contract the state shall provide 33% of the grant at the completion of the first three months, 33% of the grant at the completion of year one, and 34% at the completion of year two.~~

~~— (6) The physician grant recipient must obtain an unrestricted license to practice as a physician in Utah before his first day of practice under the grant contract.~~

~~— (7) The physician grant recipient must obtain approval from the committee prior to beginning obligated service at an eligible site.~~

~~— (8) A physician grant recipient must obtain approval prior to changing the approved site where he fulfills his obligated service.~~

~~R434-10-4. Physician Assistant Grant Administration.~~

~~— (1) The department may provide a grant to repay loans taken for physician assistant educational expenses.~~

~~— (2) The physician assistant grant recipient may not enter into any other similar contracts until he satisfies the obligated service described in the grant.~~

~~— (3) For a physician assistant grant recipient with a four year contract the state shall provide 20% of the grant at the completion of the first three months, 20% of the grant at the completion of year one, 20% at the completion of year two, 20% at the completion of year three, and 20% at the completion of year four.~~

~~— (4) For a physician assistant grant recipient with a three year contract the state shall provide 25% of the grant at the completion of the first three months, 25% of the grant at the completion of year one, 25% at the completion of year two, and 25% at the completion of year three.~~

~~— (5) For a physician assistant grant recipient with a two year contract the state shall provide 33% of the grant at the completion of the first three months, 33% of the grant at the completion of year one, and 34% at the completion of year two.~~

~~— (6) The department may not provide a grant until the physician assistant passes the National Commission on the Certification of Physician Assistants/National Board of Medical Examiners Physician Assistant National Certification Exam.~~

~~— (7) The physician assistant grant recipient must obtain an unrestricted license to practice as a physician assistant in Utah before his first day of practice under the grant contract.~~

~~— (8) The physician assistant grant recipient must obtain approval from the committee prior to beginning obligated service at an eligible site.~~

~~— (9) A physician assistant grant recipient must obtain approval prior to changing the approved site where he fulfills his obligated service.~~

~~R434-10-5. Full-Time Equivalency Provisions for Grant Recipients.~~

~~— (1) The annual grant amount is based on the level of full-time equivalency that the grant recipient agrees to work.~~

~~— (2) A grant recipient who provides services for at least 40 hours per week may be awarded a grant based on the percentages outlined in Section R434-10-3 and R434-10-4.~~

~~— (3) A grant recipient who provides services for less than 40 hours per week may be awarded a proportionately lower grant based on a full-time equivalency of 40 hours per week.~~

~~R434-10-6. Physician Grant Eligibility and Selection.~~

~~— (1) In selecting a physician grant recipient for a physician grant, the committee shall evaluate the applicant based on the following selection criteria:~~

~~— (a) the extent to which an applicant's training is in a medical specialty needed at an eligible site;~~

~~— (b) the applicant's commitment to serve in a medically underserved rural area which may be demonstrated in any of the following ways:~~

~~— (i) has lived in an area with fewer than 100 persons per square mile;~~

~~— (ii) has rural work or educational experience;~~

~~— (iii) has work or educational experience with rural populations such as the Peace Corps, VISTA, or the Extension Service of the Department of Agriculture;~~

~~— (iv) other facts or experience that the applicant can demonstrate to the committee that establishes his commitment to a rural practice.~~

~~— (c) the availability of the applicant to begin service, with greater consideration being given to applicants available for service at earlier dates;~~

~~— (d) the length of the applicant's proposed obligated service, with greater consideration given to applicants who agree to serve for longer periods of time;~~

~~— (e) the applicant's:~~

~~— (i) academic standing;~~

~~— (ii) prior professional or personal experience in medically underserved rural areas;~~

~~— (iii) board certification or eligibility;~~

~~— (iv) residency achievements;~~

~~— (v) peer recommendations;~~

~~— (vi) other facts that the applicant can demonstrate to the committee that establishes his professional competence or conduct;~~

~~— (f) the applicant's financial need;~~

~~— (g) the applicant's willingness to accept Medicare, Medicaid, or Utah Medical Assistance patients;~~

~~— (h) the applicant's willingness to provide care regardless of a patient's ability to pay;~~

~~— (i) the applicant's ability and willingness to provide care;~~

~~— (j) the applicant's achieving an early match with an eligible site.~~

~~— (2) Only the following medical specialties may receive an award under this program:~~

~~— (a) anesthesiology;~~

~~— (b) general surgery;~~

~~— (c) internal medicine;~~

~~— (d) obstetrics/gynecology;~~

~~— (e) ophthalmology;~~

~~— (f) orthopedic surgery;~~

~~— (g) osteopathic general or family practice;~~

~~— (h) pediatrics;~~

~~— (i) psychiatry;~~

~~— (j) radiology;~~

~~— (k) urology.~~

~~— (3) Only physicians who are available to begin practicing medicine in the state within one year from the date of application are eligible for this program.~~

~~— (4) To be eligible for a grant, a physician:~~

~~— (a) must be a United States citizen or permanent resident;~~

~~— (b) must not have practiced medicine in rural Utah within three years prior to the date of application;~~

~~— (c) must be enrolled in or have completed postgraduate training prior to submitting an application to participate in the grant program.~~

~~R434-10-7. Physician Assistant Grant Eligibility and Selection.~~

~~— (1) In selecting a physician assistant grant recipient for a physician assistant grant, the committee shall evaluate the applicant based on the following selection criteria:~~

~~— (a) the extent to which an applicant's training is needed at an eligible site;~~

~~— (b) the applicant's commitment to serve in a medically underserved rural area, which may be demonstrated in any of the following ways:~~

~~— (i) has lived in an area with fewer than 100 persons per square mile;~~

~~— (ii) has rural work or educational experience;~~

~~— (iii) has work or educational experience with rural populations such as the Peace Corps, VISTA, or the Extension Service of the Department of Agriculture;~~

~~— (iv) other facts or experience that the applicant can demonstrate to the committee that establishes his commitment to a rural practice.~~

~~— (c) the availability of the applicant to begin service, with greater consideration given to applicants available for service at earlier dates;~~

~~— (d) the length of the applicant's proposed obligated service, with greater consideration given to applicants who agree to serve for longer periods of time;~~

~~— (e) the applicant's:~~

~~— (i) academic standing;~~

~~— (ii) prior professional or personal experience in medically underserved rural areas;~~

~~— (iii) results of the National certification exam;~~

~~— (iv) preceptorship achievements;~~

~~— (v) peer recommendations;~~

~~— (vi) other facts that the applicant can demonstrate to the committee that establishes his professional competence or conduct.~~

~~— (f) the applicant's financial need;~~

~~— (g) the applicant's willingness to accept Medicare, Medicaid, or Utah Medical Assistance patients;~~

~~— (h) the applicant's willingness to provide care regardless of a patient's ability to pay;~~

~~— (i) the applicant's ability and willingness to provide care;~~

~~— (j) the applicant's achieving an early match with an eligible site.~~

~~— (2) Only physician assistants who are available to begin practicing medicine in the state within one year from the date of application may be eligible for this program.~~

~~— (3) To be eligible for a grant, physician assistants:~~

~~— (a) must be a United States citizen or permanent resident;~~

~~— (b) must have passed the National Commission on the Certification of Physician Assistants/National Board of Medical Examiners Physician Assistant National Certification Exam;~~

~~— (c) must not have practiced medicine in rural Utah within three years prior to the date of application.~~

R434-10-8. Extension of Grant Contract.

—(1) A physician or physician assistant who has signed a grant contract for less than four years may apply on or after his first day of practice under a grant to extend his grant contract by one or two years, up to the maximum of four years total.

—(2) The service obligation may be extended only at an eligible site.

—(3) A physician or physician assistant who desires to extend his grant contract must inform the committee in writing of his interest in extending his grant contract at least six months prior to the termination of his unextended grant contract.

R434-10-9. Schedule of Breach of Grant Contract Repayment.

—(1) A grant recipient who fails to complete the obligated service shall begin to repay the penalty to the department within 30 days of the breach. The department may submit for immediate collection all amounts due from a breaching grant recipient who does not begin to repay within 30 days.

—(2) The amount to be paid back shall be determined from the end of the month in which the grant recipient breached the contract as if the grant recipient had breached at the end of the month.

—(3) The breaching grant recipient shall pay the total amount due within one year of breaching the contract. The scheduled payback may not be less than four equal quarterly payments.

R434-10-10. Physician Scholarship Administration.

—(1) The department may provide physician scholarship funds to a physician scholarship recipient for a maximum of four years of medical or osteopathic school or until completion of medical or osteopathic school, whichever is shorter.

—(2) For each academic year the committee may award \$12,000 to a physician scholarship recipient.

—(3) The committee may pay tuition and fees directly to the medical or osteopathic school, and determine the amount and frequency of direct payments to the student.

—(4) The physician scholarship recipient may not enter into a scholarship contract other than with the program established in Section 26-9-201 until the obligated service agreed upon in the state scholarship contract is satisfied.

—(5) A physician scholarship recipient must work full time, as defined by the physician scholarship recipient's employer and as specified in his contract with the department.

—(6) A physician scholarship recipient must serve one year of obligated service for each year he received a scholarship under this program.

—(7) The committee may cancel a scholarship at any time if it finds that the physician scholarship recipient has voluntarily or involuntarily terminated his medical or osteopathic school or postgraduate training, or it appears to be a reasonable certainty the physician scholarship recipient does not intend to practice medicine as required by statute, rules, and contract in a medically underserved rural area in the state.

—(8) The physician scholarship recipient must begin postgraduate training within six months after he obtains a Doctor of Medicine or Doctor of Osteopathy degree. Postgraduate training must be continuous unless the physician scholarship recipient obtains prior approval from the director of the physician scholarship recipient's postgraduate training program and from the committee.

—(9) The physician scholarship recipient must attend a minimum three year postgraduate training program.

—(10) The physician scholarship recipient must obtain an unrestricted license to practice medicine in the state and begin

practicing medicine for the agreed upon period of time at an approved site within six months of completion of postgraduate training.

—(11) The physician scholarship recipient shall select for postgraduate training a residency in one of the following areas: family practice, general internal medicine, general pediatrics, or obstetrics/gynecology. If the physician scholarship recipient desires to choose a postgraduate training program in a medical specialty other than family practice, general internal medicine, general pediatrics, or obstetrics/gynecology, he must demonstrate the need for the medical specialty in a medically underserved rural area and obtain approval from the committee.

—(12) Upon completion of postgraduate training, the physician scholarship recipient shall be responsible for finding employment at an eligible site in a medically underserved rural area of Utah.

—(13) The physician scholarship recipient must obtain approval from the committee prior to beginning obligated service at an eligible site.

R434-10-11. Physician Assistant Scholarship Administration.

—(1) The department may provide physician assistant scholarship funds to a physician assistant scholarship recipient for a maximum of four years for physician assistant school, or until completion of physician assistant school, whichever is shorter.

—(2) For each academic year the committee may award \$12,000 to a physician assistant scholarship recipient.

—(3) The committee may pay tuition and fees directly to the physician assistant school, and to determine the amount and frequency of direct payments to the student.

—(4) The physician assistant scholarship recipient may not enter into a scholarship contract other than with the program established in Section 26-9-201 until the obligated service agreed upon in the state contract is satisfied.

—(5) A physician assistant scholarship recipient shall work full time, as defined by the physician assistant scholarship recipient's employer and as specified in the contract.

—(6) A physician assistant scholarship recipient must serve one year of obligated service for each year he received a scholarship under this program.

—(7) The committee may cancel a scholarship at any time if it finds that the physician assistant scholarship recipient has voluntarily or involuntarily terminated his physician assistant education and training, or it appears to be a reasonable certainty the physician assistant scholarship recipient does not intend to practice medicine as a physician assistant as required by statute, rules, and contract.

—(8) The physician assistant scholarship recipient must obtain a temporary physician assistant license and begin practicing medicine at an approved site for the agreed upon period of time within six months of completion of physician assistant education.

—(9) The physician assistant scholarship recipient shall take the National Commission on the Certification of Physician Assistants/National Board of Medical Examiners Physician Assistant National Certification Exam at the soonest date after completion of physician assistant schooling. At the soonest date after the physician assistant scholarship recipient passes this exam he shall obtain a permanent unrestricted license as a physician assistant.

—(10) If the physician assistant scholarship recipient fails the National Commission on the Certification of Physician Assistants/National Board of Medical Examiners Physician Assistant National Certification Exam, he must retake the exam within one year of failure of the National certification exam. If the physician assistant scholarship recipient fails the exam a second time, or fails to retake the

exam, he shall be in default of the scholarship contract. The period when the temporary license is lost due to failing the exam and the physician assistant scholarship recipient is unable to practice at an approved site does not count against retiring the obligated service under the contract.

— (11) Upon graduation from physician assistant schooling, the physician assistant scholarship recipient shall be responsible for finding employment at an eligible site in a medically underserved rural area of Utah.

— (12) The physician assistant scholarship recipient must obtain approval from the committee prior to beginning obligated service at an eligible site.

~~R434-10-12. Physician Scholarship Applicant Eligibility and Selection.~~

— (1) In selecting a recipient for a physician scholarship, the committee shall evaluate the applicant based on the following selection criteria:

— (a) ~~the applicant's commitment to serve in a medically underserved rural area, which may be demonstrated in any of the following ways:~~

— (i) ~~has lived in a rural area with fewer than 100 persons per square mile;~~

— (ii) ~~has rural work or educational experience;~~

— (iii) ~~has work or educational experience with rural populations such as the Peace Corps, VISTA, or the Extension Service of the Department of Agriculture;~~

— (iv) ~~has declared a commitment to practice in a medically underserved rural area as expressed in the essay which is required as part of the scholarship application;~~

— (v) ~~other facts or experience that the applicant can demonstrate to the committee that establishes his commitment to a rural practice.~~

— (b) ~~the applicant's need for assistance in financing a medical or osteopathic education;~~

— (c) ~~the applicant's academic ability as demonstrated by official transcripts and official medical or osteopathic school admission test scores;~~

— (d) ~~the applicant's evidence that he has been accepted by or currently attends a medical school accredited by the Liaison Committee on American Medical Education or osteopathic school accredited by the American Osteopathic Association Bureau of Professional Education;~~

— (e) ~~the applicant's personal and professional references demonstrating the applicant's good character and potential to successfully complete medical or osteopathic school.~~

— (2) In selecting a physician scholarship recipient, the committee may give preference to:

— (a) ~~applicants who agree to serve in a medically underserved rural area of the state for four years in return for four years of scholarship assistance;~~

— (b) ~~applicants who agree to complete their postgraduate training in one of the following medical specialties: family practice, general internal medicine, general pediatrics, or obstetrics/gynecology;~~

— (c) ~~applicants from rural Utah.~~

— (3) ~~To be eligible to receive a physician scholarship, an applicant must be a United States citizen or permanent resident.~~

— (4) ~~Before the committee awards a scholarship, applicants must participate in an interview with the committee or its designee.~~

— (5) ~~To remain eligible to receive scholarship funds, an applicant must satisfactorily complete each year of medical or osteopathic school and be a matriculated student.~~

~~R434-10-13. Physician Assistant Scholarship Applicant Eligibility and Selection.~~

— (1) ~~In selecting an applicant for a physician assistant scholarship, the committee shall evaluate the applicant based on the following selection criteria:~~

— (a) ~~the applicant's commitment to serve in a medically underserved rural area, which may be demonstrated in any of the following ways:~~

— (i) ~~has lived in a rural area with fewer than 100 persons per square mile;~~

— (ii) ~~has rural work or educational experience;~~

— (iii) ~~has work or educational experience with rural populations such as the Peace Corps, VISTA, or the Extension Service of the Department of Agriculture;~~

— (iv) ~~has declared a commitment to practice in a medically underserved rural area as expressed in the essay which is required as part of the scholarship application;~~

— (v) ~~other facts or experience that the applicant can demonstrate to the committee that establishes his commitment to a rural practice.~~

— (b) ~~the applicant's need for assistance in financing a physician assistant education;~~

— (c) ~~the applicant's academic ability as demonstrated by official transcripts;~~

— (d) ~~the applicant's evidence that he has been accepted by or currently attends a physician assistant school accredited by the Committee on Allied Health Education and Accreditation of the American Medical Association;~~

— (e) ~~the applicant's personal and professional references demonstrating the applicant's good character and potential to successfully complete physician assistant school.~~

— (2) ~~In selecting a physician assistant scholarship recipient, the committee may give preference to applicants from rural Utah.~~

— (3) ~~To be eligible to receive a physician assistant scholarship, an applicant must be a United States citizen or permanent resident.~~

— (4) ~~Before the committee awards a scholarship, applicants must participate in an interview with the committee or its designee.~~

— (5) ~~To remain eligible to receive scholarship funds an applicant must satisfactorily complete each year of physician assistant school and be a matriculated student.~~

~~R434-10-14. Physician Scholarship Recipient Obligations.~~

— (1) ~~A physician scholarship recipient must maintain minimum continuous registration to maintain medical or osteopathic student status until he completes all requirements for his degree. The maximum years leading to a degree may not exceed four years, unless extended pursuant to R434-10-16.~~

— (2) ~~A physician scholarship recipient must attend a minimum three year postgraduate training program.~~

— (3) ~~A physician scholarship recipient must obtain an unrestricted license to practice as a physician in Utah prior to beginning practice at the approved site.~~

— (4) ~~Within six months before and not exceeding one month following completion of postgraduate training, a physician scholarship recipient shall provide to the department documented evidence from an eligible site of its intent to hire him.~~

— (5) ~~Upon completion of postgraduate training, the physician scholarship recipient is responsible for finding employment at an eligible site in a medically underserved rural area of Utah.~~

— (6) ~~The physician scholarship recipient must obtain approval from the committee prior to beginning obligated service at an eligible site.~~

—(7) A physician scholarship recipient must begin employment at the approved site within six months of completion of postgraduate training.

—(8) A physician scholarship recipient, upon completion of postgraduate training, must demonstrate willingness to serve the underserved by:

—(a) accepting Medicare, Medicaid, or Utah Medical Assistance Program patients;

—(b) providing care regardless of patient's ability to pay;

—(c) showing ability and willingness to provide care.

—(9) The minimum length of obligated service is two years, or such longer period to which the applicant and the committee agree.

—(10) The physician scholarship recipient must obtain committee approval prior to changing the approved site where he fulfills his obligated service.

R434 10 15. Physician Assistant Scholarship Recipient Obligations.

—(1) A physician assistant scholarship recipient must maintain minimum continuous registration to maintain physician assistant student status until he completes all requirements for his degree. The maximum years leading to a degree may not exceed four years unless extended pursuant to R434 10 16.

—(2) A physician assistant scholarship recipient shall take the National Commission on the Certification of Physician Assistants/National Board of Medical Examiners Physician Assistant National Certification Exam at the soonest date after completion of physician assistant schooling.

—(3) Upon completion of physician assistant schooling, the physician assistant scholarship recipient is responsible for finding employment at an eligible site in a medically underserved rural area of Utah.

—(4) The physician assistant scholarship recipient must obtain approval from the committee prior to beginning obligated service at an eligible site.

—(5) Within three months before, and not exceeding one month following completion of physician assistant education and prior to beginning fulfillment of obligated service, a physician assistant scholarship recipient shall provide to the department documented evidence from the approved site of its intent to hire him.

—(6) A physician assistant scholarship recipient, upon completion of physician assistant schooling, must demonstrate willingness to serve the underserved by:

—(a) accepting Medicare, Medicaid, or Utah Medical Assistance Program patients;

—(b) providing care regardless of patient's ability to pay;

—(c) showing ability and willingness to provide care.

—(7) A physician assistant scholarship recipient must begin employment at the approved site within six months of completion of physician assistant education.

—(8) The minimum length of obligated service is two years, or such longer period to which the applicant and the committee agree.

—(9) The physician assistant scholarship recipient must obtain committee approval prior to changing the approved site where he fulfills his obligated service.

R434 10 16. Extension of Contract with Scholarship Recipient.

—(1) The committee may extend the period within which the scholarship recipient must complete his medical, osteopathic, or physician assistant education:

—(a) if the scholarship recipient has a serious illness;

—(b) if the scholarship recipient is activated by the military;

—(c) for other good cause shown, as determined by the committee.

R434 10 17. Schedule of Breach of Scholarship Contract Repayment.

—(1) A scholarship recipient who:

—(a) Fails to finish his professional schooling within the period of time agreed upon with the committee shall within 90 days after the deadline for completing his schooling or within 90 days of his failure to continue his schooling, whichever occurs earlier, shall repay:

—(i) all scholarship money received according to a schedule established by contract with the committee;

—(ii) if not repaid within one year of default, 12% per annum interest on unrepaid scholarship money calculated from the date each installment was received under the scholarship;

—(iii) costs and expenses incurred in collection, including attorney fees.

—(b) Finishes his schooling and fails to pass the necessary professional certifications or examinations within the time period agreed upon with the committee shall begin to repay to the department within one year of the breach:

—(i) all scholarship money received according to a schedule established by the committee;

—(ii) if not repaid within one year of default, 12% per annum interest on unrepaid scholarship money calculated from the date each installment was received under the scholarship;

—(iii) costs and expenses incurred in collection, including attorney fees.

—(c) Finishes his schooling and fails to take the necessary professional certifications or examinations within the time period agreed upon with the committee shall within one year of the breach:

—(i) pay as a penalty twice the total amount of the scholarship money on a prorated basis according to a schedule established by the committee and 12% per annum interest on the unpaid penalty amount;

—(ii) costs and expenses incurred in collection, including attorney fees.

—(d) Finishes his schooling and becomes a physician or physician assistant but who fails to fulfill his obligated service shall begin to repay the penalty to the department within one year of the breach, pursuant to Subsection 26-9-210 (5).

—(2) A physician scholarship recipient who fails to complete a minimum three year postgraduate training program within the time period agreed upon with the committee shall within 90 days after the deadline for completing his postgraduate training program or within 90 days of his failure to continue his postgraduate training program, whichever occurs earlier, repay:

—(a) all scholarship money received according to a schedule established by the committee;

—(b) if not repaid within one year of default, 12% per annum interest on unrepaid scholarship.

—(3) The amount to be paid back shall be determined from the end of the month in which the scholarship recipient breached the contract as if the scholarship recipient had breached at the end of the month.

—(4) The breaching scholarship recipient shall pay the total amount due within four years of breaching the contract. The scheduled pay back may not be less than four equal payments.

R434 10 18. Release of Recipient from Obligated Service.

—(1) The committee may release a recipient from his obligated service without penalty:

—(a) if the obligated service has been fulfilled;

- (b) if he dies;
- (c) for other good cause shown, as determined by the committee.
- (2) Extreme hardship sufficient to release the recipient without penalty includes:
 - (a) inability to complete medical, osteopathic, or physician assistant school or fulfill obligated service due to permanent disability that prevents the recipient from completing school or performing any work for remuneration or profit;
 - (b) a family member, for which the recipient is the principal care giver, has a life threatening chronic illness.

R434-10-19. Eligible Site Determination.

- (1) Criteria to determine an eligible site include:
 - (a) within the medically underserved rural area:
 - (i) the percentage of the population with incomes under 200% of the federal poverty level;
 - (ii) the percentage of the population 65 years of age and over;
 - (iii) the percentage of the population under 18 years of age;
 - (iv) the infant mortality rate;
 - (v) the postneonatal mortality rate;
 - (b) distance to nearest physician or physician assistant and barriers to reaching the physician or physician assistant, e.g., winter driving conditions or mountainous roads'
 - (c) for physician eligible site determination, the ratio of population to physician medical specialty for which the site applied;
 - (d) for physician assistant eligible site determination, a minimum population to physician assistant ratio of one physician assistant per 1,500 persons, in addition to the number of primary care physicians at the site, the affect physician assistants may have on the practice of providers and the delivery of health care at the site; and
 - (e) letters of support from a majority of practicing physicians and physician assistants in service area, county and civic leaders, hospital administrator, business leaders, local chamber of commerce, citizens, and local health departments.
- (2) The committee may give preference to sites which assure in their site applications that other community physicians will continue to see their fair share of Medicaid, Medicare, and Utah Medical Assistance patients.
- (3) The committee may give preference to designated health professional shortage areas requesting one of the following medical specialties:
 - (a) family practice;
 - (b) internal medicine;
 - (c) obstetrics/gynecology;
 - (d) pediatrics;
 - (e) physician assistants.
- (4) An eligible site approved to have a grant or scholarship recipient practice there must offer a salary and benefit package competitive with salaries and benefits of other providers in the service area.

R434-10-20. Eligible Bona Fide Loans.

- (1) A bona fide loan may include the following:
 - (a) a commercial loan made by a bank, credit union, savings and loan association, insurance company, school, or credit institution;
 - (b) a governmental loan made by a federal, state, county, or city agency;
 - (c) a loan made by another person which is documented by a contract notarized at the time of the making of the loan; indicative of an arm's length transaction, and with competitive term and rate as other loans available to physician and physician assistant students; or

- (d) a loan that the applicant conclusively demonstrates is a bona fide loan.

R434-10-21. Reporting.

— The committee may require the recipient to provide information regarding the academic performance, commitment to medically underserved rural areas, continuing financial need, obligated service fulfillment, and other information reasonably necessary for the administration of the program during the period the recipient is in medical, osteopathic, or physician assistant school; postgraduate training; and in practice.

**KEY: grants, physicians, physician assistants*, scholarships*
March 26, 1999**

**Notice of Continuation October 8, 1998
26-9]**



Health, Health Systems Improvement, Primary Care and Rural Health **R434-20** Special Population Health Care Provider Financial Assistance Program

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE No.: 25072

FILED: 07/05/2002, 15:23

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Statutory authority for the rule was repealed by the 2002 Legislature. A new advisory committee for health care provider loans was created. New rules will be proposed consistent with S.B. 113. (DAR NOTE: S.B. 113 is found at UT L 2002 Ch 307, and was effective March 26, 2002.)

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

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 9e

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Department, pursuant to S.B. 113, is still required to administer a loan repayment program for health care providers. This rule change in isolation would reduce work demands for the Department. However, replacement rules consistent with S.B. 113 will replace this rule. It is hoped that the new rules can be simpler and therefore some savings may result to state government.

❖ LOCAL GOVERNMENTS: Local governments benefit from the loan repayment program since many of these providers work for local health departments and other local agencies. This rule repeal will not reduce that benefit to local government. If the replacement rules as they support a single committee can be simpler, some savings may result to local government.

❖ OTHER PERSONS: Private persons benefit from the loan repayment program in that health care in rural and other underserved areas is increased by this program. If the replacement rules as they support a single committee can be simpler, some savings may result to health care providers, clinics, and hospitals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The rule is repealed, therefore there are no compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The new advisory committee created by S.B. 113 should have a positive impact on businesses as the structure for awarding these loans is simplified. Rod L. Betit

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT,
PRIMARY CARE AND RURAL HEALTH
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Lyle Odendahl at the above address, by phone at 801-538-6878, by FAX at 801-538-6306, or by Internet E-mail at lyleodendahl@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/03/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 09/04/2002

AUTHORIZED BY: Rod Betit, Executive Director

R434. Health, Health Systems Improvement, Primary Care and Rural Health.

~~**R434 20. Special Population Health Care Provider Financial Assistance Program.**~~

~~**R434 20 1. Purpose.**~~

~~This rule provides criteria for the implementation of the Special Population Health Care Provider Financial Assistance and Retention Act; the award of grant funds to primary health care providers to repay loans taken for educational expenses; and the award of scholarship funds to individuals seeking to become primary health care providers, in exchange for practicing for a specified period of time in a medically underserved urban area of the state.~~

~~**R434 20 2. Definitions.**~~

~~The definitions as they appear in Section 26 9e 2 apply. In addition:~~

~~(1) "Applicant" means a person who submits a completed application for a grant or scholarship under this part.~~

~~(2) "Approved site" means an eligible site which is approved by the committee pursuant to Subsection 26 9e 2(15).~~

~~(3) "Department" means the Utah Department of Health.~~

~~(4) "Eligible site" means a site that the committee has designated as meeting the eligibility criteria established by the committee and is in a medically underserved urban area pursuant to Subsections 26 9e 5 (1)(f) and 26 9e 2(15).~~

~~(5) "Grant" means loan repayment as defined in Subsection 26 9e 2(6).~~

~~(6) "Postgraduate training" means internship, practicum, preceptorship, or residency training required for primary health care provider licensure and as required by this rule.~~

~~(7) "Scholarship" means an award of money for educational expenses given to an individual under a contract where the individual agrees to become a primary health care provider in exchange for practicing for a specified period of time in a medically underserved urban area in the state.~~

~~**R434 20 3. Grant Administration.**~~

~~(1) The department may provide a grant to repay loans taken for primary health care provider educational expenses.~~

~~(2) The grant recipient may not enter into any other similar contracts until he satisfies the service obligation described in the grant.~~

~~(3) For a grant recipient with a four year contract, the state shall provide 20% of the grant at the completion of the first three months, 20% of the grant at the completion of year one, 20% at the completion of year two, 20% at the completion of year three, and 20% at the completion of year four.~~

~~(4) For a grant recipient with a three year contract, the state shall provide 25% of the grant at the completion of the first three months, 25% of the grant at the completion of year one, 25% at the completion of year two, and 25% at the completion of year three.~~

~~(5) For a grant recipient with a two year contract, the state shall provide 33% of the grant at the completion of the first three months, 33% of the grant at the completion of year one, and 34% at the completion of year two.~~

~~(6) A grant recipient must have a permanent, unrestricted license to practice in their primary health care specialty in Utah before his first day of practice under the grant contract.~~

~~(7) A grant recipient must obtain approval from the committee, of the eligible site to complete his service obligation, prior to beginning to fulfill his service obligation at an eligible site.~~

~~(8) A grant recipient must obtain approval prior to changing the approved site where he fulfills his service obligation.~~

~~**R434 20 4. Full Time Equivalency Provisions for Grant Recipients.**~~

~~(1) The annual grant amount is based on the level of full time equivalency that the grant recipient agrees to work.~~

~~(2) A grant recipient who provides services for at least 40 hours per week may be awarded a grant based on the percentages outlined in Section R434 20 3.~~

~~(3) A grant recipient who provides services for less than 40 hours per week may be awarded a proportionately lower grant based on a full time equivalency of 40 hours per week.~~

~~**R434 20 5. Grant Eligibility and Selection.**~~

~~(1) In selecting a grant recipient for a grant award, the committee shall evaluate the applicant based on the following selection criteria:~~

~~(a) the extent to which an applicant's training in a primary health care specialty needed at an eligible site;~~

— (b) — the applicant's commitment to serve in a medically underserved urban area which can be demonstrated in any of the following ways:

— (i) — has worked or volunteered at a community or migrant health center, homeless shelter, public health department clinic, or other service commitment to the underserved;

— (ii) — has work or educational experience with special populations through the Peace Corps, VISTA, or a similar volunteer agency;

— (iii) — has cultural or language skills that may be essential for provision of primary health care services to special populations;

— (iv) — other facts or experience that the applicant can demonstrate to the committee that establishes his commitment to serve special populations;

— (c) — the availability of the applicant to begin service, with greater consideration being given to applicants available for service at earlier dates;

— (d) — the length of the applicant's proposed service obligation, with greater consideration given to applicants who agree to serve for longer periods of time;

— (e) — the applicant's:

— (i) — academic standing;

— (ii) — prior professional or personal experience serving special populations;

— (iii) — board certification or eligibility;

— (iv) — postgraduate training achievements;

— (v) — peer recommendations;

— (vi) — other facts that the applicant can demonstrate to the committee that establishes his professional competence or conduct;

— (f) — the applicant's financial need;

— (g) — the applicant's willingness to accept Medicaid, Medicare, Utah Medical Assistance, and Children's Health Insurance Program patients;

— (h) — the applicant's willingness to provide care regardless of a patient's ability to pay;

— (i) — the applicant's ability and willingness to provide care;

— (j) — the applicant's achieving an early match with an eligible site.

— (2) — To be eligible for a grant, an applicant must be a United States citizen or permanent resident.

— (3) — To be eligible for a grant, an applicant must be enrolled in or have completed postgraduate training prior to submitting an application to participate in the grant program.

— (4) — Only grant applicants who are available to begin practicing as a primary health care provider in the state within one year from the date of application are eligible for this program.

R434-20-6. Dentist Grant Eligibility and Selection.

— (1) — In selecting a Dentist grant recipient for a grant award, the committee shall evaluate the applicant based on the selection criteria listed in Section R434-20-5.

— (2) — In selecting a Dentist grant recipient for a grant award, the committee shall also evaluate the Dentist applicant based on the following selection criteria:

— (a) — must have attended a dental school accredited by the American Dental Association.

— (b) — must have passed the Utah Dentist and Dental Hygienist Law Examination, pursuant to Subsection R156-69-302b(1).

— (c) — must have passed the Western Regional Examining Board; Central Regional Dental Testing Service, Inc.; Northeast Regional Board of Dental Examiners, Inc.; or Southern Regional Testing Agency, Inc., examinations pursuant to Subsection R156-69-302b(2).

R434-20-7. Mental Health Therapist Grant Eligibility and Selection.

— (1) — In selecting a Mental Health Therapist grant recipient for a grant award, the committee shall evaluate the applicant based on the selection criteria listed in Section R434-20-5.

— (2) — In selecting a clinical psychologist grant recipient for a grant award, the committee shall also evaluate the clinical psychologist applicant based on the following selection criteria:

— (a) — must have attended a school accredited by a regional institutional accrediting body identified in the "Accredited Institutions of Postsecondary Education" and recognized by the Association of State and Provincial Psychology Boards as listed in the "Doctoral Psychology Programs Meeting Designation Criteria", pursuant to Subsection R156-61-302a(1), awarding a degree that meets the requirements of Subsection 58-61-304(1)(d).

— (b) — must be completing or have completed a minimum two year supervised clinical internship prior to submitting an application to participate in the grant program.

— (c) — must have passed the Examination for the Professional Practice of Psychology developed by the American Association of State Psychology Board, pursuant to Subsection R156-61-302c(1)(a).

— (d) — must have passed the Utah Psychology Law Examination, pursuant to Subsection R156-61-302e(1)(b).

— (3) — In selecting a clinical social worker grant recipient for a grant award, the committee shall also evaluate the clinical social worker applicant based on the following selection criteria:

— (a) — must have attended a school accredited by the United States Council on Social Work Education or the Canadian Association of Schools of Social Work, awarding a degree in social work.

— (b) — must be completing or have completed a minimum 4,000 hours of supervised clinical social work and mental health therapy training which includes 1,000 hours of face to face therapy completed over a duration of not less than two years, prior to submitting an application to participate in the grant program.

— (c) — must have passed the Utah Social Work Law, Rules, and Ethics Examination, pursuant to Subsection R156-60a-302d(1)(a).

— (d) — must have passed the National Basic Examination of the American Association of State Social Work Boards, pursuant to Subsection R156-60a-302d(2)(b).

— (e) — must have passed the National Clinical Examination of the American Association of State Social Work Boards or the Clinical Social Workers Examination of the State of California, pursuant to Subsection R156-60a-302d(1)(b).

— (4) — In selecting a marriage and family therapist grant recipient for a grant award, the committee shall also evaluate the marriage and family therapist applicant based on the following selection criteria:

— (a) — must have attended a school accredited by or in a candidacy status by the Commission on Accreditation for Marriage and Family Therapy Education, awarding a degree in marriage and family therapy.

— (b) — must be completing or have completed 4,000 hours of marriage and family therapy training and 1,000 hours supervised mental health therapy training completed over a duration of not less than one year, prior to submitting an application to participate in the grant program.

— (c) — must have passed the Utah Marriage and Family Therapy Law and Ethics Examination and the Examination of Marital and Family Therapy written for the Association of Marital and Family Therapy Regulatory Boards, pursuant to Subsection R156-60b-302d(1).

— (5) — In selecting a professional counselor grant recipient for a grant award, the committee shall also evaluate the professional counselor applicant based on the following selection criteria:

—(a) must have attended a school accredited by a regional institutional accrediting body identified in the "Accredited Institutions of Postsecondary Education", for the Commission of Recognition of Postsecondary Accreditation of the American Council on Education, awarding a degree that meets the requirements of Subsection 58-60-405(4).

—(b) must be completing or have completed 4,000 hours of supervised professional counselor training and 1,000 hours of supervised training in mental health therapy completed over a duration of not less than one year, prior to submitting an application to participate in the grant program.

—(c) must have passed the Utah Professional Counselor Law, Rules, and Ethics Examination, pursuant to Subsection R156-60e-302d(1)(a).

—(d) must have passed the National Counseling Examination of the National Board of Certified Counselors, pursuant to Subsection R156-60e-302d(1)(b).

—(e) must have passed the National Clinical Mental Health Counseling Examination of the National Board of Certified Counselors, pursuant to Subsection R156-60e-302d(1)(c).

R434-20-8. Physician Grant Eligibility and Selection.

—(1) In selecting a Physician grant recipient for a grant award, the committee shall evaluate the applicant based on the selection criteria listed in Section R434-20-5.

—(2) In selecting a Physician grant recipient for a grant award, the committee shall also evaluate the Physician applicant based on the following selection criteria:

—(a) must have attended an accredited school of allopathic or osteopathic medicine, accredited by the Liaison Committee on American Medical Education or by the American Osteopathic Association Bureau of Professional Education, which awards a degree of Doctor of Medicine or Doctor of Osteopathy.

—(b) must be enrolled in or have completed a minimum three year postgraduate training program in the United States or Canada accredited by the Accreditation Committee on Graduate Medical Education or the American Osteopathic Association Bureau of Professional Education or accredited by the Royal College of Physicians and Surgeons of Canada, prior to submitting an application to participate in the grant program.

—(c) must have passed the examination requirements for licensure as a physician or surgeon or osteopathic physician or surgeon in Utah, pursuant to Section R156-67-302d or Section R156-68-302b.

R434-20-9. Physician Assistant Grant Eligibility and Selection.

—(1) In selecting a Physician Assistant grant recipient for a grant award, the committee shall evaluate the applicant based on the selection criteria listed in Section R434-20-5.

—(2) In selecting a Physician Assistant grant recipient for a grant award, the committee shall also evaluate the Physician Assistant applicant based on the following selection criteria:

—(a) must be enrolled in or completing a physician assistant program accredited by the Commission on Accreditation of Allied Health Education Programs.

—(b) must have passed the National Commission on the Certification of Physician Assistants/National Board of Medical Examiners Physician Assistant National Certification Exam, pursuant to Section R156-70a-302(1).

—(c) must have passed the Utah Physicians Assistant Law and Rules Examination, pursuant to Section R156-70a-302(2).

—(d) must have a permanent, unrestricted license to practice medicine as a physician assistant in Utah.

—(e) must submit a copy of the delegation of services agreement signed by the supervising physician and substitute supervising physician for approval by the committee.

—(3) The department may not provide a grant to a physician assistant until the physician assistant passes the National Commission on the Certification of Physician Assistants/National Board of Medical Examiners Physician Assistant National Certification Exam.

R434-20-10. Eligible Bona Fide Loans.

—(1) A bona fide loan may include the following:

—(a) a commercial loan made by a bank, credit union, savings and loan association, insurance company, school, or credit institution;

—(b) a governmental loan made by a federal, state, county, or city agency;

—(c) a loan made by another person which is documented by a contract notarized at the time of the making of the loan, indicative of an arm's length transaction, and with competitive term and rate as other loans available to primary health care provider students.

—(d) a loan that the applicant conclusively demonstrates is a bona fide loan.

R434-20-11. Extension of Grant Contract.

—(1) A grant recipient who has signed a grant contract for less than four years may apply on or after his first day of practice under a grant to extend his grant contract by one or two years, up to a maximum of four years total.

—(2) The grant contract may be extended only at an approved site.

—(3) A grant recipient who desires to extend his grant contract must inform the committee in writing of his interest in extending his grant contract at least six months prior to the termination of his unextended grant contract.

R434-20-12. Schedule of Breach of Grant Contract Repayment.

—(1) A grant recipient who fails to complete the service obligation shall begin to repay the penalty to the department within 30 days of the breach. The department may submit for immediate collection all amounts due from a breaching grant recipient who does not begin to repay within 30 days.

—(2) The amount to be paid back shall be determined from the end of the month in which the grant recipient breached the contract as if the grant recipient had breached at the end of the month.

—(3) The breaching grant recipient shall pay the total amount due within one year of breaching the contract. The scheduled payback may not be less than four equal quarterly payments.

R434-20-13. Scholarship Administration.

—(1) The department may provide scholarship funds to a scholarship recipient for a maximum of four years of postgraduate schooling or until completion of postgraduate schooling, whichever is shorter.

—(2) For each academic year the committee may award \$12,000 to a scholarship recipient.

—(3) The committee may pay tuition and fees directly to the school and determine the amount and frequency of direct payments to the student.

—(4) The scholarship recipient may not enter into a scholarship contract other than with the program established in Section 26-9e-1 until the service obligation agreed upon in the state scholarship contract is satisfied.

—(5) A scholarship recipient must work full-time, as defined by the scholarship recipient's employer and as specified in his contract with the department.

—(6) A scholarship recipient must serve one year of service obligation for each year he received a scholarship under this program.

—(7) The committee may cancel a scholarship at any time if it finds that the scholarship recipient has voluntarily or involuntarily terminated his schooling, postgraduate training, or if it appears to be a reasonable certainty that the scholarship recipient does not intend to practice as required by statute, rules, and contract in a medically underserved urban area in the state.

—(8) Upon completion of schooling and required postgraduate training, the scholarship recipient is responsible to find employment at an eligible site in a medically underserved urban area of Utah.

—(9) A scholarship recipient must obtain approval from the committee prior to beginning service obligation at an eligible site.

—(10) A scholarship recipient must obtain approval from the committee prior to changing the approved site where he fulfills his service obligation.

—(11) A dental, medical, mental health therapist, and osteopathic scholarship recipient must:

—(a) begin required postgraduate training within six months after he obtains his degree. Postgraduate training must be continuous unless the scholarship recipient obtains prior approval from the director of the scholarship recipient's training program and from the committee.

—(b) obtain an unrestricted license to practice in the state and begin practicing for the agreed-upon period of time at an approved site within six months of completion of postgraduate training.

—(12) Medical and Osteopathic scholarship recipients shall:

—(a) select for postgraduate training a residency in one of the following areas: family practice, general internal medicine, general pediatrics, or obstetrics/gynecology. If the scholarship recipient desires to choose a postgraduate training program in a medical specialty other than family practice, general internal medicine, general pediatrics, or obstetrics/gynecology, he must demonstrate the need for the medical specialty in a medically underserved urban area and obtain approval from the committee.

—(b) attend a minimum three-year postgraduate training program.

—(13) Physician assistant scholarship recipients:

—(a) must obtain a temporary physician assistant license and begin practicing medicine at an eligible site for the agreed-upon period of time within six months of completion of physician assistant education.

—(b) must submit a copy of the delegation of services agreement signed by the supervising physician and substitute supervising physician for approval by the committee.

—(c) shall take the National Commission on the Certification of Physician Assistants/National Board of Medical Examiners Physician Assistant National Certification Exam the first time it is offered after completion of physician assistant schooling. After the physician assistant scholarship recipient passes this exam he shall obtain a permanent, unrestricted license as a physician assistant as soon as possible.

—(d) if the physician assistant scholarship recipient fails the National Commission on the Certification of Physician Assistants/National Board of Medical Examiners Physician Assistant National Certification Exam, he must retake the exam within one year of failure of the National Certification Exam. If the physician assistant scholarship recipient fails the exam a second time, or fails to retake the exam, he shall be in default of the scholarship contract. The period when the temporary license is lost due to failing the exam and the physician assistant scholarship recipient is unable to practice at an

approved site, does not count against retiring the service obligation under the contract.

R434-20-14. Scholarship Applicant Eligibility and Selection.

—(1) In selecting a recipient for a scholarship, the committee shall evaluate the applicant based on the following selection criteria:

—(a) the applicant's commitment to serve in a medically underserved urban area, which may be demonstrated in any of the following ways:

—(i) has worked or volunteered to serve special populations or other service commitment to the underserved;

—(ii) has work or educational experience with special populations through the Peace Corps, VISTA, or a similar volunteer agency;

—(iii) has cultural or language skills that may be essential for provision of primary health care services to special populations;

—(iv) has declared a commitment to practice in a medically underserved urban area as expressed in the essay which is required as part of the scholarship application;

—(v) other facts or experience that the applicant can demonstrate to the committee that establishes his commitment to special populations.

—(b) the applicant's need for assistance in financing his education;

—(c) the applicant's academic ability as demonstrated by official transcripts and official school admission test scores;

—(d) the applicant's evidence that he has been accepted by or currently attends an accredited school approved by the committee;

—(e) the applicant's personal and professional references demonstrating the applicant's good character and potential to successfully complete school.

—(2) In selecting a scholarship recipient, the committee may give preference to:

—(a) applicants who agree to serve in a medically underserved urban area of the state for a greater length of time in return for scholarship assistance;

—(b) physician applicants who agree to complete their postgraduate training in one of the following specialties: family practice, general internal medicine, general pediatrics, obstetrics/gynecology, or psychiatry.

—(3) To be eligible to receive a scholarship, an applicant must be a United States citizen or permanent resident.

—(4) Before the committee awards a scholarship, applicants must participate in an interview with the committee or its designee.

—(5) To remain eligible to receive scholarship funds, a scholarship recipient must satisfactorily complete each year of school and be a full-time matriculated student.

R434-20-15. Scholarship Recipient Obligations.

—(1) A scholarship recipient must maintain minimum continuous registration to maintain full-time student status until he completes all requirements for his degree. The maximum years leading to a degree may not exceed six years, unless extended pursuant to R434-20-11.

—(2) Within six months before and not exceeding one month following completion of postgraduate training, a scholarship recipient shall provide to the department documented evidence from an eligible site of its intent to hire him.

—(3) Upon completion of schooling or postgraduate training, the scholarship recipient is responsible for finding employment at an eligible site in a medically underserved urban area of Utah.

—(4) A scholarship recipient must obtain an unrestricted license to practice in Utah prior to beginning practice at the approved site.

—(5) A scholarship recipient must obtain approval from the committee prior to beginning to fulfill his service obligation at an eligible site.

—(6) A scholarship recipient must begin employment at the approved site within six months of completion of postgraduate training.

—(7) A scholarship recipient, upon completion of postgraduate training, must demonstrate willingness to serve special populations by:

—(a) accepting Medicare, Medicaid, Utah Medical Assistance Program, and Children's Health Insurance Program patients;

—(b) providing care regardless of patient's ability to pay;

—(c) showing ability and willingness to provide care.

—(8) The minimum length of service obligation is two years, or such longer period to which the applicant and the committee agree.

—(9) The scholarship recipient must obtain committee approval prior to changing the approved site where he fulfills his service obligation.

R434-20-16. Dentist Scholarship Recipient Obligations.

—(1) A Dentist scholarship recipient must abide by the scholarship recipient obligations listed in Section R434-20-15 and complete the following service obligations:

—(a) must attend a dental school accredited by the American Dental Association;

—(b) must pass the Utah Dentist and Dental Hygienist Law Examination, pursuant to Subsection R156-69-302b(1).

—(c) must pass the Western Regional Examining Board; Central Regional Dental Testing Service, Inc.; Northeast Regional Board of Dental Examiners, Inc.; or Southern Regional Testing Agency, Inc., examinations pursuant to Subsection R156-69-302b(2).

R434-20-17. Mental Health Therapist Scholarship Recipient Obligations.

—(1) A clinical psychologist scholarship recipient must abide by the scholarship recipient obligations listed in Section R434-20-15 and complete the following service obligations:

—(a) must attend a school accredited by a regional institutional accrediting body identified in the "Accredited Institutions of Postsecondary Education" and recognized by the Association of State and Provincial Psychology Boards as listed in the "Doctoral Psychology Programs Meeting Designation Criteria", pursuant to Subsection R156-61-302a(1), awarding a degree that meets the requirements of Subsection 58-61-304(1)(d).

—(b) must complete a minimum two year supervised clinical internship.

—(c) must pass the Examination for the Professional Practice of Psychology developed by the American Association of State Psychology Board, pursuant to Subsection R156-61-302c(1)(a).

—(d) must pass the Utah Psychology Law Examination, pursuant to Subsection R156-61-302e(1)(b).

—(2) A clinical social worker scholarship recipient must abide by the scholarship recipient obligations listed in Section R434-20-15 and complete the following service obligations:

—(a) must attend a school accredited by the United States Council on Social Work Education or the Canadian Association of Schools of Social Work, awarding a degree in social work.

—(b) must complete a minimum 4,000 hours of supervised clinical social work and mental health therapy training which includes 1,000 hours of face to face therapy completed over a duration of not less than two years.

—(c) must pass the Utah Social Work Law, Rules, and Ethics Examination, pursuant to Subsection R156-60a-302d(1)(a).

—(d) must pass the National Basic Examination of the American Association of State Social Work Boards, pursuant to Subsection R156-60a-302d(2)(b).

—(e) must pass the National Clinical Examination of the American Association of State Social Work Boards or the Clinical Social Workers Examination of the State of California, pursuant to Subsection R156-60a-302d(1)(b).

—(3) A marriage and family therapist scholarship recipient must abide by the scholarship recipient obligations listed in Section R434-20-15 and complete the following service obligations:

—(a) must attend a school accredited by or in a candidacy status by the Commission on Accreditation for Marriage and Family Therapy Education, awarding a degree in marriage and family therapy.

—(b) must complete 4,000 hours of marriage and family therapy training and 1,000 hours supervised mental health therapy training completed over a duration of not less than one year.

—(c) must pass the Utah Marriage and Family Therapy Law and Ethics Examination and the Examination of Marital and Family Therapy written for the Association of Marital and Family Therapy Regulatory Boards, pursuant to Subsection R156-60b-302d(1).

—(4) A professional counselor scholarship recipient must abide by the scholarship recipient obligations listed in Section R434-20-15 and complete the following service obligations:

—(a) must attend a school accredited by a regional institutional accrediting body identified in the "Accredited Institutions of Postsecondary Education", for the Commission of Recognition of Postsecondary Accreditation of the American Council on Education, awarding a degree that meets the requirements of Subsection 58-60-405(4).

—(b) must complete 4,000 hours of supervised professional counselor training and 1,000 hours of supervised training in mental health therapy completed over a duration of not less than one year.

—(c) must pass the Utah Professional Counselor Law, Rules, and Ethics Examination, pursuant to Subsection R156-60c-302d(1)(a).

—(d) must pass the National Counseling Examination of the National Board of Certified Counselors, pursuant to Subsection R156-60c-302d(1)(b).

—(e) must pass the National Clinical Mental Health Counseling Examination of the National Board of Certified Counselors, pursuant to Subsection R156-60e-302d(1)(c).

R434-20-18. Physician Scholarship Recipient Obligations.

—(1) A Physician scholarship recipient must abide by the scholarship recipient obligations listed in Section R434-20-15 and complete the following service obligations:

—(a) must attend a school of allopathic or osteopathic medicine, accredited by the Liaison Committee on American Medical Education or by the American Osteopathic Association Bureau of Professional Education, which awards a degree of Doctor of Medicine or Doctor of Osteopathy.

—(b) must enroll in and complete a minimum three year postgraduate training program in the United States or Canada accredited by the Accreditation Committee on Graduate Medical Education or the American Osteopathic Association Bureau of Professional Education or accredited by the Royal College of Physicians and Surgeons of Canada.

—(c) must pass the examination requirements for licensure as a physician or surgeon or osteopathic physician or surgeon in Utah, pursuant to Section R156-67-302d or Section R156-68-302b.

~~R434-20-19. Physician Assistant Scholarship Recipient Obligations.~~

~~— (1) A Physician Assistant scholarship recipient must abide by the scholarship recipient obligations listed in Section R434-20-15 and complete the following service obligations:~~

~~— (a) must enroll in and complete a physician assistant program accredited by the Commission on Accreditation of Allied Health Education Programs.~~

~~— (b) shall take the National Commission on the Certification of Physician Assistants/National Board of Medical Examiners Physician Assistant National Certification Exam pursuant to Section R156-70a-302(1), the first time it is offered after completion of physician assistant schooling. After the scholarship recipient passes this exam he shall obtain a permanent unrestricted license to practice as soon as possible.~~

~~— (c) if the scholarship recipient fails the National Commission on the Certification of Physician Assistants/National Board of Medical Examiners Physician Assistant National Certification Exam, he must retake the exam within one year of failure of the national certification exam. If the scholarship recipient fails the exam a second time, or fails to retake the exam, he shall be in default of the scholarship contract. The period when the temporary license is lost due to failing the exam and the scholarship recipient is unable to practice at an approved site does not count against retiring the obligated service under the contract.~~

~~— (d) shall take the Utah Physicians Assistant Law and Rules Examination, pursuant to Section R156-70a-302(2).~~

~~— (e) must obtain a temporary license to practice medicine as a physician assistant prior to beginning service obligation at the approved site.~~

~~— (f) must submit a copy of the delegation of services agreement signed by the supervising physician and substitute supervising physician for approval by the committee.~~

~~R434-20-20. Extension of Contract with Scholarship Recipient.~~

~~— (1) The committee may extend the period within which the scholarship recipient must complete his dental, medical, mental health therapist, osteopathic, or physician assistant education:~~

~~— (a) if the scholarship recipient has a serious illness;~~

~~— (b) if the scholarship recipient is activated by the military;~~

~~— (c) for other good cause shown, as determined by the committee.~~

~~— (2) The service obligation may be extended only at an eligible site.~~

~~R434-20-21. Schedule of Breach of Scholarship Contract Repayment.~~

~~— (1) A scholarship recipient who breaches his scholarship contract shall be evaluated based on the criteria listed in Subsections 26-9e-9(4) and 26-9e-9(5), as well as the following criteria:~~

~~— (a) A scholarship recipient who fails to complete the required minimum postgraduate training within the time period agreed upon with the committee shall within 90 days after the deadline for completing his postgraduate training or within 90 days of his failure to continue his postgraduate training, whichever occurs earlier, repay:~~

~~— (i) all scholarship money received according to a schedule established by the committee;~~

~~— (ii) if not repaid within one year of default, 12% per annum interest on unrepaid scholarship amounts.~~

~~— (b) The amount to be paid back shall be determined from the end of the month in which the scholarship recipient breached the contract as if the scholarship recipient had breached at the end of the month.~~

~~— (c) The breaching scholarship recipient shall pay the total amount due within four years of breaching the contract. The scheduled pay back may not be less than four equal payments.~~

~~R434-20-22. Release of Recipient from Service Obligation.~~

~~— (1) The committee may release a recipient from his service obligation without penalty:~~

~~— (a) if the service obligation has been fulfilled;~~

~~— (b) if he dies;~~

~~— (c) for other good cause shown, as determined by the committee.~~

~~— (2) Extreme hardship sufficient to release the recipient without penalty includes:~~

~~— (a) inability to complete dental, medical, mental health therapist, osteopathic, or physician assistant school or fulfill service obligation due to permanent disability that prevents the recipient from completing school or performing any work for remuneration or profit;~~

~~— (b) a family member, for which the recipient is the principal care giver, has a life-threatening chronic illness.~~

~~R434-20-23. Eligible Site Determination.~~

~~— (1) Criteria the committee shall use to determine an eligible site include:~~

~~— (a) Within a medically underserved urban area:~~

~~— (i) the percentage of the population with incomes under 200% of the federal poverty level;~~

~~— (ii) the percentage of the population 65 years of age and over;~~

~~— (iii) the percentage of the population under 18 years of age;~~

~~— (iv) the percentage of population that is homeless;~~

~~— (v) the percentage of population that is migrant or seasonal farm workers;~~

~~— (vi) the percentage of population that has HIV/AIDS.~~

~~— (vii) the distance to the nearest primary health care provider and barriers to reaching the primary health care provider.~~

~~— (c) The committee may give preference to sites which provide letters of support from:~~

~~— (i) a majority of practicing primary health care providers in the service area;~~

~~— (ii) county and civic leaders;~~

~~— (iii) hospital administrators;~~

~~— (iv) business leaders, local chamber of commerce, citizens, and~~

~~— (v) local health departments.~~

~~— (2) An eligible site approved to have a grant or scholarship recipient must offer a salary and benefit package competitive with salaries and benefits of other providers in the service area.~~

~~— (3) A medically underserved urban area must apply to and gain approval from the committee in order to be determined eligible for a scholarship or grant recipient to complete their service obligation.~~

~~R434-20-24. Annual Assessment and Strategy.~~

~~— (1) The committee shall annually complete an assessment and strategy on techniques to promote and facilitate the recruitment and retention of primary health care providers to serve special populations in medically underserved areas of the state.~~

~~— (2) The committee shall develop alternative service obligation criteria that a grant or scholarship recipient may use to fulfill his service obligation if the grant or scholarship recipient is unable to fulfill his service obligation at an approved site due to reasons beyond his control.~~

~~R434-20-25. Reporting.~~

~~— The committee may require the recipient to provide information regarding the academic performance, commitment to medically~~

~~underserved urban areas, continuing financial need, service obligation fulfillment, and other information reasonably necessary for the administration of the program during the period the recipient is in dental, medical, mental health therapist, osteopathic, or physician assistant school; postgraduate training; and in practice.~~

~~KEY: grants, scholarships~~

~~March 24, 2000~~

~~26-9e]~~

Health, Health Systems Improvement, Primary Care and Rural Health

R434-50

Nurse Education Financial Assistance

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 25073

FILED: 07/05/2002, 15:29

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Statutory authority for the rule was repealed by the 2002 Legislature. A new advisory committee for health care provider loans was created. New rules will be proposed consistent with S.B. 113. (DAR NOTE: S.B. 113 is found at UT L 2002 Ch 307, and was effective March 26, 2002.)

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

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 9d

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Department, pursuant to S.B. 113, is still required to administer a loan repayment program for health care providers. This rule change in isolation would reduce work demands for the Department. However, replacement rules consistent with S.B. 113 will replace this rule. It is hoped that the new rules can be simpler and therefore some savings may result to state government.

❖ LOCAL GOVERNMENTS: Local governments benefit from the loan repayment program since many of these providers work for local health departments and other local agencies. This rule repeal will not reduce that benefit to local government. If the replacement rules as they support a single committee can be simpler, some savings may result to local government.

❖ OTHER PERSONS: Private persons benefit from the loan repayment program in that health care in rural and other underserved areas is increased by this program. If the replacement rules as they support a single committee can be simpler, some savings may result to health care providers, clinics, and hospitals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The rule is being repealed, therefore there are no compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The new advisory committee created by S.B. 113 should have a positive impact on businesses as the structure for awarding these loans is simplified. Rod L. Betit

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

HEALTH

HEALTH SYSTEMS IMPROVEMENT,
PRIMARY CARE AND RURAL HEALTH
CANNON HEALTH BLDG

288 N 1460 W

SALT LAKE CITY UT 84116-3231, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Lyle Odendahl at the above address, by phone at 801-538-6878, by FAX at 801-538-6306, or by Internet E-mail at lyleodendahl@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/03/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 09/04/2002

AUTHORIZED BY: Rod Betit, Executive Director

R434. Health, Health Systems Improvement, Primary Care and Rural Health.

~~[R434-50. Nurse Education Financial Assistance.~~

~~R434-50-1. Purpose and Authority.~~

~~— This rule implements the nurse education financial assistance program. It covers scholarships for nurses willing to work in needed nursing specialty areas and loan repayment grants for nurses willing to work in nursing shortage areas of the state, as provided in Title 26, Chapter 9d.~~

~~R434-50-2. Definitions.~~

- ~~— (1) Definitions for this rule are found in Section 26-9d-1.~~
~~— (2) "Eligible employment site" means a public or private health care institution or agency or a nursing education institution approved by the committee at which a recipient may perform the service obligation.~~
~~— (3) "Grant" means a loan repayment under Section 26-9d-5.~~
~~— (4) "Scholarship" means a scholarship under Section 26-9d-6.~~
~~— (5) "Committee" means the Nurse Financial Assistance Committee created by Section 26-1-7.~~

~~R434-50-3. Designation of Nursing Shortage and Needed Nursing Specialty Areas.~~

~~— The committee shall designate nursing shortage areas and needed nursing specialty areas based on eligibility and selection criteria.~~

~~R434-50-4. Scholarship Administration.~~

- ~~— (1) A scholarship may be provided only for those courses required by the educational institution for completion of nursing education.~~

— (2) Before receiving a scholarship, the applicant must enter into a contract with the Department that binds him to the terms of the program.

— (3) As requested by the committee, a scholarship recipient shall provide information reasonably necessary for administration of the program.

— (4) The committee shall determine the total amount of each scholarship.

— (5) For each academic year, the committee may award a scholarship recipient the lesser of \$15,000 or the total sum of educational expenses as determined by the committee.

— (6) The committee may approve payment to a scholarship recipient for increased federal, state and local taxes due to receipt of the portion of the scholarship that is not tax exempt.

— (7) The reasonable living expenses portion of the scholarship may not exceed 50% of the scholarship for each academic year.

— (8) The committee shall determine the amount of educational expenses other than tuition and fees, that are paid to the student.

— (9) The committee shall evaluate whether the scholarship recipient's proposed employment site for the service obligation is an eligible employment site.

— (10) If there is no available eligible employment site upon a scholarship recipient's graduation, the recipient shall repay the scholarship amount as negotiated in the scholarship contract.

R434-50-5. Scholarship Contract Contents.

— (1) Before receiving a scholarship, each applicant selected shall enter into a scholarship contract with the state agreeing to the terms and conditions upon which the scholarship is given.

— (2) The scholarship contract shall include the terms and conditions to carry out the purposes and intent of Title 26, Chapter 9d and these rules.

— (3) The scholarship contract shall contain:

— (a) a statement of the damages to which the state is entitled for the recipient's breach of the scholarship contract; and

— (b) such other statements of the rights and liabilities of the Department, the committee, and the scholarship applicant, not inconsistent with Title 26, Chapter 9d.

R434-50-6. Scholarship Application.

— (1) The committee may consider for scholarship candidacy only those applicants who have matriculated into a graduate program at a school of nursing.

— (2) A scholarship applicant shall provide evidence of eligibility, demographic data, residential history, documented educational history, employment history, personal and employment references, a Utah nursing license in good standing, and an essay describing plans for working in a needed nursing specialty area, as required and in the format requested by the committee.

— (3) A scholarship applicant shall disclose to the committee any other funds applied for, or received in connection with his nursing education.

— (4) The Department shall promptly provide written notice to a scholarship applicant on the committee's approving the applicant's participation in the scholarship program, or the committee's disapproving the applicant's participation in the scholarship program.

— (a) Within 30 days following provision of the written notice, the applicant shall notify the Department of his intent to accept or reject the scholarship award. If the Department has not received the applicant's notification within 30 days, the Department may cancel the award.

R434-50-7. Scholarship Recipient Eligibility and Selection.

— (1) To be eligible for a scholarship, an applicant must:

— (a) submit a completed scholarship application to the Department;

— (b) be matriculated in a school of nursing;

— (c) have been selected by the committee to receive a scholarship;

— (d) declare an intent to work in a needed nursing specialty area of the state after completion of graduate training; and

— (e) be a nurse who has a license in good standing to practice in the state under Title 58, Chapter 31, Nurse Practice Act.

— (2) In selecting an applicant to receive a scholarship, the committee shall evaluate the applicant based on the following criteria:

— (a) residential history;

— (b) documented educational history;

— (c) employment history;

— (d) educational, personal and employer references;

— (e) an essay describing plans for working in a needed nursing specialty area;

— (f) commitment to serve in a needed nursing specialty area;

— (g) applicant's proposed time for completion of education;

— (h) length of the applicant's proposed service obligation, with greater consideration being given to applicants who agree to serve for longer periods of time;

— (i) the applicant's area of graduate education, with preference given to applicants who choose to specialize in critical areas of need as determined by the committee;

— (j) projected nursing education expenses.

— (3) The committee may request that the applicant supplement the information requested under R434-50-7(2) to make an informed decision on an application.

— (4) To remain eligible to receive a scholarship, an applicant must maintain a passing grade and be a matriculated student.

R434-50-8. Scholarship Recipient Obligations.

— (1) Within three months before, and not exceeding one month following completion of nursing education and prior to beginning fulfillment of service obligation, a scholarship recipient shall provide the Department documented evidence from the eligible employment site of its intent to hire the scholarship recipient.

— (2) A scholarship recipient must maintain minimum continuous registration to maintain graduate student status until he completes all requirements for his degree. The maximum years leading to a degree may not exceed five years, and must be specified in the recipient's contract, as negotiated with the committee.

— (3) A scholarship recipient must begin employment at the eligible employment site determined by the committee within five months of completing the nursing education covered by the scholarship.

— (4) A scholarship recipient shall perform full-time work as defined by the recipient's employer, and as specified in the recipient's contract with the Department.

— (5) The minimum length of service obligation is two years, or such longer period to which the applicant and the committee may agree.

— (6) A scholarship recipient shall obtain approval from the committee prior to any change in the eligible employment site where the service obligation is fulfilled.

R434-50-9. Release of Scholarship Recipient From Obligation.

— (1) The committee may release, in full or in part, a recipient from any obligation under the scholarship contract without penalty:

— (a) if the service obligation has been fulfilled;

- (b) if the recipient is unable to complete nursing education or fulfill the service obligation due to permanent disability that prevents the recipient from performing any work for remuneration or profit;
- (c) if the recipient dies;
- (d) because of extreme hardship; or
- (e) for other good cause shown, as determined by the committee.

R434-50-10. Extension of Contract with Scholarship Recipient.

—The committee may extend the time within which the recipient must complete his nursing education as agreed upon in the contract for good cause shown.

R434-50-11. Schedule of Repayment Scholarship.

—(1) A scholarship recipient who breaches his contract with the Department shall begin to repay within 30 days of the breach. The Department may submit for immediate collection all amounts due from a breaching scholarship recipient who does not begin to repay within 30 days.

—(2) The breaching scholarship recipient shall pay the total amount due within one year of breaching the contract. The scheduled payback may not be less than four equal quarterly payments.

—(3) The amount to be paid back shall be calculated from the end of the month in which the scholarship recipient breached the contract as if the recipient had breached at the end of the month.

—(4) The calculation of the amount to be paid back by a scholarship recipient who breaches his contract with the Department prior to finishing school is twice the amount of all funds received from the Department.

—(5) The calculation of the amount to be paid back by a scholarship recipient who finishes school but fails to complete the service obligation is as follows:

—(a) determine the percentage of retired service obligation by dividing the number of months of retired service obligation by the total number of months of the service obligation;

—(b) subtract the amount in (a) from 1.00;

—(c) multiply the amount obtained in (b) by 2;

—(d) multiply the amount obtained in (c) by the total amount of the recipient's scholarship.

—(6) The breaching scholarship recipient shall pay simple interest at the rate of 12% per annum on all funds received under the scholarship contract, from the date he received each installment under the contract.

—(7) Any unretired amount following the scheduled payback period is subject to collection.

R434-50-12. Reporting Requirements for Scholarship Recipients.

—(1) Each recipient shall assure that the nursing school completes and returns a student status form provided by the Department.

—(2) After beginning service and for the duration of the service obligation, the scholarship recipient shall assure that the eligible employment site submits a quarterly statement of verification of employment indicating the recipient's continued employment to the Department within ten business days following the end of each quarter.

R434-50-13. Grant Administration.

—(1) A grant may be provided to repay loans taken only for those courses that were required by the educational institution for completion of nursing education.

—(2) Before receiving a grant, the applicant must enter into a contract with the Department that binds him to the terms of the program.

—(3) As requested by the committee, a grant recipient shall provide information reasonably necessary for administration of the program.

—(4) The committee shall determine the total amount of each loan repayment grant.

—(5) For each year of a grant recipient's full-time service at an eligible employment site, the committee may award the recipient the lesser of \$15,000 or the outstanding loan principal for educational expenses, as determined by the committee.

—(6) The committee may approve payment to a grant recipient for increased federal, state, and local taxes caused by receipt of the grant.

—(7) The Department shall make grant payments to a recipient at the end of the first six months of service. The Department shall make subsequent payments at least every six months thereafter for the duration of the contract, except that the committee may approve a different schedule of subsequent payments as requested by the recipient.

—(8) The Department shall not pay for a nursing education loan of a grant applicant who is in default at the time of an application.

—(9) The committee shall evaluate whether the grant recipient's proposed employment site for the service obligation is an eligible employment site.

R434-50-14. Full Time Equivalency Provisions for Grant Recipients.

—(1) The annual grant amount is based on the level of full-time equivalency that the grant recipient agrees to work.

—(2) A grant recipient who provides services for at least 40 hours per week may be awarded a grant based on the percentages as determined by the committee.

—(3) A grant recipient who provides services for less than 40 hours per week may be awarded a proportionately lower grant based on a full-time equivalency of 40 hours per week.

R434-50-15. Eligible Bona Fide Loans.

—(1) A bona fide loan may include the following:

—(a) a commercial loan made by a bank, credit union, savings and loan association, insurance company, school, or credit institution;

—(b) a governmental loan made by a federal, state, county, or city agency;

—(c) a loan made by another person which is documented by a contract notarized at the time of the making of the loan, indicative of an arm's length transaction, and with competitive term and rate as other loans available to students.

—(d) a loan that the applicant conclusively demonstrates is a bona fide loan.

R434-50-16. Grant Contract Contents.

—(1) Before receiving a grant, each applicant selected shall enter into a grant contract with the state agreeing to the terms and conditions upon which the grant is given.

—(2) The grant contract shall include the terms and conditions to carry out the purposes and intent of Title 26, Chapter 9d and these rules.

—(3) The grant contract shall contain:

—(a) a statement of the damages to which the state is entitled for the applicant's breach of the grant contract; and

—(b) such other statements of the rights and liabilities of the Department, the committee and the grant applicant, not inconsistent with Title 26, Chapter 9d.

R434-50-17. Grant Application.

— (1) A grant applicant shall provide evidence of eligibility, demographic data, residential history, documented educational history, employment history, personal and employment references, a Utah nursing license in good standing, other service obligations, loan certification, and an essay describing plans for working in a nursing shortage area, as required and in the format requested by the committee.

— (2) A grant applicant shall disclose to the committee any other funds applied for or received in connection with his nursing education.

— (3) A grant applicant shall provide the Department documentation from the eligible employment site that:

— (a) the applicant is currently employed at the eligible employment site; or

— (b) the eligible employment site intends to hire the applicant.

— (4) The Department shall promptly provide written notice to a grant applicant on the committee's approving the applicant's participation in the grant program, or the committee's disapproving the applicant's participation in the grant program.

— (a) Within 30 days following provision of the written notice, the applicant shall notify the Department of his intent to accept or reject the grant award. If the Department has not received the applicant's notification within 30 days, the Department may cancel the award.

R434-50-18. Grant Recipient Eligibility and Selection.

— (1) To be eligible for a grant, an applicant must:

— (a) submit a completed grant application to the Department;

— (b) provide proof of graduation from a school of nursing;

— (c) be a nurse who has a license in good standing to practice in the state under Title 58, Chapter 31, Nurse Practice Act;

— (d) have been selected by the committee to receive a grant;

— (e) be available to begin service at an eligible employment site within one month of entering into a contract with the Department; and

— (f) provide documented evidence from the eligible employment site of the intent to hire the grant recipient.

— (2) In selecting an applicant to receive a grant, the committee shall evaluate the applicant based on the following selection criteria:

— (a) residential history;

— (b) documented educational history;

— (c) employment history;

— (d) employer, educational and personal references;

— (e) an essay describing plans for working in a nursing shortage area;

— (f) commitment to serve in a nursing shortage area;

— (g) amount of the nursing education loan;

— (h) length of the applicant's proposed service obligation, with greater consideration being given to applicants who agree to serve for longer periods of time;

— (i) the applicant's level of nursing education, with preference given to applicants who can meet shortage area nursing needs, as determined by the committee.

— (3) The committee may request that the grant applicant supplement the information requested under R434-50-16(2) to make an informed decision on an application.

R434-50-19. Grant Recipient Obligations.

— (1) A grant recipient shall begin service at a specified eligible employment site determined by the committee within one month of entering into a contract with the Department.

— (2) A grant recipient shall perform full time work, defined at the beginning of the service obligation as full time by the recipient's

employer, and as specified in the recipient's contract with the Department.

— (3) No period of clinical training required for nursing education may be counted toward satisfying a period of service obligation.

— (4) The minimum length of the service obligation is two years, or such longer period to which the applicant and the committee may agree.

— (5) A grant recipient shall assure that the eligible employment site provides the Department a statement of the recipient's continued employment.

— (6) A grant recipient shall obtain approval from the committee prior to any change in the eligible employment site where the service obligation is fulfilled.

R434-50-20. Release of Grant Recipient from Service Obligation.

— (1) The committee may release, in full or in part a recipient from any obligation under the grant contract without penalty:

— (a) if the service obligation has been fulfilled;

— (b) if the recipient is unable to fulfill the service obligation due to permanent disability that prevents the recipient from performing any work for remuneration or profit;

— (c) if the recipient dies;

— (d) because of extreme hardship; or

— (e) for other good cause shown, as determined by the committee.

R434-50-21. Schedule of Repayment Grant.

— (1) A grant recipient who breaches his contract with the Department shall begin to repay within 30 days of the breach. The Department may submit for immediate collection all amounts due from a breaching grant recipient who does not begin to repay within 30 days.

— (2) The breaching grant recipient shall pay the total amount due within one year of breaching the contract. The scheduled payback may not be less than four equal quarterly payments.

— (3) The amount to be paid back shall be determined from the end of the month in which the grant recipient breached the contract as if the recipient had breached at the end of the month.

— (4) The calculation of the amount to be paid back by a grant recipient who fails to complete the service obligation is as follows:

— (a) determine the percentage of retired service obligation by dividing the number of months of retired service obligation by the total number of months of the service obligation;

— (b) subtract the amount in (a) from 1.00;

— (c) multiply the amount obtained in (b) by 2;

— (d) multiply the amount obtained in (c) by the total amount of the recipient's grant.

— (5) The breaching grant recipient shall pay simple interest at the rate of 12% per annum on all funds received under the grant contract, from the date he received each installment under the contract.

— (6) Any unretired amount following the scheduled payback period is subject to collection.

R434-50-22. Eligible Employment Site Determination.

— (1) Criteria the committee shall use to determine an eligible employment site include:

— (a) Within a nursing shortage area of the State:

— (i) the percentage of the population with incomes under 200% of the federal poverty level;

— (ii) the percentage of the population 65 years of age and over;

— (iii) the percentage of the population under 18 years of age;

— (iv) the distance to the nearest health care provider and barriers to reaching the health care provider.

- ~~—(b) The committee may give preference to proposed employment sites which provide letters of support from:~~
 - ~~—(i) practicing health care providers in the service area;~~
 - ~~—(ii) county and civic leaders;~~
 - ~~—(iii) hospital administrators;~~
 - ~~—(iv) business leaders, local chamber of commerce, citizens, and~~
 - ~~—(v) local health departments.~~
- ~~—(c) Other proposed employment site eligibility and selection criteria as determined by the committee.~~
- ~~—(2) An eligible employment site approved to have a grant or scholarship recipient must offer a salary and benefit package competitive with salaries and benefits of other nurses in the service area.~~
- ~~—(3) A nursing shortage area proposed employment site must apply to and gain approval from the committee in order to be determined eligible for a grant recipient to complete their service obligation.~~

R434-50-23. Reporting Requirements for Grant Recipients.

~~—After beginning service and for the duration of the service obligation, the grant recipient shall assure that the eligible employment site submits a quarterly statement of verification of employment indicating the grant recipient's continued employment to the Department within ten business days following the end of each quarter.~~

~~**KEY: grants, scholarships, nurses**~~

~~**October 1, 2001**~~

~~**Notice of Continuation February 10, 1998**~~

~~**26-9d]**~~



Human Services, Recovery Services
R527-200
Administrative Procedures

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 25088

FILED: 07/15/2002, 12:00

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed changes have been made to: 1) define the scope of the administrative reviews mentioned in Subsection R527-200-6(17); 2) provide a clear understanding of the terms "location information", "other location information", and "files"; and 3) specify that a presiding officer shall issue a paternity/child support order if a respondent who participates in any way fails to appear for genetic testing or respond to a notice of the genetic testing results. These changes are being made in accordance with Senate Bill 24 and Senate Bill 25 (2002 General Session of the State Legislature) which amended Sections 62A-11-304.4 and 62A-11-304.2 respectively. (DAR NOTE: S.B. 24 is found at UT L 2002 Ch 59, and was effective May 6, 2002; S.B. 25 is found at UT L 2002 Ch 60, and was effective May 6, 2002.)

SUMMARY OF THE RULE OR CHANGE: Three new definitions ("location information", "other location information", and "files") have been added to Section R527-200-2. Subsection R527-

200-6(17) has been revised to include the terms "other location information" and "files" and to make minor word changes. In Subsection R527-200-12(3), the respondent's failure to "appear for genetic testing" and failure to "respond to the notice of test results" replace failure to "respond to subsequent notices for genetic testing or test results", and "an order of paternity and child support" replaces "a judgment and order based on the failure to respond to the subsequent notices".

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 30-3-32 through 30-3-38, 62A-11-203, 62A-11-304.1, 62A-11-304.2, 62A-11-304.4, 62A-11-307.2, and Title 63, Chapter 46b

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The proposed change to limit requests for location information or other location information to open cases (see definition of "files" in Subsection R527-200-2(g)) will result in budgetary savings because the activities of finding/accessing and researching closed or archived files will be eliminated. This will save agent time, presiding officer time, and agency resources when a review is conducted and there are closed as well as open cases involved, and will eliminate the need to conduct an administrative review when the only cases involved are closed. The amount of savings depends on the number of requests that will be, or would have been made involving location information in closed cases, the number of closed or archived cases that this would involve, the number of administrative reviews that will be avoided altogether, and the time and resources that will not have to be expended in administrative reviews that are conducted. Because of the variability of these factors and insufficient data concerning review requests involving closed cases, it is not possible at this time to accurately estimate the savings this change will have on the State budget. Savings are also expected as the result of the proposed change to issue an administrative order if the respondent fails to appear for genetic testing. Previously, the practice was not to issue an administrative order if the respondent failed to appear for his appointment, but to refer the case to the Attorney General's office for judicial action to establish paternity and an order of support. The additional costs of attorney time, serving additional notice and other legal pleadings, court costs, etc. will be saved on every case that falls into this category due to the rule change. The amount of savings will depend on the number of cases in which an obligor who is served with a notice of agency action to establish paternity and child support, and participates in any way, fails to appear for genetic testing. The cost of each judicial case (that will be avoided) varies depending on its unique elements and whether the proceedings are concluded quickly or are protracted.

❖ LOCAL GOVERNMENTS: None--Administrative rules of the Office of Recovery Services do not apply to local governments.

❖ OTHER PERSONS: With the implementation of the proposed change to limit requests for location information or other location information to open cases, parents who might otherwise expect the Office of Recovery Services to expend funds to manually retrieve, research, and release information

from closed and archived files, will be limited to information available from currently open cases. The proposed change to issue an administrative paternity/support order when respondents who participate in the administrative proceedings fail to appear for genetic testing, will begin their support obligations. Those obligations will no longer be delayed pending the completion of judicial proceedings. This will result in costs to the affected respondents (support payments), but will also result in a savings to the custodial parents and children involved who will benefit from the support payments that are made. Respondents who do not contest the administrative order will be saved the additional costs of extended legal proceedings which they otherwise would have been subject to under current practice (to refer all cases in which the respondent fails to appear for genetic testing to the Attorney General's Office for judicial action).

COMPLIANCE COSTS FOR AFFECTED PERSONS: If a parent wants information beyond that which is available in currently open cases, the parent will need to pursue other sources to obtain it. In addition, an administrative order requiring payment of support will be issued when a respondent who has participated in the administrative proceedings fails to appear for genetic testing. That obligation will no longer be delayed pending completion of judicial proceedings and will result in costs for the respondent because the support obligation will start earlier. There will not, however, be costs for extended legal proceedings unless the respondent chooses to contest the administrative order.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed rule changes concern administrative reviews for the release of location information or other location information in a child support case to one of the parties or the party's attorney, and the conditions under which an administrative order of paternity and child support may be issued. It is not expected that these changes will have a direct fiscal impact on any business.

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

HUMAN SERVICES
RECOVERY SERVICES
515 E 100 S
SALT LAKE CITY UT 84102-4211, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Wayne Braithwaite at the above address, by phone at 801-536-8986, by FAX at 801-536-8509, or by Internet E-mail at waynebraithwaite@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/03/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 09/04/2002

AUTHORIZED BY: Emma Chacon, Director

R527. Human Services, Recovery Services.

R527-200. Administrative Procedures.

R527-200-1. Authority.

This rule establishes procedures for informal adjudicative proceedings as required by Section 63-46b-5 of the Administrative Procedures Act.

R527-200-2. Definitions.

1. Terms used in this rule are defined in Sections 62A-11-202, 62A-11-303, and 63-46b-2.

2. In addition,

a. "office" means the Office of Recovery Services;

b. "participate" means

(i) in a proceeding that was initiated by a notice of agency action, present relevant information to the presiding officer within the time period described by statute or rule for requesting a hearing; and

(ii) if a hearing is scheduled, participate means attend the hearing;

c. "party" means the Office of Recovery Services and the respondent.

d. in a proceeding to determine the noncooperation of a IV-A or Non-IV-A Medicaid recipient or applicant, the recipient or applicant is the respondent and is therefore a "party".

e. "location information" means the current, verified residential address of a custodial or noncustodial parent and, if different and known to the office, the current, verified residence of any child named in a parent-time order that specifies time periods during which the child shall be with the noncustodial parent as provided in Sections 30-3-32 through 30-3-38. If a current, verified residential address is not available, "location information" means an employment address if known.

f. "other location information" means a verified, non-residential mailing address such as a Post Office Box or Rural Route, at which a party whose location information is being sought receives mail.

g. "files" on custodial and noncustodial parents means records contained in open child support services cases, in which both paper and electronic case information may be stored.

R527-200-3. Purpose.

The purpose of this rule is to:

1. establish the form of proceedings;
2. provide procedures for requesting and obtaining a hearing when a proceeding is initiated by a notice of agency action;
3. provide procedures and standards for orders resulting from the administrative process;
4. provide procedures for informal proceedings;
5. provide procedures for the conduct of hearings, conferences, and administrative reviews;
6. provide procedures for requesting reconsideration;
7. provide procedures for a motion to set aside a default order;
8. provide procedures for amending an administrative order;
9. provide procedures for setting aside an administrative order;
- and
10. provide procedures for requesting judicial review.

R527-200-4. Designation of Presiding Officers.

The following persons are designated presiding officers in adjudicative proceedings:

1. agents;
2. senior agents;
3. team managers;
4. program coordinators;
5. program specialists;
6. quality assurance specialists;
7. associate regional directors;
8. regional directors;
9. directors;
10. other persons designated by the director of the Office of Recovery Services.

R527-200-5. Form of Proceeding.

All adjudicative proceedings commenced by the office through a notice of agency action, or commenced by other persons affected by the office's actions through a request for agency action shall be informal adjudicative proceedings.

R527-200-6. Informal Adjudicative Proceedings.

The following actions are considered to be informal adjudicative proceedings:

1. hearings, conferences, or administrative reviews to establish or modify child support orders;
2. conferences to determine paternity;
3. conferences or hearings to establish a judgment for genetic testing costs;
4. conferences or hearings to establish a judgment for birth expenses;
5. conferences or hearings to establish or modify an order regarding liability for medical and dental expenses of a dependent child;
6. administrative reviews to establish an order when a notice to enroll a child in a medical insurance plan is contested;
7. conferences or hearings to establish an order against a garnishee enforcing an administrative garnishment;
8. administrative reviews to determine whether the information concerning a support debt which will be reported to consumer reporting agencies is accurate;
9. conferences or hearings to establish the cause of an overpayment obligation, and to modify, or renew the obligation;
10. hearings, conferences, or administrative reviews to amend an administrative order;
11. hearings, conferences, or administrative reviews to set aside an administrative order;
12. administrative reviews to establish an order which determines past-due support following a request for agency action;
13. administrative reviews to establish an order when an office determination of noncooperation is contested by IV-A or Non-IV-A Medicaid recipients;
14. conferences or hearings to establish a judgment against a responsible party for costs and/or fees, and to impose penalties associated with legal action taken by the office;
15. administrative reviews to establish an order of non-disclosure when a determination is made not to disclose a parent's identifying information to another state in an interstate case action;
16. conferences or hearings to approve or deny requests for waiver or deferral of estate recovery for reimbursement of Medicaid; and
17. administrative reviews to determine whether location information or other location information available in files on [a] custodial or noncustodial ~~parent~~ parents ~~should~~ may be released

to the ~~other~~ requesting party or to the ~~other~~ requesting party's legal counsel in accordance with the provisions of Utah Code Title 62A, Chapter 11.

R527-200-7. Service of Notice and Orders.

Notices, orders, written decisions, or any other documents for which service is required or permitted to be made by Section 63-46b may be served using methods provided by Section 63-46b or the Utah Rules of Civil Procedure.

R527-200-8. Procedures for Informal Adjudicative Proceedings.

The procedures for informal adjudicative proceedings are as follows:

1. In proceedings initiated by a notice of agency action, the presiding officer will issue an order of default unless the respondent does one of the following in response to service of the notice:
 - a. pays the entire amount in full;
 - b. participates as provided in R527-200-12;
 - c. or, for overpayment programs, requests a hearing as provided in R527-200-9.
2. In proceedings initiated by a notice of agency action, the presiding officer shall schedule a hearing if available under R527-200-9 and the office receives the respondent's written request:
 - a. within 30 days of service of notice of agency action; or
 - b. before an order is issued by the presiding officer.
3. In administrative garnishment proceedings, the presiding officer shall schedule an administrative review if the office receives the obligor's written request for agency action within 10 days of the financial institution sending notice to the obligor of an administrative garnishment, or if the obligor requests the administrative review prior to any request by the garnishee for the issuance of an order to the garnishee to pay the office;
4. Within a reasonable time after the close of an informal adjudicative proceeding, the presiding officer shall issue a signed order in writing which states the following:
 - a. the decision;
 - b. the reason for the decision;
 - c. a notice of the right to request reconsideration and the right to petition for judicial review; and
 - d. the time limits for requesting reconsideration or filing a petition for judicial review.
5. The presiding officer's order shall be based on the facts appearing in the agency's case records and on the facts presented in evidence at any hearings, conferences, or administrative reviews.
6. A copy of the presiding officer's order shall be promptly mailed to each of the parties.

R527-200-9. Availability of a Hearing or Administrative Review in Informal Adjudicative Proceedings.

1. A hearing before a presiding officer in the Office of Administrative Hearings, Department of Human Services is permitted in an informal adjudicative proceeding if:
 - a. the proceeding was initiated by a notice of agency action; and
 - b. the respondent in a properly filed request for hearing or in the course of participation raises a genuine issue as to a material fact as provided in R527-200-10; and
 - c. for child support services, participates in a preliminary agency conference.
2. An administrative review before a presiding officer in the Office of Recovery Services, Department of Human Services is

permitted if an informal adjudicative proceeding is initiated by a request for agency action.

a. The presiding officer shall conduct a review of all documentation provided by the requesting party and in the agency files, and issue a Decision and Order stating the decision and the reasons for the decision.

b. The requesting party shall not be required to appear, either in person or through representation when the administrative review is conducted, but may choose to attend.

R527-200-10. Hearings in Informal Adjudicative Proceedings.

1. In proceedings initiated by a notice of agency action, all hearing requests shall be referred to the presiding officer appointed to conduct hearings.

2. The presiding officer shall give timely notice of the date and time of the hearing to all parties.

3. Before granting a hearing in a case referred, the presiding officer appointed to conduct the hearing may decide whether the respondent raises a genuine issue as to a material fact. Upon determining there is no genuine issue as to a material fact, the presiding officer may deny the request for hearing, and close the adjudicative proceeding.

4. The respondent may object to the denial of a hearing as grounds for relief in a request for reconsideration.

5. There is no genuine issue as to a material fact if:

a. the evidence gathered by the office and the evidence presented for acceptance by the respondent are sufficient to establish the obligation of the respondent under applicable law; and

b. no other evidence in the record or presented for acceptance by the respondent in the course of respondent's participation conflicts with the evidence to be relied upon by the presiding officer in issuing an order.

6. Evidence upon which a presiding officer may rely in issuing an order when there has been no hearing:

a. documented wage information from employers or governmental sources;

b. failure of the respondent to produce upon request of the presiding officer canceled checks as evidence of payments made;

c. failure of the respondent to produce a record kept by the clerk of court, a financial institution, or the office, showing payments made;

d. failure of the respondent to produce a written agreement in a Non-IV-A case which was signed by both the absent parent and the custodial parent providing for an alternate means of satisfying a child support obligation;

e. birth certificates of the children whose support is sought from the respondent;

f. certified copies of the latest support orders;

g. other applicable documentation.

R527-200-11. Telephonic Hearings.

Telephonic hearings will be held at the discretion of the Office of Administrative Hearings, Department of Human Services.

R527-200-12. Procedures and Standards for Orders Resulting from Service of a Notice of Agency Action.

1. If the respondent agrees with the notice of agency action, he may stipulate to the facts and to the amount of the debt and current obligation to be paid. A stipulation, and judgment and order based on that stipulation is prepared by the office for the respondent's

signature. Orders based on stipulation are not subject to reconsideration or judicial review.

2. If the respondent participates by attending a preliminary conference or otherwise presents relevant information to the presiding officer, but does not reach an agreement with the office or is unavailable to sign a stipulation, and does not request a hearing, the presiding officer shall issue a judgment and order based on that participation.

3. If the respondent participates in any way after receiving a notice of agency action to establish paternity and child support, ~~and but fails to respond to subsequent notices~~ appear for genetic testing or ~~respond to the notice of test results~~, the presiding officer shall issue ~~a judgment and an order based on the failure of the respondent to respond to the subsequent notices~~ of paternity and child support based on existing information and circumstances.

4. If the respondent requests a hearing and participates by attending a preliminary agency conference, and after that conference the respondent does not agree with the notice of agency action, and participates by attending the hearing, the presiding officer who conducts the hearing shall issue an order based upon the hearing.

5. If the respondent fails to participate as follows, the appropriate presiding officer may issue an order of default and default judgment:

a. the respondent fails to respond to the notice of agency action and does not request a hearing;

b. after proper notice the respondent fails to attend a preliminary conference scheduled by the presiding officer to consider matters which may aid in the disposition of the action; or

c. after proper notice the respondent fails to attend a hearing scheduled by the presiding officer pursuant to a written request for a hearing.

6. The default judgment is taken for the same amount and for the same months specified in the notice of agency action which was served on the respondent. The judgment cannot be taken for more than the amount or time periods specified in the notice of agency action. If there is no previous court order and the best available information supports the amount, the judgment may be taken for less than the amount specified in the notice of agency action. The respondent may seek to have the default order set aside, in accordance with Section 63-46b-11.

7. If a respondent's request for a hearing is denied under R527-200-10, the presiding officer issues a judgment and order based upon the information in the case record.

8. Notwithstanding any order which sets payments on arrearages, the office reserves the right to periodically report the total past-due support amount to consumer reporting agencies, intercept state and federal tax refunds, submit cases to the federal administrative offset program where permitted by federal regulation, levy upon real and personal property, and to reassess payments on arrearages.

R527-200-13. Conduct of Hearings, Conferences, and Administrative Reviews in Informal Adjudicative Proceedings.

1. The hearing, conference, or administrative review shall be conducted by a duly qualified presiding officer. The presiding officer shall not have been involved in preparing the information alleged in the notice which is the basis of the adjudicative proceeding. No presiding officer shall conduct a hearing, conference, or administrative review in a contested case if it is alleged and proved that good cause exists for the removal of the presiding officer assigned to the case. The party or representative

requesting the change of presiding officer shall make the request in writing, and the request shall be filed and called to the attention of the presiding officer not less than 24 hours in advance of the hearing.

2. Duties of the presiding officer when conducting a hearing:

a. Based upon the notice of agency action, objections thereto, if any, and the evidence adduced at the hearing, the presiding officer shall determine the liability and responsibility, if any, of the respondent under Section 62A-11-304.2. Following determination of liability, the presiding officer shall refer the obligor to the team handling the case for determination of acceptable periodic payment or alternative means of satisfaction of any arrearage obligation.

b. The presiding officer conducting the hearing may:

(i) regulate the course of hearing on all issues designated for hearing;

(ii) receive and determine procedural requests, rule on offers of proof and evidentiary objections, receive relevant evidence, rule on the scope and extent of cross-examination, and hear argument and make determination of all questions of law necessary to the conduct of the hearing;

(iii) request testimony under oath or affirmation administered by the presiding officer;

(iv) upon motion, amend the notice of agency action to conform to the evidence.

3. Rules of Evidence in hearings:

a. Discovery is prohibited, but the office may issue subpoenas or other orders to compel production of necessary evidence.

b. Any person who is a party to the proceedings may call witnesses and present such oral, documentary, and other evidence and comment on the issues and conduct such cross-examination of any witness as may be required for a full and true disclosure of all facts relevant to any issue designated for fact hearing and as may affect the disposition of any interest which permits the person participating to be a party.

c. Any evidence may be presented by affidavit rather than by oral testimony subject to the right of any party to call and examine or cross-examine the affiant.

d. All relevant evidence shall be admitted.

e. Official notice may be taken of all facts of which judicial notice may be taken in the courts of this state.

f. All parties shall have access to information contained in the office's files and to all materials and information gathered in the investigation, to the extent permitted by law and subject to R527-5.

g. Intervention is prohibited.

h. In child support cases the hearing shall be open to the obligee and all parties, as defined in R527-200-2.

4. Rights of the parties in hearings: A respondent appearing before the presiding officer for the purpose of a hearing may be represented by a licensed attorney, or, after leave of the presiding officer, any other person designated to act as the respondent's representative for the purpose of the hearing. The office's supporting evidence for the office's claim shall be presented at a hearing before a presiding officer by an agent or representative from the office. The supporting evidence may, at the office's discretion, be presented by a representative from the office of the Attorney General or by a staff attorney.

R527-200-14. Agency Review.

Agency review shall not be allowed. Nothing in this rule prohibits a party from filing a request for reconsideration or for judicial review as provided in Sections 63-46b-13 and 63-46b-14.

R527-200-15. Reconsideration.

Either the respondent or the office may request reconsideration in accordance with Section 63-46b-13 once during an informal adjudicative proceeding.

R527-200-16. Setting Aside Administrative Orders.

1. The office may set aside an administrative order for reasons including the following:

a. A rule or policy was not followed when the order was taken.

b. The respondent was not properly served with a notice of agency action.

c. The respondent was not given due process.

d. The order has been replaced by a judicial order which covers the same time period.

2. The office shall notify the respondent of its intent to set the order aside by serving the respondent with a notice of agency action. The notice shall be signed by a presiding officer.

3. If after serving the respondent with a notice of agency action, the presiding officer determines that the order shall be set aside, the office shall notify the respondent.

R527-200-17. Amending Administrative Orders.

1. The office may amend an order for reasons including the following:

a. A clerical mistake was made in the preparation of the order.

b. The time periods covered in the order overlap the time periods in another order for the same participants.

2. The office shall notify the respondent of its intent to amend the order by serving the respondent with a notice of agency action. The notice shall be signed by a presiding officer.

3. If after serving the respondent with a notice of agency action, the presiding officer determines that the order shall be amended, the office shall provide a copy of the amended order to the respondent.

R527-200-18. Amending an Administrative Paternity Order.

1. If an administrative paternity order has been entered and the individual determined to be the father requests that paternity be disestablished based on genetic test results from an accredited lab which appear to exclude him as the biological father and genetic testing has not previously been completed, the presiding officer shall initiate an adjudicative proceeding to amend the paternity order prospectively.

2. The presiding officer shall notify the mother and the previously determined legal father of the intent to amend the order by sending notices of intent to amend based on the genetic test results.

3. If the mother or previously determined legal father do not present other evidence which calls into doubt the credibility of the genetic test results and the mother does not contest the administrative action, the presiding officer shall issue an order which amends the original order, finding the previously determined legal father to no longer be the legal father effective the date the amended order is issued. The presiding officer shall send a copy of the order to both the mother and the former legal father.

4. If other evidence is presented which calls into doubt the credibility of the genetic test results or the mother contests the administrative action, the presiding officer shall not amend the original paternity order. The presiding officer shall send notice of the decision to the mother and the father, which will inform the

father of his right to administrative reconsideration of the decision and to appeal the decision to a court of competent jurisdiction.

KEY: administrative law, child support, overpayment[±], welfare fraud
[May 16], 2002
Notice of Continuation May 7, 2001
30-3-32 through 30-3-38
62A-11-203
62A-11-304.1
62A-11-304.2
62A-11-304.4
62A-11-307.2
63-46b



Human Services, Recovery Services **R527-201** Medical Support Services

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 25089

FILED: 07/15/2002, 12:53

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The State IV-D Child Support Offices are mandated to use the National Medical Support Notice in accordance with 45 CFR 303.32 National Medical Support. This reference needs to be added to the rule and the reference to 65 FR 82165 and 82166, which was added prior to 45 CFR 303.32 being finalized should be deleted as it is a duplicate reference. Office of Recovery Services/Child Support Services (ORS/CSS) agents can only give credit to an obligated parent when that parent requests the credit and the insurance has been verified by the office.

SUMMARY OF THE RULE OR CHANGE: Delete the reference to 65 FR 82165 and 82166, which are hereby incorporated by reference from the first paragraph and add the new finalized reference to 45 CFR 303.32. In paragraph eight, language was added to indicate that the obligated parent is responsible for providing ORS/CSS with the necessary verification of insurance coverage. This is consistent with Section 78-45-7.15.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 63-46b-1 et seq., 62A-11-326, 62A-11-326.2, 62A-11-326.3, 78.45.7.15; Subsections 35A-7-105(2) and 62A-11-406(9); and 45 CFR 303.30, 303.31, and 303.32

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There will be a small savings to the state budget because ORS agents will only calculate an insurance credit upon the request of the obligated parent instead of on every case.

❖ **LOCAL GOVERNMENTS:** Administrative rules of ORS do not apply to local government.

❖ **OTHER PERSONS:** In the past ORS gave obligated parents an insurance credit without that parent requesting the credit. Now the parent may not receive insurance credit unless verification of the insurance coverage is provided.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because the obligated parent has to request insurance credit, there may be minimal costs associated with making that request; i.e., long distance phone call, transportation costs, etc.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule has never had an impact on business and the change to the rule does not create or cause an impact to businesses.

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

HUMAN SERVICES
 RECOVERY SERVICES
 515 E 100 S
 SALT LAKE CITY UT 84102-4211, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

LeAnn Wilber at the above address, by phone at 801-536-8950, by FAX at 801-536-8509, or by Internet E-mail at lwilber@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/03/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 09/04/2002

AUTHORIZED BY: Emma Chacon, Director

R527. Human Services, Recovery Services.

R527-201. Medical Support Services.

R527-201-1. Federal Requirements.

The Office of Recovery Services/Child Support Services, (ORS/CSS), adopts the federal regulations as published in 45 CFR 303.30 and 303.31 (2000), and [in 65 FR 82165 and 82166 (45 CFR 303.32)], which are hereby incorporated by reference.

R527-201-2. Definition.

1. The National Medical Support Notice (NMSN) is the federally approved form that ORS/CSS shall use, when appropriate, to notify an employer to enroll dependent children in an employment-related group health insurance plan in accordance with a child support order.

R527-201-3. Limitation of Services.

ORS/CSS shall not:

1. pursue establishment of specific amounts for ongoing medical support,
2. initiate an action to obtain a judgment for uninsured medical expenses, or
3. collect and disburse premium payments to insurance companies.

R527-201-4. Medical Support Services in Non-IV-A Cases.

Medical Support Services shall be provided in conjunction with child support services to applicants who are not receiving Medicaid unless the applicant notifies ORS/CSS that the children are already covered under a health insurance plan and provides ORS/CSS with the insurance information.

R527-201-5. Conditions Under Which Non-IV-A Medicaid Recipients May Decline Support Services.

ORS/CSS shall provide child and spousal support services; however, a Non-IV-A Medicaid recipient may decline child and spousal support services if paternity is not an issue and there is an order for the non-custodial parent to provide medical support.

R527-201-6. Securing a Medical Support Provision in the Support Order.

1. Notice to potentially obligated parents: The notice to potentially obligated parents shall include a provision that an administrative or judicial proceeding will occur to determine whether either parent should be ordered to purchase and maintain appropriate medical insurance for the children. This notification shall be provided when either of the following conditions is met:

- a. the state initiates an action to establish a final support order or to adjust an existing child support order; or
- b. the state joins a divorce or modification action initiated by either the custodial or the non-custodial parent.

2. If a judicial support order does not include a medical support provision, ORS/CSS shall commence judicial action to modify the order to include a medical support provision.

R527-201-7. Reasonable Cost of Insurance Premiums.

Employment-related or other group coverage that does not exceed 5% of the obligated parent's monthly gross income is generally considered reasonable in cost. However, an employer may not withhold more than the lesser of the amount allowed under the Consumer Credit Protection Act, the amount allowed by the state of the employee's principal place of employment, or the amount allowed for health insurance premiums by the child support order. If the combined child support and medical support obligations exceed the allowable deduction amount, the employer shall withhold according to the law, if any, of the state of the employee's principal place of employment requiring prioritization between child support and medical support. If the employee's principal place of employment is in Utah, the employer shall deduct current child support before deducting amounts for health insurance coverage. If the amount necessary to cover the health insurance premiums cannot be deducted due to prioritization or limitations on withholding, the employer shall notify ORS/CSS.

R527-201-8. Credit for Premium Payments and Effect of Changes to the Premium Amount Subsequent to the Order.

1. If the order or underlying worksheet gives credit of a specific amount for the children's portion of the premium and the amount of the premium decreases, ORS/CSS may reduce the amount of the credit without seeking a modification of the order.

2. If the order or underlying worksheet does not mention a specific credit for insurance premiums, ORS/CSS shall give credit for the child(ren)'s portion of the insurance premium when the obligated parent provides the necessary verification[insurance coverage] ~~is verified~~.

3. When a support order does not include a medical insurance provision, and a parent voluntarily enrolls the child(ren) in an insurance plan:

a. in Non-IV-A cases, if the parents agree to share equally the cost of the insurance, ORS/CSS shall give credit or offset the other parent's share of the expense. If the parents disagree, the order must be modified to include an insurance provision before the credit or the offset shall be given.

b. in IV-A cases, ORS/CSS shall give credit for 50% of the child(ren)'s portion of the insurance premium.

4. ORS/CSS shall notify both parents in writing whenever the credit is changed.

R527-201-9. Establishing Costs for Pregnancy and Confinement.

1. When establishing a judgment for medical costs for pregnancy and confinement in IV-A and Non-IV-A Medicaid paternity and separation cases, ORS/CSS shall research the exact pregnancy and confinement costs which have accumulated to date.

2. When establishing a judgment for medical costs for pregnancy and confinement in Non-IV-A Non-Medicaid Cases, ORS/CSS shall consult with the mother to determine the amount of the uninsured pregnancy and confinement expenses.

3. When establishing any judgment for medical costs for pregnancy and confinement, one half of the uninsured pregnancy and confinement costs shall be charged to the non-custodial parent.

R527-201-10. Enforcement of Obligation to Maintain Medical and Dental Insurance.

1. In Non-IV-A cases and in IV-A Medicaid cases, appropriate steps shall be taken to ensure compliance with orders which require the obligated parent to maintain insurance. Obligated parents shall demonstrate compliance by providing ORS/CSS with policy numbers and the insurance provider name for the dependent children for whom the medical support is ordered.

2. In Non-IV-A cases and in IV-A Medicaid cases, if an obligated parent has been ordered to maintain employer-based medical insurance and insurance is available at a reasonable cost according to R527-201-7 through an employment-related group health plan, ORS/CSS shall use the NMSN to transfer notice of the insurance provision to the obligated parent's employer unless ORS/CSS is notified pursuant to Section 62A-11-326.1 that the children are already enrolled in an insurance plan in accordance with the order.

3. When appropriate, ORS/CSS shall send the NMSN to the obligated parent's employer within two business days after the name of the obligated parent has been entered into the registry of the State Directory of New Hires, matched with ORS/CSS records, and reported to ORS/CSS in accordance with Subsection 35A-7-105(2).

4. The employer shall transfer the NMSN to the appropriate group health plan for which the children are eligible within twenty business days of the date of the NMSN if all of the following criteria are met:

- a. the obligated parent is still employed by the employer;
- b. the employer maintains or contributes to plans providing dependent or family health coverage;
- c. the obligated parent is eligible for the coverage available through the employer; and
- d. state or federal withholding limitations, prioritization, or both, do not prevent withholding the amount required to obtain coverage.

5. If more than one coverage option is available under a group insurance plan and the obligated parent is not already enrolled, ORS/CSS in consultation with the custodial parent may select the least expensive option if the option complies with the child support order and benefits the children. The insurer shall enroll the children in the plan's default option or least expensive option in accordance with Subsection 62A-11-326.2(1)(b) unless another option is specified by ORS/CSS.

6. The employer shall determine if the necessary employee contributions for the insurance coverage are available. If the amounts necessary are available, the employer shall begin withholding when appropriate and remit directly to the plan.

7. In accordance with Subsections 62A-11-326.1(2) and (3), the obligated parent may contest withholding insurance premiums based on a mistake of fact. The employer shall continue withholding under the NMSN until notified by ORS/CSS to terminate withholding insurance premiums.

8. If a parent successfully contests the action to enroll the children in a group health plan based on a mistake of fact, ORS/CSS shall notify the employer to discontinue enrollment and withholding insurance premiums for the children.

9. In accordance with Subsection 62A-11-406(9), the employer shall promptly notify ORS/CSS when the obligated parent's employment is terminated.

10. ORS/CSS shall promptly notify the employer when a current order for medical support is no longer in effect for which ORS/CSS is responsible.

R527-201-11. Obligated Parent Receiving Medicaid.

1. If an obligated parent is receiving Medicaid or was receiving Medicaid at the time the medical debt was incurred, ORS/CSS shall not enforce payment of the medical debt regardless of medical support provisions in the order.

2. In an unestablished paternity case, if the father's income was taken into consideration when determining the household's eligibility for Medicaid, ORS/CSS shall not enforce payment of medical expenses regardless of the medical support provisions in the order, but shall enforce the health insurance provision.

KEY: child support, health insurance, M[edicaid]
[September 17, 2001]2002

Notice of Continuation January 30, 2002

63-46b-1 et seq.

62A-11-326.1

62A-11-326.2

62A-11-326.3

62A-11-406(9)

78-45-7.15

35A-7-105(2)



Insurance, Administration

R590-215

Permissible Arbitration Provisions for
Individual and Group Health Insurance

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE No.: 25093

FILED: 07/15/2002, 17:04

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is being written to adopt the arbitration standards of the federal Department of Labor, Pension and Welfare Benefits Administration.

SUMMARY OF THE RULE OR CHANGE: The rule applies to disability income policies, individual and group health insurance policies, and health maintenance organization contracts. The rule defines the term "permissible arbitration provision" and provides guidelines for the disclosure of the arbitration provision in the insurance contract.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-2-201; and 29 CFR 2560.503-1

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** This rule should create little impact on the state's budget since the federal law required compliance with their arbitration laws and regulations by July 1, 2002. This rule mirrors those requirements regarding arbitration. Companies planned ahead for this change and have refiled the necessary forms and filing \$20 filing fee with the department.

❖ **LOCAL GOVERNMENTS:** This rule will not affect local government since the rule applies only to licensees of the department.

❖ **OTHER PERSONS:** Most of the 250 health insurers doing business in Utah have already made the required wording changes to the arbitration provisions of their policies. They have done this by filing the required forms and \$20 filing fee with the department. The insurer will be required to bear the cost of the arbitration procedure. Costs for these procedures may run from \$1,500 on up, depending on the circumstances of the case. The increased cost to insurers may be passed on to insureds through increased premiums.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Most of the 250 health insurers doing business in Utah have already made the required wording changes to the arbitration provisions of their policies. They have done this by filing the required forms and \$20 filing fee with the department. The insurer will be required to bear the cost of the arbitration procedure. Costs for these procedures may run from \$1,500 on up, depending on the circumstances of the case. The increased cost to insurers may be passed on to insureds through increased premiums.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Insurers will be impacted by this rule and may pass the costs onto their insureds through increased premiums.

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

INSURANCE
ADMINISTRATION

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/03/2002

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 8/28/2002 at 10:00 AM, Room 5112, State Office Building, Salt Lake City, UT 84114.

THIS RULE MAY BECOME EFFECTIVE ON: 09/04/2002

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

R590.215. Permissible Arbitration Provisions for Individual and Group Health Insurance.

R590-215-1. Authority.

This rule is promulgated by the commissioner of Insurance under the general authority granted under Section 31A-2-201(3) and in compliance with the Department of Labor, Pension and Welfare Benefits Administration Rules and Regulations for Administration and Enforcement: Claims Procedure, 29 CFR 2560.503-1.

R590-215-2. Purpose.

This rule recognizes arbitration as an acceptable method of alternative dispute resolution with regards to health benefit plans. This rule is not intended to create procedural guidelines for the administration of arbitration proceedings once commenced. This rule is intended to:

(1) define the term "permissible arbitration provision" as set forth in Subsections 31A-21-313(3)(c) and 31A-21-314(2), and ensure compliance with the Department of Labor, Pension and Welfare Benefits Administration Rules and Regulations for Administration and Enforcement: Claims Procedure, 29 CFR 2560.503-1; and

(2) provide guidelines upon which disclosure of a contract arbitration provision is to be made.

R590-215-3. Applicability and Scope.

(1) This rule applies to:

(a) disability income policies;

(b) both individual and group health insurance policies; and

(c) health maintenance organization contracts, as defined by 31A-1-301 covering individual and employer benefit plans issued or renewed on or after July 1, 2002;

(2) Long Term Care and Medicare supplement policies are not considered health insurance policies for the purpose of this rule.

R590-215-4. Definitions.

For the purpose of this rule, the commissioner adopts the definitions as particularly set forth in Sections 31A-1-301, 78-31a-2 and the following:

(1) "Adverse benefit determination" means any of the following: a denial, reduction, or termination of, or a failure to provide or make payment, in whole or in part, for, a benefit, including any such denial, reduction, termination, or failure to provide or make payment that is based on a determination of a participant's or beneficiary's eligibility to participate in a plan. With respect to individual or group health benefit plans, a denial, reduction, or termination of, or a failure to provide or make payment, in whole or in part, for, a benefit resulting from the application of any utilization review, as well as a failure to cover an item or service for which benefits are otherwise provided because it is determined to be experimental or investigational or not medically necessary or appropriate.

(2) "Benefit Plans" means health insurance as defined in 31A-1-301.

(3) "Compulsory binding arbitration" means a contract provision requiring arbitration as an automatic and exclusive remedy for any dispute involving a contract of insurance to the exclusion of any otherwise available judicial remedy, provided that the claim or controversy exceeds the jurisdictional limit of the small claims court of the state where the action would be brought.

(4) "Compulsory non-binding arbitration" means a contract provision requiring an insured to exhaust a procedure of extra-judicial arbitration as a condition precedent to the pursuit of an otherwise available judicial remedy.

(5) "Voluntary binding arbitration" means a contract provision that, at the exclusive election of the insured, requires an insurer to submit to arbitration as set forth in such contract, provided that the claim or controversy exceeds the jurisdictional limit of the small claims court of the state where the action would be brought.

R590-215-5. Rule.

(1) Compulsory binding arbitration is not a permissible arbitration provision.

(2) Compulsory non-binding arbitration is a permissible arbitration provision when utilized as an internal review of an adverse benefit determination as permitted under 29 CFR Subsection 2560.503-1(c)(4), of the Department of Labor, Pension and Welfare Benefits Administration Rules and Regulation for the Administration and Enforcement: Claims Procedure.

(3) Voluntary binding arbitration, at the exclusive election of an insured party, is a permissible arbitration provision, and may only be used as a voluntary level of review as permitted under 29 CFR Subsection 2560.503-1(c)(3)(iii), of the Department of Labor, Pension and Welfare Benefits Administration Rules and Regulation for the Administration and Enforcement: Claims Procedure.

(4) Policy forms containing compulsory binding or voluntary binding arbitration provisions for the exclusive election of an insurer will be disapproved under Subsection 31A-21-201(3)(a)(iv). Such provisions in previously approved forms are declared not enforceable. They will be construed and applied as if in compliance with the Insurance Code, as permitted under Section 31A-21-107.

(5) Each application pertaining to a health benefit plan, which contains a permissible arbitration provision, must include or have attached a prominent statement substantially as follows:

ANY MATTER IN DISPUTE BETWEEN YOU AND THE COMPANY MAY BE SUBJECT TO ARBITRATION AS AN ALTERNATIVE TO COURT ACTION PURSUANT TO THE RULES OF THE AMERICAN ARBITRATION ASSOCIATION OR OTHER RECOGNIZED ARBITRATOR, A COPY OF WHICH IS AVAILABLE ON REQUEST FROM THE COMPANY. ANY DECISION REACHED BY ARBITRATION SHALL BE BINDING UPON BOTH YOU AND THE COMPANY. THE ARBITRATION AWARD MAY INCLUDE ATTORNEY'S FEES, IF ALLOWED BY STATE LAW, AND MAY BE ENTERED AS A JUDGEMENT IN ANY COURT OF PROPER JURISDICTION.

Such statement must be disclosed prior to the execution of the insurance contract between the insurer and the policyholder and shall be contained in the certificate of insurance or other disclosure of benefits.

(6) A health insurance dispute may be resolved through any small claims court having jurisdiction or voluntary binding arbitration.

(7) All arbitration provisions contained in insurance policies shall be in compliance with the "Utah Arbitration Act," Title 78, Chapter 31a.

(8) Any such agreement for arbitration shall not obligate an insured to pay for the arbitration in accordance with 29 CFR 2560.503-1(c)(v).

(9) No arbitration provision may require that arbitration be held at a place further from the residence of the insured than the nearest location of a State Court of General Jurisdiction.

R590-215-6. Severability.

If any provision or clause of this rule or its application to any person or situation is held invalid, such invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

R590-215-7. Enforcement Date.

The commissioner will begin enforcing the provisions of this rule 45 days from the rule's effective date.

KEY: health insurance arbitration

2002

31A-2-201

29 CFR 2560.503-1



Natural Resources, Wildlife Resources

R657-14

Commercial Harvesting of Protected Aquatic Wildlife

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 25091

FILED: 07/15/2002, 15:10

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended to eliminate procedures, standards, and requirements for commercially harvesting brine shrimp and

brine shrimp eggs, which will be regulated under a new rule, Rule R657-52. (DAR NOTE: The proposed new Rule R657-52 is found under DAR No. 25090 in this Bulletin.)

SUMMARY OF THE RULE OR CHANGE: This amendment eliminates the procedures, standards, and requirements for commercially harvesting brine shrimp and brine shrimp eggs, which the Division of Wildlife Resources (DWR) will regulate under a new rule, Rule R657-52. In addition, provisions of this rule are being amended to: delete salamanders, leeches and crayfish as species of fish allowed to be used for harvesting or selling for use as fish bait; provide specific species of nongame fish that may be harvested or sold; include the "bluehead sucker" species of fish on the list of prohibited nongame species; and provide consistency and clarity throughout the remaining rule for the commercial harvesting of protected aquatic wildlife.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-3, 23-14-18, 23-14-19, 23-15-7, 23-15-8 and 23-15-9

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This amendment eliminates the procedures, standards, and requirements for commercially harvesting brine shrimp and brine shrimp eggs, which DWR will regulate under a new rule, Rule R657-52, and provides consistency and clarity throughout the remaining rule for the commercial harvesting of all other protected aquatic wildlife. Therefore, this amendment does not create a cost or savings impact.

❖ LOCAL GOVERNMENTS: This filing does not create any direct cost or saving impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ OTHER PERSONS: This amendment eliminates the procedures, standards, and requirements for commercially harvesting brine shrimp and brine shrimp eggs, which DWR will regulate under a new rule, Rule R657-52, and provides consistency and clarity throughout the remaining rule for the commercial harvesting of all other protected aquatic wildlife. Therefore, this amendment does not create a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with this amendment. This amendment eliminates the procedures, standards, and requirements for commercially harvesting brine shrimp and brine shrimp eggs, which DWR will regulate under a new rule, Rule R657-52, and provides consistency and clarity throughout the remaining rule for the commercial harvesting of all other protected aquatic wildlife.

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

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

NATURAL RESOURCES
WILDLIFE RESOURCES

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Debbie Sundell at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at debbiesundell@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/03/2002

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 8/13/2002 at 9:00 AM, Snow College, Richfield Utah (Contact Division of Wildlife Resources for exact location.).

THIS RULE MAY BECOME EFFECTIVE ON: 09/04/2002

AUTHORIZED BY: Kevin Conway, Director

R657. Natural Resources, Wildlife Resources.
R657-14. Commercial Harvesting of Protected Aquatic Wildlife.
R657-14-1. Purpose and Authority.

(1)(a) Under authority of Sections 23-14-3, 23-14-18, and 23-14-19, and Sections 23-15-7 through 23-15-9, this rule provides the procedures, standards, and requirements for:

~~(a)~~(i) harvesting protected aquatic wildlife for use as fish bait; and

~~(b) commercially harvesting brine shrimp and brine shrimp eggs; and~~

~~(e)~~(ii) seining protected aquatic wildlife.

~~(2) To the extent that this rule applies to the~~(b) The commercial ~~harvest~~harvesting of brine shrimp and brine shrimp eggs, the objective of this rule is to protect, manage, and conserve the brine shrimp resource based upon the best available data and information and adequately preserve the Great Salt Lake ecosystem while recognizing the economic value of allowing the harvest of brine shrimp and brine shrimp eggs and maintaining a sustainable brine shrimp population] is regulated under Rule R657-52.

R657-14-2. Definitions.

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

(2) In addition:

(a) "Alternate seiner" means the person in charge of and responsible for supervising a crew of helpers harvesting authorized species of protected aquatic wildlife in the absence of the primary seiner.

(b) "Certified bait dealer" means a person who has obtained a certificate of registration authorizing the harvest, possession, or sale of protected aquatic wildlife for use as ~~live or~~ dead fish bait.

(c) "Harvest" means to seine, or gather in protected aquatic wildlife and reduce it to possession.

(d) "Harvest location" means the location where the gathering or harvesting of protected aquatic wildlife takes place. ~~For purposes of harvesting brine shrimp, a harvest location is a 300 yard radius from the location of the Certificate of Registration marker as required under Subsection R657-14-16(2).]~~

(e) "Helper" means a person aiding a certificate of registration holder in the harvesting, transporting, or selling of protected aquatic wildlife, including any employee, agent, family member, or donated labor.

(f) "Helper card" means a card authorizing a person to act as a helper.

(g) "Nongame fish" means all species of fish, except:

(i) any species or hybrid species of trout, including albino, brook, brown, cutthroat, golden, grayling, kokanee salmon, lake or mackinaw, rainbow, splake, and tiger;

(ii) Bonneville cisco;

(iii) bluegill;

(iv) bullhead;

(v) catfish;

(vi) crappie;

(vii) green sunfish;

(viii) northern pike;

(ix) largemouth bass;

(x) Sacramento perch;

(xi) smallmouth bass;

(xii) striped bass;

(xiii) tiger muskellunge;

(xiv) walleye;

(xv) white bass;

(xvi) whitefish;

(xvii) wiper; and

(xviii) yellow perch.

(h) "Primary seiner" means the person in charge of and responsible for supervising a crew of helpers harvesting protected aquatic wildlife.

(i) "Purchase" means to buy, acquire, or obtain from sale, exchange, barter, or trade protected aquatic wildlife for pecuniary consideration or advantage.

(j) "Seining" means to harvest protected aquatic wildlife with the use of a net or other similar device.

(k) "Wildlife registration office" means the division office in Salt Lake responsible for processing applications and issuing certificates of registration.

R657-14-3. Certificate of Registration Required.

(1)(a) A person may not harvest, possess, or transport protected aquatic wildlife without first obtaining a certificate of registration and a helper card for each individual assisting that person.

(b) The original copy of the certificate of registration must be present at the harvest location while harvesting protected aquatic wildlife.

(2) Except as provided in Subsection R657-14-13(4), a person must obtain a separate certificate of registration to engage in the following activities:

(a) harvesting or selling designated species of fish; ~~salamanders, leeches, and crayfish~~ for use as fish bait; and

(b) seining and selling protected aquatic wildlife for any purpose other than for use as fish bait; ~~and~~

~~(c) harvesting brine shrimp and brine shrimp eggs.]~~

(3) A certificate of registration is not required ~~for~~ ~~(a)~~ for the retail sale of dead protected aquatic wildlife imported into Utah, provided the product is clearly labeled as to its out-of-state origin;

~~(b) to process brine shrimp or brine shrimp eggs; or~~

~~—(e) to sell brine shrimp or brine shrimp eggs, provided the brine shrimp or brine shrimp eggs were taken in accordance with the provisions of this rule by a person who has obtained a certificate of registration or as provided in Subsection R657-3-18(4).~~

(4) Certificates of registration are not transferable, except as provided in Section R657-14-21.

(5) Any certificate of registration issued to a business or any other commercial organization shall be void upon the termination of the business or organization or upon bankruptcy.

(6)(a) The issuance of a certificate of registration automatically incorporates within its terms the conditions and requirements of this rule specifically governing the activity for which the certificate of registration is issued.

(b) Any person accepting a certificate of registration under this rule acknowledges the necessity for close regulation and monitoring by the division.]

~~—(7) Any certificate of registration issued or renewed by the division under this rule to harvest brine shrimp or brine shrimp eggs is a privilege and not a right. The certificate of registration authorizes the holder to harvest brine shrimp or brine shrimp eggs subject to all present and future conditions, restrictions, and regulations imposed on such activities by the division, the Wildlife Board, the state of Utah, or the United States.~~

~~—(8) A certificate of registration to harvest brine shrimp or brine shrimp eggs does not guarantee or otherwise legally entitle the holder to any of the following:~~

~~—(a) a minimum harvest quota in any given season or seasons;~~

~~—(b) a quota or percentage of the harvestable surplus as determined by the division;~~

~~—(c) a particular harvesting or processing method;~~

~~—(d) a particular harvest season duration, commencement date, or termination date;~~

~~—(e) access to any particular area or site on the Great Salt Lake or on other waters in the state, regardless of historical authorization or use;~~

~~—(f) marina access on the Great Salt Lake or elsewhere in the state, regardless of historical authorization or use;~~

~~—(g) an increase, stabilization, or reduction in the number of certificates of registration issued by the division to harvest brine shrimp and brine shrimp eggs;~~

~~—(h) an exclusive opportunity to harvest;~~

~~—(i) a particular quantity or quality of brine shrimp or brine shrimp eggs;~~

~~—(j) a particular water condition or salinity level conducive to brine shrimp production, brine shrimp egg production, or harvest success;~~

~~—(k) any particular level of protection for brine shrimp or brine shrimp eggs from disease, pesticides, or predators; or~~

~~—(l) any other right or management philosophy beneficial to harvesting or production of brine shrimp and brine shrimp eggs.~~

~~—(9) The procedures and processes outlined in this rule regulating the harvest of brine shrimp and brine shrimp eggs are all subject to change as the division and the Wildlife Board gather greater information and data on the impact current harvest regulations have on the sustainability of brine shrimp populations, the Great Salt Lake ecosystem, and the economic viability of the industry.]~~

R657-14-4. Application for Certificate of Registration.

(1) Applications for certificates of registration are available at division offices.

(2)[(a)] Applications for commercial seining or harvesting protected aquatic wildlife for use as fish bait may be submitted any time during the year.

~~[(b) Applications for harvesting brine shrimp and brine shrimp eggs may be submitted May 1 through May 31. Applications may be submitted by mail if postmarked no later than midnight on the last day of the application period.~~

~~—(3)(a)](3) If an application for a certificate of registration is made in the name of a commercial organization, the applicant must specify the person responsible for that entity.~~

~~[(b) All commercial organization applicants must provide on or with the application, a written statement designating the responsible person as its legal agent in all matters before the division relating to brine shrimp and brine shrimp egg harvesting.~~

~~—](4)(a) Completed applications must be submitted to the wildlife registration office.~~

(b) The division may return any application that is incomplete or completed incorrectly.

(5)(a) The application review process may require up to 45 days.

(b) The division may deny issuing a certificate of registration to any applicant for any of the following reasons:

(i) the applicant has previously been issued a certificate of registration and has failed to submit any report required by this rule, the division, or the Wildlife Board;

(ii) the applicant has been found guilty, pleaded guilty or pleaded no contest in an administrative proceeding to violating any rule, statute, proclamation, or Wildlife Board Order relating to the harvest, possession, or sale of protected aquatic wildlife; or

(iii) the applicant has been found guilty, pleaded guilty or pleaded no contest in a criminal proceeding to violating any rule, statute, proclamation, or Wildlife Board Order relating to the harvest, possession, or sale of protected aquatic wildlife.

(6) The division may limit the number of certificates of registration issued or deny any application in the interest of wildlife, wildlife habitat, serving the public, or public safety.

(7) If an application is approved, the division shall issue the applicant a certificate of registration that specifies:

(a) the species and amounts of protected aquatic wildlife that may be harvested or sold;

(b) the water and locations where protected aquatic wildlife may be harvested;

(c) the gear that may be used;

(d) the hours during which protected aquatic wildlife may be harvested;

(e) the means and amounts of protected aquatic wildlife that may be transported; and

(f) any restriction imposed on the applicant in addition to the provisions of this rule.

(8)(a) Certificates of registration for seining or harvesting protected aquatic wildlife for use as fish bait are valid for a calendar year.]

~~—(b) Certificates of registration for harvesting brine shrimp and brine shrimp eggs are valid only during the harvest season as provided in Subsection R657-14-14(2).]~~

R657-14-5. Use of Helpers.

(1)(a) Except as provided in [Subsections (2) and R657-14-14(6)]Subsection (2), any person aiding the certificate of registration holder in seining protected aquatic wildlife [or harvesting brine

~~shrimp and brine shrimp eggs]~~ shall be in possession of a helper card.

(b) A helper card shall be deemed to be in possession if it is on the person or on the boat from which the person is working.

(2) A helper card is not required of any person engaged only in the retail sale or transportation of protected aquatic wildlife~~], except as provided in Subsection R657-14-14(7)].~~

(3) Helper cards are issued in the name of the certificate of registration holder and are transferable among individuals assisting the certificate of registration holder.

(4)(a) A helper may assist in the harvest of protected aquatic wildlife only while working under the direct supervision of a primary or alternate seiner.

(b) For purposes of this rule, "direct supervision" means to be physically present, either on a boat with the helper or within close proximity so as to be able to provide direct instructions to the helper.

(5) Twelve additional helper cards for each Certificate of Registration may be obtained from the wildlife registration office at any time during the year.

R657-14-6. Records - Report of Activities.

(1) Each person who has been issued a certificate of registration authorizing the harvest or sale of protected aquatic wildlife shall keep accurate records of the number or weight harvested and to whom the products were sold.

(2) The records required under Subsection (1) shall be retained for at least five years and must be available for inspection upon division request.

(3)(a) A person who has been issued a certificate of registration for seining or harvesting protected aquatic wildlife for use as fish bait shall include the following information, broken down by month, in an annual report to the division:

- (i) the species of protected aquatic wildlife harvested;
- (ii) the water from which the protected aquatic wildlife were harvested; and
- (iii) the total number or weight of protected aquatic wildlife harvested.

(b) A person who has been issued a certificate of registration for the retail sale of protected aquatic wildlife shall include the following information, broken down by month, in an annual report to the division:

- (i) the name and address of each person from which protected aquatic wildlife was purchased or sold;
- (ii) the species of protected aquatic wildlife purchased or sold; and
- (iii) the weight and number of protected aquatic wildlife purchased or sold.

~~(c)(i) A person who has been issued a certificate of registration for harvesting brine shrimp and brine shrimp eggs must submit a weekly harvest report to the Great Salt Lake Ecosystem Project office. The report shall include the total amount of brine shrimp and brine shrimp eggs, by raw weight, harvested each day. The reports must be prepared by a person working for the reporting company. The reports must be received or postmarked by Monday of each week.~~

~~(ii) A daily harvest report must be filed with the Great Salt Lake Ecosystem Project office. The report must be filed not later than 12 hours after the end of the previous calendar day. The report may be filed utilizing a voicemail system linked to a dedicated phone number provided or the report may be filed by fax to a dedicated phone number. The report shall include the total amount~~

~~of brine shrimp and brine shrimp eggs, by raw weight, harvested each day. The report must be prepared or given by a person working for the reporting company.~~

~~(iii) When brine shrimp and brine shrimp eggs are being transported away from the lakeshore to a processing plant, a landing receipt form must be prepared and in possession of the transport driver before leaving the loading site. The form shall include the certificate of registration numbers, certificate of registration holders, harvest dates, harvest areas, landing dates, container numbers and weights as determined by certified scales for lake harvested brine shrimp and brine shrimp eggs, container numbers and weight estimates for shore harvested brine shrimp and brine shrimp eggs and names of individuals who landed and weighed the product. The reports must be received or postmarked by Monday of each week.~~

~~(iv) Report forms are provided by the division.~~

R657-14-7. Species of Protected Aquatic Wildlife That May Be Harvested.

(1)(a) The division may authorize a person to harvest or sell ~~[nongame fish, salamanders, leeches, crayfish, brine shrimp or brine shrimp eggs, or]~~ the following nongame fish:

- (i) Utah Chub (Gila atraria);
- (ii) Carp (Cyprinus carpio);
- (iii) Mountain sucker (Catostomus platyrhynchus);
- (iv) Utah sucker (Catostomus ardens); or
- (v) Redside shiner (Richardsonius batteatus).

(b) The division may authorize a person to harvest or sell overabundant nuisance game species, as determined by the division.

~~(b)(c)~~ The certificate of registration shall identify those species of protected aquatic wildlife that may be harvested or sold.

(2) Any species of protected aquatic wildlife caught that is not authorized for harvest must be immediately returned alive and unharmed to the water from which it was harvested.

R657-14-8. Prohibited Nongame Species.

The following species of protected aquatic wildlife may not be harvested, and if caught must be immediately returned alive and unharmed to the water from which it was taken:

- (1) bonytail ~~[chub]~~ (Gila elegans);
- (2) bluehead sucker (Catostomus discobolus);
- ~~(3) Colorado [squawfish]~~ pikeminnow (Ptychocheilus lucius);
- ~~(4)~~ (4) flannelmouth sucker (Catostomus latipinnis);
- ~~(5)~~ (5) gizzard shad (Dorosoma cepedianum);
- ~~(6)~~ (6) grass carp (Ctenopharyngodon idella);
- ~~(7)~~ (7) humpback chub (Gila cypha);
- ~~(8)~~ (8) June sucker (Chasmistes liorus);
- ~~(9)~~ (9) least chub (Iotichthys phlegethontis);
- ~~(10)~~ (10) leatherside chub (Gila cypha);
- ~~(11)~~ (11) razorback sucker (Xyrauchen texanus);
- ~~(12)~~ (12) roundtail chub (Gila robusta);
- ~~(13)~~ (13) Virgin River chub (Gila robusta seminuda);
- ~~(14)~~ (14) Virgin spinedace (Lepidomeda mollispinis); and
- ~~(15)~~ (15) woundfin (Plagopterus argentissimus).

R657-14-9. Harvest Hours.

(1) Protected aquatic wildlife~~], except brine shrimp and brine shrimp eggs,~~ may be harvested from 5 a.m. to 10 p.m. year-round, unless otherwise specified on the certificate of registration.

~~(2) Brine shrimp and brine shrimp eggs may be harvested 24 hours during the calendar day.~~

~~(3)~~(2) When the harvest season is suspended or closed, all harvest activity shall cease at official sunset.

R657-14-10. Identification of Traps and Nets.

(1) A metal tag or plate stamped with the owner's name and certificate of registration number must be securely attached to each seine, trap and net.

(2) Any improperly tagged seine, trap, or net may be seized by the division.

R657-14-11. Transportation, Purchase, or Sale of Live Protected Aquatic Wildlife.

(1) A person may not have in possession any live species of protected aquatic wildlife, except as [~~provided in Subsection R657-14-12(1), or as otherwise~~] provided in Rules R657-3 or R657-16.

(2) A person may not purchase any live protected aquatic wildlife from or sell any live protected aquatic wildlife to any person or entity who has not obtained a certificate of registration to possess or sell live protected aquatic wildlife, except as provided in Subsection R657-14-3(3).

R657-14-12. Certified Bait Dealers.

(1) The division may authorize a person to [~~—(a) harvest salamanders or leeches and retain them alive as fish bait; —(b) transport live or dead salamanders or leeches into or out of Utah; —(c) establish an outlet for the sale of live or dead salamanders or leeches; or —(d)—~~] harvest or sell designated species of [~~dead~~] protected aquatic wildlife for use as dead fishing bait, including cut baits.

(2)(a) The division may allow a person to harvest, possess, or sell the [~~following~~] species of protected aquatic wildlife for use as dead fish bait as provided in Section R657-14-7.[:]

~~—(a) nongame fish, except those prohibited species described in Section R657-14-8;~~

~~—(b) crayfish;~~

~~—(c) salamanders;~~

~~—(d) leeches; or~~

~~—(e) any overabundant game species as determined by the division and indicated on the certificate of registration.](b) The division shall not allow a person to harvest, possess, or sell any other protected aquatic wildlife for use as dead fish bait except as provided in Section R657-14-7.~~

(3)(a) A person may not purchase dead fish bait from any person who has not obtained a certificate of registration from the division.

(b) Subsection (a) does not preclude commerce with out-of-state sellers of dead, prepared fish baits if the dead fish bait is clearly labeled as to its origin.

(4)(a) Only a person who has obtained a certificate of registration from the division may harvest, sell, or trade protected aquatic wildlife for use as fish bait.

(b) Any protected aquatic wildlife sold for use as fish bait must be packaged in a suitable container, and have securely attached a clearly discernable business label on each package that provides the brand or business name, business address, type of product, and certificate of registration number.

(5) A person may not purchase or sell any dead fish bait that does not have a label attached to the package as provided in Subsection (4)(b).

R657-14-13. Commercial Seining.

(1) The division may issue a certificate of registration authorizing a person to harvest designated species of protected aquatic wildlife by seining.

(2)(a) Three helper cards are issued with the certificate of registration.

(b) Additional helper cards may be obtained from the division.

(3) A seiner may harvest any species of nongame fish [~~except those prohibited species as designated in~~] listed under Section R657-14-~~[8]~~7, and any overabundant game species as determined by the division and indicated on the certificate of registration.

(4) A seiner may harvest or sell protected aquatic wildlife for use as dead fish bait as provided in Section R657-14-12, if authorization is obtained from the division and indicated on the certificate of registration.

R657-14-14. [~~Harvesting Brine Shrimp and Brine Shrimp Eggs~~—Certificate of Registration—Helper Cards.

~~—(1)(a) The division may issue a certificate of registration authorizing a person to harvest brine shrimp and brine shrimp eggs.~~

~~—(b) A separate certificate of registration and the corresponding certificate of registration marker are required for each harvest location.~~

~~—(c)(i) The provisions of this rule do not apply:~~

~~—(A) to the harvest of 200 pounds or less of brine shrimp or brine shrimp eggs, during a single calendar year, for culturing ornamental fish, provided the brine shrimp eggs are not sold, bartered, or traded; or~~

~~—(B) for the retail sale of brine shrimp or brine shrimp eggs.~~

~~—(ii) A certificate of registration is required for the activities described in Subsection (i) as provided in Rule R657-3-18.~~

~~—(2) Except as provided in Subsections R657-14-19(4) and (5), the certificate of registration is valid for harvesting brine shrimp and brine shrimp eggs only during the harvest season beginning October 1 and ending January 31. If October 1 falls on a Sunday, the harvest season shall begin on the following Monday. In the interest of the wildlife resources of the Great Salt Lake, the harvest season may be delayed up to 10 days provided the harvesting companies are notified seven days in advance of the delay. After the season has opened, harvesting may be suspended two times during the season, for up to seven days each time, in the interest of the wildlife resources of the Great Salt Lake, provided the harvesting companies are notified at least 24 hours in advance of the suspension date.~~

~~—(3) The Wildlife Board, after considering the best available biological data and other information received from the division and the public, has determined that:~~

~~—(a) a limitation on the number of certificates of registration issued by the division to harvest brine shrimp and brine shrimp eggs, is currently necessary to protect the brine shrimp resource and the Great Salt Lake ecosystem;~~

~~—(b) additional research and scientific data is necessary to adequately understand the dynamics of the brine shrimp populations, the Great Salt Lake ecosystem, and the impact harvesting has on the sustainability of the resource;~~

~~—(c) given the current number of certificates of registration, the need for additional scientific data, and the increasing efficiency in the industry's ability to harvest large quantities of brine shrimp and brine shrimp eggs in short periods, the issuance of additional certificates at this point in time may compromise the division's ability to effectively regulate the harvest to avoid jeopardizing resource sustainability; and~~

~~—(d) given these factors and the harvest restrictions adopted in this rule, a total of 79 certificates of registration may be issued.~~

~~—(4) Certificates of registration that may become available for issuance through revocation, expiration, nonrenewal, or surrender may either be retired by the division or reallocated to eligible persons and entities through random drawings conducted at the Division of Wildlife Resources, Salt Lake City office.~~

~~—(5) All persons or entities applying for a certificate of registration to harvest brine shrimp and brine shrimp eggs made available for issuance through Subsection (4) shall satisfy the following requirements:~~

~~—(a) submit a certificate of registration application to the wildlife registration office consistent with the requirements set forth in R657-14-4; and~~

~~—(b) submit a cashier's check to the division in the amount of \$10,000 for each certificate of registration applied for.~~

~~—(6)(a) One certificate of registration is required for each harvest location.~~

~~—(b) The original certificate of registration must be in possession at the harvest location and available for inspection by the division or any peace officer upon demand.~~

~~—(7)(a) Three individual helper cards are issued with the certificate of registration and are transferable.~~

~~—(b) Additional helper cards may be obtained from the division.~~

~~—(c) Any crew member harvesting or transporting brine shrimp or brine shrimp eggs from the harvest location must have a helper card in possession. A primary or alternate seiner does not have to be present while transporting brine shrimp or brine shrimp eggs from the harvest location.~~

~~—(d) An employee directing harvest operations from a plane does not have to have a helper card.~~

~~—(e) The driver of a truck transporting brine shrimp or brine shrimp eggs from the lake to a storage or processing plant does not have to have a helper card. Any crew member loading brine shrimp and brine shrimp eggs into a truck must have a helper card in possession.~~

~~—(8)(a) A primary seiner and an alternate seiner card are issued with the certificate of registration and are transferable within the entity holding the certificate of registration.~~

~~—(b) A primary seiner or an alternate seiner must be present and directly supervise the harvest activity.~~

~~—(c) The primary or alternate seiner must have a primary or alternate seiner card in possession at the harvest location.~~

~~R657-14-15. Certificate of Registration Renewal for Brine Shrimp and Brine Shrimp Egg Harvesting.~~

~~—(1) Each certificate of registration to harvest brine shrimp and brine shrimp eggs issued under this rule may be renewed by the division on an annual basis consistent with the provisions in this section.~~

~~—(2) Persons or business entities issued certificates of registration by the division in the harvest year immediately preceding the harvest year for which renewal is sought will have a preference for the same number of certificates of registration, provided the applicant satisfies the renewal criteria for each certificate of registration.~~

~~—(3) The annual expiration date of a certificate of registration shall be shown on the certificate of registration. A certificate of registration that is not renewed prior to the expiration date shown on the certificate of registration automatically expires.~~

~~—(a) A certificate of registration automatically expires prior to the expiration date shown on the certificate of registration upon the dissolution of a holder that is a partnership, corporation, or other business entity.~~

~~—(b) Upon the death of a certificate of registration holder that is a natural person, the estate may attempt to sell the harvest operation and petition the division, under Section R657-14-21, to transfer the certificate of registration to the respective buyer.~~

~~—(c)(i) Failure to annually renew a certificate of registration by satisfying all the renewal criteria outlined in this rule prior to the expiration date shown on the certificate of registration shall automatically deprive the prospective holder of a renewal preference in succeeding years.~~

~~—(ii) Preference forfeiture results whether unsuccessful renewal is the consequence of automatic expiration, applicant neglect, or division denial.~~

~~—(iii) Failure to renew in years where the harvest of brine shrimp or brine shrimp eggs is closed for regulatory or management purposes will result in preference forfeiture.~~

~~—(d) Expiration of a certificate of registration is not an adjudicative proceeding under Title 63, Chapter 46b of the Utah Administrative Procedures Act.~~

~~—(4) Renewal applications for certificates of registration to harvest brine shrimp and brine shrimp eggs are available at the division's wildlife registration office in Salt Lake City.~~

~~—(a) Completed renewal applications shall be submitted to the wildlife registration office between May 1 and May 31 of each year. Applications are considered "submitted" for purposes of this rule when hand delivered to the wildlife registration office on or before the application deadline, or when mailed to the wildlife registration office and postmarked no later than midnight on the last day of the application period.~~

~~—(b) Where a certificate of registration renewal application is submitted in the name of a commercial organization, the applicant must specify the person responsible for that entity.~~

~~—(c) The commercial organization applicant must provide, on or with the renewal application, a written statement designating the responsible person as its legal agent in all matters before the division relating to brine shrimp and brine shrimp egg harvesting.~~

~~—(d) The division may return any application that is incomplete or completed incorrectly.~~

~~—(e) Applications for renewal that are filed within the prescribed time period set in this rule but returned as incomplete or completed incorrectly may be granted where the errors are corrected and the application resubmitted to the wildlife registration office within 30 days from the date the initial application was rejected.~~

~~—(f) The application review process may require up to 45 days.~~

~~—(5) The criteria for certificate of registration renewal are as follows:~~

~~—(a) the applicant was issued a certificate of registration to harvest brine shrimp and brine shrimp eggs in the immediate harvest season preceding the application for renewal;~~

~~—(b) the applicant has accurately and completely filled out the division's renewal application and submitted it to the division within the time period prescribed in this rule;~~

~~—(c) the applicant has submitted with the renewal application a cashier's check for \$10,000 for each certificate of registration; and~~

~~—(d) the applicant satisfies all other requirements prerequisite to receiving an initial certificate of registration to harvest brine shrimp or brine shrimp eggs as found in R657-14-4.~~

—(6) The division may refuse to renew a certificate of registration for any of the following reasons:

—(a) the applicant has failed to submit any report required by the division in writing, or any report required by this rule or the Wildlife Board;

—(b) the applicant has been found guilty, pleaded guilty or pleaded no contest in an administrative proceeding to violating any rule, statute, proclamation, or Wildlife Board Order relating to the harvest, possession, or sale of protected aquatic wildlife;

—(c) the applicant has been found guilty, pleaded guilty or pleaded no contest in a criminal proceeding to violating any rule, statute, proclamation, or Wildlife Board Order relating to the harvest, possession, or sale of protected aquatic wildlife; or

—(d) where the division determines that renewal may significantly damage or is not in the interest of wildlife, wildlife habitat, serving the public, or public safety.

—(7) If an application for renewal is approved, the Division shall issue the applicant a new certificate of registration that may specify:

—(a) the species and amounts of protected aquatic wildlife that may be harvested or sold;

—(b) the water and locations where protected aquatic wildlife may be harvested;

—(c) the equipment that may be used;

—(d) the hours during which protected aquatic wildlife may be harvested; and

—(e) any restriction imposed on the applicant in addition to the provisions of this rule.

—(8) Any applicant who has been refused renewal of a certificate of registration may submit a request for agency action to the Wildlife Board, in care of the Division of Wildlife Resources, within 30 days following notification of the refusal to renew. The format and content of the request for agency action and any subsequent proceedings initiated thereunder shall comply with Rule R657-2.

—(9) Certificates of registration for harvesting brine shrimp and brine shrimp eggs are valid only during the harvest season as provided in Subsections R657-14-14(2) and R657-14-19(4).

R657-14-16. Harvesting Brine Shrimp and Brine Shrimp Eggs—Identification of Equipment.

—(1)(a) Any boat used for harvesting operations must be identifiable from the air, water and land with either the company name, company initials or certificate of registration number. A camp or base of operations located on or near the shoreline must be marked so it is visible from the air and land with either the company name, company initials, or certificate of registration number. Boat markings denoting the company name, company initials or certificate of registration number, must be visible from a distance of 500 yards when on the lake.

—(b) The letters or numbers shall be visible at all times, written clearly and shall meet the following requirements:

—(i) letters or numbers on the top of a boat shall be at least 36 inches in height;

—(ii) letters or numbers used on the sides of a boat shall be at least 24 inches in height, except that boats with inflatable hulls may use letters and numbers that are 12 inches in height;

—(iii) letters or numbers used on a camp or base of operations sign shall be at least 24 inches in height; and

—(iv) all letters and numbers used for identification purposes shall be of reflective white tape with a solid black background.

—(e) Identification may be done with a magnetic sign placed on top of and the sides of the vehicle or boat.

—(d) A boom shall be marked with letters and numbers at least three inches in height and marked once on each continuous segment of boom that may be coupled together.

—(c) All containers filled or partially filled with brine shrimp or brine shrimp eggs and left unattended on the shore or in a vehicle parked on the shore shall be individually marked with either the company name, company initials or certificate of registration number under which the product was harvested. Each container shall be marked as follows:

—(i) the company name, company initials or the certificate of registration number shall be permanently and legibly marked at a visible location on the exterior surface of the container; or

—(ii) the company name, company initials or the certificate of registration number shall be permanently and legibly marked on a durable, waterproof tag securely and visibly attached to the exterior surface of the container.

—(f) "Shore" for purposes of this section, shall include all lands within one mile of the body of water where the product was harvested. "Shore" does not include permanent structures affixed to the land and operated for purposes of storing or processing brine shrimp and brine shrimp eggs, provided the name of the structure's current owner or tenant is visibly marked on the exterior of the structure.

—(2)(a) Only one certificate of registration marker corresponding to each certificate of registration will be displayed at each harvest location as follows:

—(i) on the boat with the certificate of registration on board;

—(ii) on the harvest boat or attached to the boom;

—(iii) in the water at the harvest location; or

—(iv) on the shore while harvesting brine shrimp or brine shrimp eggs from shore.

—(b) A certificate of registration marker shall consist of a piece of equipment, furnished by the harvesters, with the specifications as provided in Subsection (b)(i) through Subsection (b)(v).

—(i) A six foot long piece of tubing with a weight at one end.

—(ii) This piece of tubing shall have a fluorescent orange ball that is a minimum of eighteen inches in diameter, mounted in the approximate center of this length of tubing. This fluorescent orange ball shall be marked in two places with indelible black paint, the COR number that is being operated and matches the decal as provided for in Subsection R657-14-16 (2)(b)(iii). These painted COR numbers shall be a minimum of twelve inches in height.

—(iii) Mounted above the orange ball towards the un-weighted end of this tubing shall be a decal issued by the division which denotes the certificate of registration in use and corresponding to the certificate of registration marker device.

—(iv) Mounted on this tubing between the orange ball and the un-weighted end of this tubing, shall be an aluminum radar reflector that is a minimum of fifteen inches square.

—(v) Mounted above the radar reflector shall be a three inch wide band of silver reflective tape.

—(vi) Mounted on the un-weighted end of this tubing shall be an amber light that at night is visible for up to one half mile and flashes 30 times per minute, minimum.

—(c) The COR marker must be displayed in a manner that is:

—(i) visible in all directions at a distance of 500 yards; or

—(ii) displayed above the superstructure of any vessel that a certificate of registration is being used from; and

—(iii) the amber light must be operating at all times between sunset and until sunrise.

—(d) A brine shrimp harvester shall not display an amber light at night, or an orange ball or other device which simulates the certificate of registration marker device, without having the original certificate of registration at the harvest location.

—(e) Brine shrimp or brine shrimp eggs may not be harvested in any manner, nor may a harvest location be claimed unless and until an original copy of the certificate of registration is at the harvest location and the corresponding certificate of registration marker is properly deployed as required in R657-14-16(2).

—(f) The certificate of registration and corresponding certificate of registration marker shall not be transported to the harvest location by aircraft.

—(i) "Aircraft" for purposes of this section, means any contrivance now known or in the future invented, used, or designed for navigation of or flight in the air.

R657-14-17. Harvesting Brine Shrimp and Brine Shrimp Eggs—Use of Booms.

—(1)(a) A primary seiner, alternate seiner, or helper must remain within one mile of any boom attached to the shore, whether open or closed, 24 hours a day so that an officer may easily locate the person tending the boom.

—(b) A boom may be left unattended in the open water during the legal harvest season if:

—(i) the boom is properly identified as provided in Subsection R657-14-16(1)(b)(iii);

—(ii) the boom is closed;

—(iii) the boom is marked with a certificate of registration marker as described in Subsection R657-14-16(2)(b); and

—(iv) the boom is lighted as described in Subsection R657-14-16(2)(c)(iii).

—(2) On a causeway or dike where camping is not allowed, a primary seiner, alternate seiner, or helper must be stationed at the closest possible camping site, not more than 10 miles away, and that location must be clearly identified on a tag securely attached to the shore end of the boom.

—(3)(a) A person may not harvest any brine shrimp or brine shrimp eggs within 300 yards of any certificate of registration marker displayed at a harvest location as provided in Subsection R657-14-16(2)(a) without permission from the company that first began harvesting in that location.

—(b) The certificate of registration marker must be deployed as provided in Subsection R657-14-16(2) and accompanied by an individual at the harvest location to receive the 300 yard encroachment protection.

—(4) Brine shrimp and brine shrimp eggs may be removed from another person's boom only with written permission from the person who owns the boom.

—(5) A person may not deploy more than one continuous length of boom for each certificate of registration.

R657-14-18. Harvesting Brine Shrimp and Brine Shrimp Eggs—Unlawful Method—Use of Equipment.

—(1) A person may not intentionally drive a boat through, or create a wake through, a streak of brine shrimp eggs that another person is harvesting.

—(2)(a) A person may test the equipment to be used in harvesting brine shrimp from March 1 through September 30.

—(b) At least 48 hours before testing the equipment, the person must notify the division's Northern Regional Office.

—(e) Any brine shrimp or brine shrimp eggs collected while testing the equipment must be immediately returned within 1/4 mile of the location in which they were collected.

—(3) Brine shrimp and brine shrimp eggs may not be taken to a storage facility, test site located greater than 1/4 mile from the location in which they were collected, or to the shore, except as provided in Section R657-14-19(4).

R657-14-19. Harvesting Brine Shrimp and Brine Shrimp Eggs—Areas of Harvest and Season Dates.

—(1) The division may authorize the harvest of brine shrimp and brine shrimp eggs from:

—(a) the Great Salt Lake and surrounding areas, including ponds operated in a normal manner for mineral extraction; and

—(b) the Sevier River.

—(2) The area east of the north-south line from the tip of Promontory Point south along the east shore of Fremont and Antelope Islands and along the dike extending from the south end of Antelope Island to the south shore of the Great Salt Lake is closed to the commercial harvesting of brine shrimp and brine shrimp eggs.

—(3) Except as provided in Subsections (4) and (5), brine shrimp and brine shrimp eggs may be harvested only during the harvest season as described in Subsection R657-14-14(2).

—(4)(a) Any person who has a valid certificate of registration may cumulatively collect up to 25 pounds of brine shrimp eggs between March 1 and September 30 for the purpose of conducting research.

—(b) For the purpose of conducting research, a person may not collect more than one pound of brine shrimp eggs during a single day regardless of the number of certificates of registration issued to that person.

—(c) Brine shrimp and brine shrimp eggs collected for research under the authority of this section may not be sold, traded, or bartered.

—(5)(a) Brine shrimp and brine shrimp eggs may be harvested from mineral extraction ponds located along the shores of the Great Salt Lake any time during the year.

—(b) A pond may not be built solely for the purpose of raising or harvesting brine shrimp or brine shrimp eggs.

—(c) Brine shrimp or brine shrimp eggs may not be introduced into the Great Salt Lake or any pond. Brine shrimp and brine shrimp eggs must enter into the pond during normal mineral extraction processes.

—(6) All brine shrimp and brine shrimp eggs which have been harvested and placed in containers shall be transported from the lake or lakeshore not later than 21 days after the close of the harvest season. No brine shrimp or brine shrimp eggs may be removed from the surface of the beach and placed in a container after the season has closed.

R657-14-20.] Violations.

(1) The penalty for any violation of this rule is a class C misdemeanor as provided in Section 23-13-11(2).

(2) Any violation of, or failure to comply with the provisions of this rule, any requirement contained in a certificate of registration issued pursuant to this rule, or any Wildlife Board Order[]], or any statute related to the harvesting, possession or transfer of brine shrimp or brine shrimp eggs[]] may be grounds for revocation, suspension or denial of future certificates of registration as determined by a division hearing officer.

[R657-14-21. Certificate of Registration Transfers.

~~— (1) Pursuant to Section 23-19-1(2), a person may not lend, transfer, sell, give or assign a certificate of registration to harvest brine shrimp and brine shrimp eggs belonging to the person or the rights granted thereby, except as authorized hereafter.~~

~~— (2) "Business entity" for purposes of this section means any person, proprietorship, partnership, corporation, or other commercial organization that has been issued a certificate of registration by the division to harvest brine shrimp and brine shrimp eggs.~~

~~— (3)(a) The division may authorize, consistent with the requirements of this section, the transfer of a valid certificate of registration to harvest brine shrimp and brine shrimp eggs from the lawful holder to another person or entity in the following instances:~~

~~— (i) where any transaction or occurrence will cause the name of the business entity recorded as the certificate of registration holder to change from that specifically identified on the certificate of registration;~~

~~— (ii) where any transaction or occurrence will cause the business entity recorded as the certificate of registration holder to permanently reorganize, dissolve, lapse, or otherwise cease to exist as a legal business entity under the laws of the State of Utah or the jurisdiction where the business entity was organized; or~~

~~— (iii) where any transaction or occurrence effectively transfers a certificate of registration to harvest brine shrimp and brine shrimp eggs in violation of Section 23-19-1(2).~~

~~— (b) written approval from the division for any certificate of registration transfer permitted under this rule shall be obtained prior to any transfer of the certificate of registration or the rights granted thereunder.~~

~~— (c) Transferring or selling an ownership interest in a business entity holding a certificate of registration to harvest brine shrimp and brine shrimp eggs does not require division approval provided the transfer of ownership does not cause the business entity to temporarily or permanently change its name, reorganize, dissolve, lapse, or otherwise cease to exist as a legally recognized business entity under the laws of the State of Utah.~~

~~— (4) Obtaining division approval to transfer a certificate of registration to harvest brine shrimp and brine shrimp eggs shall be initiated by application to the division, as provided in Subsections (a) through (c).~~

~~— (a) Complete the application prescribed by the division and submit it to the division's wildlife registration office.~~

~~— (b) Applications may be submitted any time during the year.~~

~~— (c) Annual applications and fees for certificates of registration renewal shall be submitted between May 1 and May 31, regardless whether a transfer application is contemplated or pending.~~

~~— (d) If an application to transfer a certificate of registration identifies a business entity as the transferee, the transferee must designate a person responsible for that entity.~~

~~— (i) The transferee shall provide on or with the application a written statement designating the responsible person as its legal agent in all matters before the division relating to brine shrimp and brine shrimp egg harvesting.~~

~~— (e) The division may return any application that is incomplete or completed incorrectly.~~

~~— (5) The division shall respond to the application to transfer a certificate of registration within 20 days of receipt in one of the following forms:~~

~~— (a) a letter approving the application;~~

~~— (b) a letter denying the application and identifying the reasons for denial;~~

~~— (c) a letter identifying deficiencies in the application and requesting additional information from the applicant; or~~

~~— (d) a letter notifying the applicant that the division requires additional time to process and consider the application with an explanation of the extenuating circumstances necessitating the extension.~~

~~— (6) The division shall deny an application to transfer a certificate of registration where any of the following exists:~~

~~— (a) the proposed transferee fails to satisfy all the requirements necessary to obtain an original certificate of registration; or~~

~~— (b) the applicant transferor fails to demonstrate that the certificate of registration will be transferred in connection with the sale or transfer of the entire brine shrimp harvest operation or the harvesting equipment ordinarily required to effectively utilize a certificate of registration.~~

~~— (i) Business entities holding no harvesting equipment may be approved for a certificate of registration transfer only where the entire business entity and brine shrimp harvest operation is transferred along with all certificates of registration held by the business entity.~~

~~— (ii) Business entities changing the official name maintained on division records as the certificate of registration holder shall simply establish that the entity's ownership and business structure will not materially differ under the new business name.~~

~~— (7) The division may deny authorizing a certificate of registration transfer to any proposed transferee for any of the following reasons:~~

~~— (a) the applicant transferee has previously been issued a certificate of registration and has failed to submit any report required by this rule, the division, or the Wildlife Board;~~

~~— (b) the applicant transferee has been found guilty, pleaded guilty or pleaded no contest in an administrative proceeding to violating any rule, statute, proclamation, or Wildlife Board order relating to the harvest, possession, or sale of protected aquatic wildlife; or~~

~~— (c) the applicant transferee has been found guilty, pleaded guilty or pleaded no contest in a criminal proceeding to violating any rule, statute, proclamation, or Wildlife Board order relating to the harvest, possession, or sale of protected aquatic wildlife.~~

~~— (8)(a) If a transfer application is approved, the division shall accept the surrender of the transferor's certificate of registration and reissue it to the proposed transferee within 10 business days of the surrender consistent with the requirements prescribed in this rule.~~

~~— (b) The proposed transferee may not begin harvesting brine shrimp or brine shrimp eggs until it has received a certificate of registration from the division issued in its name, and only then in conformance with all applicable laws, rules, and orders of the Wildlife Board and division.~~

~~— (c) In receiving a certificate of registration transferred under this section, the transferee assumes no additional privileges or opportunities with respect to harvesting brine shrimp and brine shrimp eggs than those formerly possessed by the transferor.]~~

KEY: game laws, bait dealers, commercialization of aquatic wildlife

[May 17, 2001] 2002

Notice of Continuation July 12, 2002

23-14-18

23-14-19

23-13-13

23-15-7

23-15-8
23-15-9
23-14-3

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Natural Resources, Wildlife Resources **R657-52** Commercial Harvesting of Brine Shrimp and Brine Shrimp Eggs

NOTICE OF PROPOSED RULE

(New Rule)
DAR FILE No.: 25090
FILED: 07/15/2002, 15:10

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being proposed to provide procedures, standards, and requirements for commercially harvesting brine shrimp and brine shrimp eggs, and replaces those provisions which are being eliminated under Rule R657-14. (DAR NOTE: The proposed amendment to Rule R657-14 is under DAR No. 25071 in this Bulletin.)

SUMMARY OF THE RULE OR CHANGE: This rule provides the procedures, standards, and requirements for commercially harvesting brine shrimp and brine shrimp eggs, and replaces those provisions which are being eliminated under Rule R657-14. In addition, provisions of this rule are being changed to: eliminate specific fees, which are provided under the state fee schedule and in accordance with statute; provide clarification on transporting brine shrimp or brine shrimp eggs from the lake or lakeshore under Subsection R657-52-13(6); and clarification on requirements that after testing equipment for harvest, the brine shrimp or brine shrimp eggs must be returned to the water, if collected from the water, or returned to the beach, if collected from the beach.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 23-14-3, 23-14-18, 23-14-19, 23-15-7, 23-15-8, and 23-15-9, and Subsection 23-19-1(2)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** This rule provides the procedures, standards, and requirements for commercially harvesting brine shrimp and brine shrimp eggs, and replaces those provisions which are being eliminated under Rule R657-14. The Division of Wildlife Resources (DWR) determines that by removing the provisions regarding commercially harvesting brine shrimp and brine shrimp eggs from Rule R657-14 and incorporating those provisions into a new rule does not create a cost or savings impact to the state budget.

❖ **LOCAL GOVERNMENTS:** This filing does not create any direct cost or saving impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ **OTHER PERSONS:** This rule provides the procedures, standards, and requirements for commercially harvesting brine shrimp and brine shrimp eggs, and replaces those provisions which are being eliminated under Rule R657-14. DWR determines that by removing the provisions regarding commercially harvesting brine shrimp and brine shrimp eggs from Rule R657-14 and incorporating those provisions into a new rule does not create a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule provides the procedures, standards, and requirements for commercially harvesting brine shrimp and brine shrimp eggs, and replaces those provisions which are being eliminated under Rule R657-14. DWR determines that by removing the provisions regarding commercially harvesting brine shrimp and brine shrimp eggs from Rule R657-14 and incorporating those provisions into a new rule does not create an additional compliance cost to affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule provides the procedures, standards, and requirements for commercially harvesting brine shrimp and brine shrimp eggs, and replaces those provisions that are being eliminated under Rule R657-14. Removing the provisions regarding the commercial harvest of brine shrimp and brine shrimp eggs from Rule R657-14, recommended by the brine shrimp industry, and incorporating those provisions into this new rule does not create an impact on businesses.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Sundell at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at debbiesundell@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/03/2002

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 8/13/2002 at 9:00 AM, Snow College, Richfield, Utah (Contact Division of Wildlife Resources for exact location.)

THIS RULE MAY BECOME EFFECTIVE ON: 09/04/2002

AUTHORIZED BY: Kevin Conway, Director

R657. Natural Resources, Wildlife Resources.**R657-52. Commercial Harvesting of Brine Shrimp and Brine Shrimp Eggs.****R657-52-1. Purpose and Authority.**

(1) Under authority of Sections 23-14-3, 23-14-18, 23-14-19, Sections 23-15-7 through 23-15-9, and 23-19-1(2), this rule provides the procedures, standards, and requirements for commercially harvesting brine shrimp and brine shrimp eggs.

(2) The objective of this rule is to protect, manage, and conserve the brine shrimp resource based upon the best available data and information and adequately preserve the Great Salt Lake ecosystem while recognizing the economic value of allowing the harvest of brine shrimp and brine shrimp eggs and maintaining a sustainable brine shrimp population.

R657-52-2. Definitions.

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

(2) In addition:

(a) "Alternate seiner" means the person in charge of and responsible for supervising a crew of helpers harvesting brine shrimp and brine shrimp eggs in the absence of the primary seiner.

(b) "Certificate of registration marker" means a floating or mounted marker conforming to the specifications set forth in Subsection R657-52-16(2) and (3), which must be displayed at a harvest location before harvest activity commences.

(c) "Harvest" means to gather or collect brine shrimp or brine shrimp eggs and reduce it to possession.

(d) "Harvest location" means the location where the gathering or harvesting of brine shrimp or brine shrimp eggs takes place. A harvest location is a 300 yard radius from the location of the Certificate of Registration marker as required under Subsection R657-52-16(8).

(e) "Helper" means a person aiding a certificate of registration holder in the harvesting, transporting, or selling of brine shrimp or brine shrimp eggs, including any employee, agent, family member, or volunteer.

(f) "Helper card" means a card authorizing a person to act as a helper.

(g) "Primary seiner" means the person in charge of and responsible for supervising a crew of helpers harvesting brine shrimp and brine shrimp eggs.

(h) "Purchase" means to buy, acquire, or obtain from sale, exchange, barter, or trade brine shrimp or brine shrimp eggs for pecuniary consideration or advantage.

(i) "Wildlife registration office" means the division office in Salt Lake responsible for processing applications and issuing certificates of registration.

R657-52-3. Certificate of Registration Required.

(1) A person may not harvest, possess, or transport brine shrimp or brine shrimp eggs without first obtaining a certificate of registration and a helper card for each individual assisting that person.

(2)(a) The division may issue a certificate of registration authorizing a person to harvest brine shrimp and brine shrimp eggs.

(b) A separate certificate of registration and the corresponding certificate of registration marker is required for each harvest location.

(c) The original copy of the certificate of registration must be present at the harvest location while harvesting brine shrimp or brine shrimp eggs.

(3) A certificate of registration under this rule is not required:

(a) to harvest 200 pounds or less of brine shrimp or brine shrimp eggs, during a single calendar year, for culturing ornamental fish, provided the brine shrimp eggs are not sold, bartered, or traded;

(i) a certificate of registration is required, however, under Rule R657-3 for the activities described in Subsection (a);

(b) for the retail sale of brine shrimp or brine shrimp eggs imported into Utah, provided the product is clearly labeled as to its out-of-state origin;

(c) to process lawfully acquired brine shrimp or brine shrimp eggs; or

(d) to sell brine shrimp or brine shrimp eggs, provided the brine shrimp or brine shrimp eggs were taken in accordance with the provisions of this rule by a person who has obtained a certificate of registration or as provided in rule R657-3.

(4) Certificates of registration are not transferable, except as provided in Section R657-52-7.

(5) Any certificate of registration issued to a business or any other commercial organization shall be void upon the termination of the business or organization or upon bankruptcy.

(6) Certificates of registration that may become available for issuance through revocation, expiration, nonrenewal, or surrender may either be retired by the division or reallocated to eligible persons and entities through random drawings conducted at the Division of Wildlife Resources, Salt Lake City office.

(7) All persons or entities applying for a certificate of registration to harvest brine shrimp and brine shrimp eggs made available for issuance through Subsection (6) shall satisfy the following requirements:

(a) submit a certificate of registration application to the wildlife registration office consistent with the requirements set forth in R657-52-5; and

(b) submit a cashiers check to the division in the established fee amount for each certificate of registration applied for.

(8)(a) The issuance of a certificate of registration automatically incorporates within its terms the conditions and requirements of this rule specifically governing the activity for which the certificate of registration is issued.

(b) Any person accepting a certificate of registration under this rule acknowledges the necessity for close regulation and monitoring by the division.

(9) Any certificate of registration issued or renewed by the division under this rule to harvest brine shrimp or brine shrimp eggs is a privilege and not a right. The certificate of registration authorizes the holder to harvest brine shrimp or brine shrimp eggs subject to all present and future conditions, restrictions, and regulations imposed on such activities by the division, the Wildlife Board, the state of Utah, or the United States.

(10) A certificate of registration to harvest brine shrimp or brine shrimp eggs does not guarantee or otherwise legally entitle the holder to any of the following:

(a) a minimum harvest quota in any given season or seasons;

(b) a quota or percentage of the harvestable surplus as determined by the division;

(c) a particular harvesting or processing method;

(d) a particular harvest season duration, commencement date, or termination date;

(e) access to any particular area or site on the Great Salt Lake or on other waters in the state, regardless of historical authorization or use;

(f) marina access on the Great Salt Lake or elsewhere in the state, regardless of historical authorization or use;

(g) an increase, stabilization, or reduction in the number of certificates of registration issued by the division to harvest brine shrimp and brine shrimp eggs;

(h) an exclusive opportunity to harvest;

(i) a particular quantity or quality of brine shrimp or brine shrimp eggs;

(j) a particular water condition or salinity level conducive to brine shrimp production, brine shrimp egg production, or harvest success;

(k) any particular level of protection for brine shrimp or brine shrimp eggs from disease, pesticides, or predators; or

(l) any other right or management philosophy beneficial to harvesting or production of brine shrimp and brine shrimp eggs.

(11) The procedures and processes outlined in this rule regulating the harvest of brine shrimp and brine shrimp eggs are all subject to change as the division and the Wildlife Board gather greater information and data on the impact current harvest regulations have on the sustainability of brine shrimp populations, the Great Salt Lake ecosystem, and the economic viability of the industry.

R657-52-4. Certificate of Registration Availability.

(1) The Wildlife Board, after considering the best available biological data and other information received from the division and the public, has determined that:

(a) a limitation on the number of certificates of registration issued by the division to harvest brine shrimp and brine shrimp eggs is currently necessary to protect the brine shrimp resource and the Great Salt Lake ecosystem;

(b) additional research and scientific data is necessary to adequately understand the dynamics of the brine shrimp populations, the Great Salt Lake ecosystem, and the impact harvesting has on the sustainability of the resource;

(c) given the current number of certificates of registration, the need for additional scientific data, and the increasing efficiency in the industry's ability to harvest large quantities of brine shrimp and brine shrimp eggs in short periods, the issuance of additional certificates at this point in time may compromise the division's ability to effectively regulate the harvest to avoid jeopardizing resource sustainability; and

(d) given these factors and the harvest restrictions adopted in this rule, a total of 79 certificates of registration may be issued.

R657-52-5. Application for Certificate of Registration.

(1) Applications for certificates of registration to harvest brine shrimp and brine shrimp eggs are available at division offices and must be submitted to the division between May 1 through May 31. Applications may be submitted by mail if postmarked no later than midnight on the last day of the application period.

(2)(a) If an application for a certificate of registration is made in the name of a commercial organization, the applicant must specify the person responsible for that entity.

(b) All commercial organization applicants shall provide with the application a written statement designating the responsible person as its legal agent in all matters before the division relating to brine shrimp and brine shrimp egg harvesting.

(3)(a) Completed applications must be submitted to the wildlife registration office.

(b) The division may return any application that is incomplete or completed incorrectly.

(4) The application review process may require up to 45 days.

(5) The division may deny issuing a certificate of registration to any applicant for any of the following reasons:

(a) the applicant has previously been issued a certificate of registration and has failed to submit any report required by this rule, the division, or the Wildlife Board;

(b) the applicant has been found guilty, pleaded guilty or pleaded no contest in an administrative proceeding to violating any rule, statute, proclamation, or Wildlife Board order relating to the harvest, possession, or sale of protected aquatic wildlife; or

(c) the applicant has been found guilty, pleaded guilty or pleaded no contest in a criminal proceeding to violating any rule, statute, proclamation, or Wildlife Board order relating to the harvest, possession, or sale of protected aquatic wildlife.

(6) The division may limit the number of certificates of registration issued or deny any application in the interest of wildlife, wildlife habitat, serving the public, or public safety.

(7) If an application is approved, the division shall issue the applicant a certificate of registration that specifies, among other things:

(a) the name, address and phone number of the applicant;

(b) the name, address and phone number of the responsible person;

(c) the water and locations where brine shrimp and brine shrimp eggs may be harvested;

(d) the certificate of registration's expiration date; and

(e) any restriction imposed on the applicant in addition to the provisions of this rule.

(8) Certificates of registration for harvesting brine shrimp and brine shrimp eggs are valid only during the harvest season as provided in Sections R657-52-12 and R657-52-13.

R657-52-6. Certificate of Registration Renewal.

(1) Each certificate of registration to harvest brine shrimp and brine shrimp eggs issued under this rule may be renewed by the division on an annual basis consistent with the provisions in this section.

(2) Persons or business entities issued certificates of registration by the division in the harvest year immediately preceding the harvest year for which renewal is sought will have a preference for the same number of certificates of registration, provided the applicant satisfies the renewal criteria for each certificate of registration.

(3) The annual expiration date of a certificate of registration shall be shown on the certificate of registration. A certificate of registration that is not renewed prior to the expiration date shown on the certificate of registration automatically expires.

(a) A certificate of registration automatically expires prior to the expiration date shown on the certificate of registration upon the dissolution of a holder that is a partnership, corporation, or other business entity.

(b) Upon the death of a certificate of registration holder that is a natural person, the estate may attempt to sell the harvest operation and petition the division, under Section R657-52-7, to transfer the certificate of registration to the respective buyer.

(c)(i) Failure to annually renew a certificate of registration by satisfying all the renewal criteria outlined in this rule prior to the expiration date shown on the certificate of registration shall

automatically deprive the prospective holder of a renewal preference in succeeding years.

(ii) Preference forfeiture results whether unsuccessful renewal is the consequence of automatic expiration, applicant neglect, or division denial.

(iii) Failure to renew in years where the harvest of brine shrimp or brine shrimp eggs is closed for regulatory or management purposes will result in preference forfeiture.

(d) Expiration of a certificate of registration is not an adjudicative proceeding under Title 63, Chapter 46b of the Utah Administrative Procedures Act.

(4) Renewal applications for certificates of registration to harvest brine shrimp and brine shrimp eggs are available at the division's wildlife registration office in Salt Lake City.

(a) Completed renewal applications shall be submitted to the wildlife registration office between May 1 and May 31 of each year. Applications are considered "submitted" for purposes of this rule when hand delivered to the wildlife registration office on or before the application deadline, or when mailed to the wildlife registration office and postmarked no later than midnight on the last day of the application period.

(b) Where a certificate of registration renewal application is submitted in the name of a commercial organization, the applicant must specify the person responsible for that entity.

(c) The commercial organization applicant must provide, on or with the renewal application, a written statement designating the responsible person as its legal agent in all matters before the division relating to brine shrimp and brine shrimp egg harvesting.

(d) The division may return any application that is incomplete or completed incorrectly.

(e) Applications for renewal that are filed within the prescribed time period set in this rule but returned as incomplete or completed incorrectly may be granted where the errors are corrected and the application resubmitted to the wildlife registration office within 30 days from the date the initial application was rejected.

(f) The application review process may require up to 45 days.

(5) The criteria for certificate of registration renewal are as follows:

(a) the applicant was issued a certificate of registration to harvest brine shrimp and brine shrimp eggs in the immediate harvest season preceding the application for renewal;

(b) the applicant has accurately and completely filled out the division's renewal application and submitted it to the division within the time period prescribed in this rule;

(c) the applicant has submitted with the renewal application a cashier's check for the established fee amount for each certificate of registration; and

(d) the applicant satisfies all other requirements prerequisite to receiving an initial certificate of registration to harvest brine shrimp or brine shrimp eggs as found in R657-52-5.

(6) The division may refuse to renew a certificate of registration for any of the following reasons:

(a) the applicant has failed to submit any report required by the division in writing, or any report required by this rule or the Wildlife Board;

(b) the applicant has been found guilty, pleaded guilty or pleaded no contest in an administrative proceeding to violating any rule, statute, proclamation, or Wildlife Board Order relating to the harvest, possession, or sale of protected aquatic wildlife;

(c) the applicant has been found guilty, pleaded guilty or pleaded no contest in a criminal proceeding to violating any rule,

statute, proclamation, or Wildlife Board Order relating to the harvest, possession, or sale of protected aquatic wildlife; or

(d) where the division determines that renewal may significantly damage or is not in the interest of wildlife, wildlife habitat, serving the public, or public safety.

(7) If an application for renewal is approved, the Division shall issue the applicant a new certificate of registration that may specify:

(a) the species and amounts of protected aquatic wildlife that may be harvested or sold;

(b) the water and locations where protected aquatic wildlife may be harvested;

(c) the equipment that may be used;

(d) the hours during which protected aquatic wildlife may be harvested; and

(e) any restriction imposed on the applicant in addition to the provisions of this rule.

(8) Any applicant who has been refused renewal of a certificate of registration may submit a request for agency action to the Wildlife Board, in care of the Division of Wildlife Resources, within 30 days following notification of the refusal to renew. The format and content of the request for agency action and any subsequent proceedings initiated thereunder shall comply with Rule R657-2.

(9) Certificates of registration for harvesting brine shrimp and brine shrimp eggs are valid only during the harvest season as provided in Subsections R657-52-12 and R657-52-13.

R657-52-7. Certificate of Registration Transfers.

(1) Pursuant to Section 23-19-1(2), a person may not lend, transfer, sell, give or assign a certificate of registration to harvest brine shrimp and brine shrimp eggs belonging to the person or the rights granted thereby, except as authorized hereafter.

(2) "Business entity" for purposes of this section means any person, proprietorship, partnership, corporation, or other commercial organization that has been issued a certificate of registration by the division to harvest brine shrimp and brine shrimp eggs.

(3)(a) The division may authorize, consistent with the requirements of this section, the transfer of a valid certificate of registration to harvest brine shrimp and brine shrimp eggs from the lawful holder to an other person or entity in the following instances:

(i) where any transaction or occurrence will cause the name of the business entity recorded as the certificate of registration holder to change from that specifically identified on the certificate of registration;

(ii) where any transaction or occurrence will cause the business entity recorded as the certificate of registration holder to permanently reorganize, dissolve, lapse, or otherwise cease to exist as a legal business entity under the laws of the State of Utah or the jurisdiction where the business entity was organized; or

(iii) where any transaction or occurrence effectively transfers a certificate of registration to harvest brine shrimp and brine shrimp eggs in violation of Section 23-19-1(2).

(b) written approval from the division for any certificate of registration transfer permitted under this rule shall be obtained prior to any transfer of the certificate of registration or the rights granted thereunder.

(c) Transferring or selling an ownership interest in a business entity holding a certificate of registration to harvest brine shrimp and brine shrimp eggs does not require division approval provided the transfer of ownership does not cause the business entity to temporarily or permanently change its name, reorganize, dissolve,

lapse, or otherwise cease to exist as a legally recognized business entity under the laws of the State of Utah.

(4) Obtaining division approval to transfer a certificate of registration to harvest brine shrimp and brine shrimp eggs shall be initiated by application to the division, as provided in Subsections (a) through (e).

(a) Complete the application prescribed by the division and submit it to the division's wildlife registration office.

(b) Applications may be submitted any time during the year.

(c) Annual applications and fees for certificates of registration renewal shall be submitted between May 1 and May 31, regardless whether a transfer application is contemplated or pending.

(d) If an application to transfer a certificate of registration identifies a business entity as the transferee, the transferee must designate a person responsible for that entity.

(i) The transferee shall provide on or with the application a written statement designating the responsible person as its legal agent in all matters before the division relating to brine shrimp and brine shrimp egg harvesting.

(e) The division may return any application that is incomplete or completed incorrectly.

(5) The division shall respond to the application to transfer a certificate of registration within 20 days of receipt in one of the following forms:

(a) a letter approving the application;

(b) a letter denying the application and identifying the reasons for denial;

(c) a letter identifying deficiencies in the application and requesting additional information from the applicant; or

(d) a letter notifying the applicant that the division requires additional time to process and consider the application with an explanation of the extenuating circumstances necessitating the extension.

(6) The division shall deny an application to transfer a certificate of registration where any of the following exists:

(a) the proposed transferee fails to satisfy all the requirements necessary to obtain an original certificate of registration; or

(b) the applicant transferor fails to demonstrate that the certificate of registration will be transferred in connection with the sale or transfer of the entire brine shrimp harvest operation or the harvesting equipment ordinarily required to effectively utilize a certificate of registration.

(i) Business entities holding no harvesting equipment may be approved for a certificate of registration transfer only where the entire business entity and brine shrimp harvest operation is transferred along with all certificates of registration held by the business entity.

(ii) Business entities changing the official name maintained on division records as the certificate of registration holder shall simply establish that the entity's ownership and business structure will not materially differ under the new business name.

(7) The division may deny authorizing a certificate of registration transfer to any proposed transferee for any of the following reasons:

(a) the applicant transferee has previously been issued a certificate of registration and has failed to submit any report required by this rule, the division, or the Wildlife Board;

(b) the applicant transferee has been found guilty, pleaded guilty or pleaded no contest in an administrative proceeding to violating any rule, statute, proclamation, or Wildlife Board order

relating to the harvest, possession, or sale of protected aquatic wildlife; or

(c) the applicant transferee has been found guilty, pleaded guilty or pleaded no contest in a criminal proceeding to violating any rule, statute, proclamation, or Wildlife Board order relating to the harvest, possession, or sale of protected aquatic wildlife.

(8)(a) If a transfer application is approved, the division shall accept the surrender of the transferor's certificate of registration and reissue it to the proposed transferee within 10 business days of the surrender consistent with the requirements prescribed in this rule.

(b) The proposed transferee may not begin harvesting brine shrimp or brine shrimp eggs until it has received a certificate of registration from the division issued in its name, and only then in conformance with all applicable laws, rules, and orders of the Wildlife Board and division.

(c) In receiving a certificate of registration transferred under this section, the transferee assumes no additional privileges or opportunities with respect to harvesting brine shrimp and brine shrimp eggs than those formerly possessed by the transferor.

R657-52-8. Primary and Alternate Seiners.

(1)(a) A primary seiner or an alternate seiner must be present at each harvest location and directly supervise the harvest activity.

(b) A primary or alternate seiner does not have to be present while transporting brine shrimp or brine shrimp eggs from the harvest location.

(c) A primary seiner and an alternate seiner card are issued with the certificate of registration and are transferable within the entity holding the certificate of registration.

(d) The primary or alternate seiner must have a primary or alternate seiner card in possession at the harvest location.

R657-52-9. Use of Helpers.

(1)(a) Except as hereafter provided in Subsection (2), any person aiding the certificate of registration holder, a primary seiner, or alternate seiner in harvesting brine shrimp and brine shrimp eggs shall be in possession of a helper card.

(b) Three individual helper cards are issued with the certificate of registration.

(c) A helper card shall be deemed to be in possession if it is on the person or on the boat from which the person is working.

(2)(a) A helper card is not required of any person engaged only in the retail sale or transportation of brine shrimp or brine shrimp eggs.

(b) A person directing harvest operations from a plane for a certificate of registration holder does not have to have a helper card.

(c) The driver of a truck transporting brine shrimp or brine shrimp eggs from the lake to a storage or processing plant does not have to have a helper card. Any crew member loading brine shrimp and brine shrimp eggs into a truck must have a helper card in possession.

(3) Helper cards are issued in the name of the certificate of registration holder and are transferable among individuals assisting the certificate of registration holder.

(4)(a) A helper may assist in the harvest of brine shrimp and brine shrimp eggs only while working under the direct supervision of a primary or alternate seiner.

(b) For purposes of this rule, "direct supervision" means to be physically present, either on a boat with the helper or within close proximity so as to be able to provide direct instructions to the helper.

(5) Twelve additional helper cards for each certificate of registration may be obtained from the wildlife registration office at any time during the year.

R657-52-10. Records - Report of Activities.

(1) Any person or business entity issued a certificate of registration to harvest brine shrimp and brine shrimp eggs shall keep accurate records of the weight harvested and to whom the product is sold.

(2) The records required under Subsection (1) shall be retained for at least five years and must be available for inspection upon division request.

(3) Certificate of registration holders shall submit the following reports to the Great Salt Lake Ecosystem Project office for each certificate of registration:

(a) A weekly harvest report documenting the total amount of brine shrimp and brine shrimp eggs, by raw weight, harvested each day of the reporting week. The reports must be prepared by a person working for the reporting company, and the reports must be received or postmarked by Monday of each week.

(b) A daily harvest report documenting the total amount of brine shrimp and brine shrimp eggs, by raw weight, harvested each day. The report shall be filed no later than 12 hours after the end of the previous calendar day. The report may be filed utilizing a voice mail system linked to a dedicated phone number provided or the report may be filed by fax to a dedicated phone number. The report must be prepared or given by a person working for the reporting company.

(c) A weekly report of all landing receipts prepared pursuant to Section R657-52-14 during the reporting week. The report must be prepared or given by a person working for the reporting company, and must be received by the division or postmarked by Monday of each week.

(4) Report forms may be obtained from the division.

R657-52-11. Species of Protected Aquatic Wildlife That May Be Harvested.

(1) A certificate of registration issued under this rule may authorize the holder to commercially harvest only brine shrimp and brine shrimp eggs.

(2) Any species of protected aquatic wildlife caught other than brine shrimp and brine shrimp eggs must be immediately returned alive and unharmed to the water from which it was harvested.

R657-52-12. Harvest Season and Hours.

(1)(a) Except as provided in Subsections R657-52-13(4) and (5), a certificate of registration is valid for harvesting brine shrimp and brine shrimp eggs only during the harvest season beginning October 1 and ending January 31. If October 1 falls on a Sunday, the harvest season shall begin on the following Monday.

(b) In the interest of the wildlife resources of the Great Salt Lake, the harvest season may be delayed up to 10 days provided the harvesting companies are notified seven days in advance of the delay.

(c) After the season has opened, harvesting may be suspended two times during the season, for up to seven days each time, in the interest of the wildlife resources of the Great Salt Lake, provided the harvesting companies are notified at least 24 hours in advance of the suspension date.

(2) Brine shrimp and brine shrimp eggs may be harvested 24 hours a day during any open harvest season by those possessing a valid certificate of registration for such activities.

(3) When the harvest season is suspended or closed, all harvest activity shall cease at official sunset on the designated date of closure.

R657-52-13. Areas of Harvest and Special Season Dates.

(1) The division may authorize the harvest of brine shrimp and brine shrimp eggs from:

(a) the Great Salt Lake and surrounding areas, including ponds operated in a normal manner for mineral extraction; and

(b) the Sevier River.

(2) The area east of the north-south line from the tip of Promontory Point south along the east shore of Fremont and Antelope Islands and along the dike extending from the south end of Antelope Island to the south shore of the Great Salt Lake is closed to the commercial harvesting of brine shrimp and brine shrimp eggs.

(3) Except as provided in Subsections (4) and (5), brine shrimp and brine shrimp eggs may be harvested only during the harvest season as described in Section R657-52-12.

(4)(a) Any person who has a valid certificate of registration may cumulatively collect up to 25 pounds of brine shrimp eggs between March 1 and the official opening date of the brine shrimp harvest season, as declared by rule or the division, for purposes of conducting research.

(b) For the purpose of conducting research, a person may not collect more than one pound of brine shrimp eggs during a single day regardless of the number of certificates of registration issued to that person.

(c) Brine shrimp and brine shrimp eggs collected for research under the authority of this section may not be sold, traded, or bartered.

(5)(a) Any person possessing a valid certificate of registration to harvest brine shrimp and brine shrimp eggs may do so from mineral extraction ponds located along the shores of the Great Salt Lake any time during the year.

(b) A pond may not be built or manipulated for the purpose of culturing or harvesting brine shrimp or brine shrimp eggs.

(c) Brine shrimp or brine shrimp eggs may not be introduced into the Great Salt Lake or any pond. Brine shrimp and brine shrimp eggs must enter into the pond during normal mineral extraction processes.

(6) All brine shrimp and brine shrimp eggs which have been harvested and placed in containers shall be transported from the lake or lakeshore not later than 21 days after the close of the harvest season. No brine shrimp or brine shrimp eggs may be removed from the surface of the beach or water and placed in a container after the season is closed. Containers filled prior to the close of the harvest season with brine shrimp or brine shrimp eggs may be transported from the lake or lakeshore after the close of the harvest season, provided transportation occurs no later than 21 days following the closure.

R657-52-14. Transportation.

(1) When brine shrimp and brine shrimp eggs are transported away from the lakeshore to a processing plant, a landing receipt form must be prepared and be in possession of the transport driver before leaving the loading site.

(a) The landing receipt shall include:

(i) the harvesters' certificate of registration numbers;

- (ii) the certificate of registration holder's name;
 - (iii) the harvest dates;
 - (iv) the harvest areas;
 - (v) the landing dates;
 - (vi) the container numbers and weights as determined by certified scales for lake harvested brine shrimp and brine shrimp eggs;
 - (vii) the container numbers and weight estimates for shore harvested brine shrimp and brine shrimp eggs; and
 - (viii) the names of the individuals who landed and weighed the product.
- (2) The driver of a truck transporting brine shrimp product away from the lakeshore is not required to possess a helper card while engaged in that activity.
- (3) Any person loading brine shrimp product into a truck to transport from the lakeshore shall possess a helper card.

R657-52-15. Identification of Equipment.

- (1)(a) Any boat used for harvesting operations must be identifiable from the air, water and land with either the company name, company initials or certificate of registration number. A camp or base of operations located on or near the shoreline must be marked so it is visible from the air and land with either the company name, company initials, or certificate of registration number. Boat markings denoting the company name, company initials or certificate of registration number, must be visible from a distance of 500 yards when on the lake.
- (b) The letters or numbers shall be visible at all times, written clearly and shall meet the following requirements:
- (i) letters or numbers on the top of a boat shall be at least 36 inches in height;
 - (ii) letters or numbers used on the sides of a boat shall be at least 24 inches in height, except that boats with inflatable hulls may use letters and numbers that are 12 inches in height;
 - (iii) letters or numbers used on a camp or base of operations sign shall be at least 24 inches in height; and
 - (iv) all letters and numbers used for identification purposes shall be of reflective white tape with a solid black background.
- (c) Identification may be done with a magnetic sign placed on top of and the sides of the vehicle or boat.
- (d) Each continuous segment of boom that may be coupled together shall be marked to denote the company's name, initials, or certificate of registration number. The markings shall consist of letters or numbers at least three inches in height.
- (e) All containers filled or partially filled with brine shrimp or brine shrimp eggs and left unattended on the shore or in a vehicle parked on the shore shall be individually marked with either the company name, company initials or certificate of registration number under which the product was harvested. Each container shall be marked as follows:
- (i) the company name, company initials or the certificate of registration number shall be permanently and legibly marked at a visible location on the exterior surface of the container; or
 - (ii) the company name, company initials or the certificate of registration number shall be permanently and legibly marked on a durable, waterproof tag securely and visibly attached to the exterior surface of the container.
- (f) "Shore" for purposes of this section, shall include all lands within one mile of the body of water where the product was harvested. "Shore" does not include permanent structures affixed to the land and operated for purposes of storing or processing brine

shrimp and brine shrimp eggs, provided the name of the structure's current owner or tenant is visibly marked on the exterior of the structure.

R657-52-16. Certificate of Registration Markers.

- (1)(a) One certificate of registration marker corresponding to each certificate of registration shall be displayed at each harvest location as follows:
- (i) on the boat with the certificate of registration on board;
 - (ii) on the harvest boat or attached to the boom;
 - (iii) in the water at the harvest location; or
 - (iv) on the shore while harvesting brine shrimp or brine shrimp eggs from shore.
- (b) No more than one certificate of registration marker shall be displayed at each harvest location.
- (c) An original certificate of registration shall be present at the harvest location where the corresponding certificate of registration marker is displayed.
- (2) A certificate of registration marker shall consist of a piece of equipment, furnished by the harvesters, constructed in accordance with the following specifications:
- (a) A six foot long piece of tubing with a weight at one end.
 - (b) This piece of tubing shall have a fluorescent orange ball that is a minimum of eighteen inches in diameter, mounted in the approximate center of the length of tubing. The fluorescent orange ball shall have the certificate of registration number, corresponding to the certificate of registration decal attached to the marker pursuant Subsection R657-52-16(2)(c), marked in two places with indelible black paint. The painted certificate of registration numbers shall be a minimum of twelve inches in height.
 - (c) Mounted above the orange ball towards the un-weighted end of the tubing shall be a decal issued by the division which denotes the certificate of registration in use and corresponding to the certificate of registration marker device.
 - (d) Mounted on the tubing between the orange ball and the un-weighted end of the tubing, shall be an aluminum radar reflector that is a minimum of fifteen inches square.
 - (e) Mounted above the radar reflector shall be a three-inch wide band of silver reflective tape.
 - (f) Mounted on the un-weighted end of this tubing shall be an amber light that at night is visible for up to one-half mile and flashes 30 times per minute, minimum.
- (3) The certificate of registration marker must be displayed in a manner that is:
- (a) visible in all directions at a distance of 500 yards; or
 - (b) displayed above the superstructure of any vessel that a certificate of registration is being used from.
- (4) The amber light on a displayed marker device must be operating at all times between sunset and sunrise.
- (5) A brine shrimp harvester shall not display an amber light at night, or an orange ball or other device which simulates the certificate of registration marker device, without having the corresponding, original certificate of registration at the harvest location.
- (6) Brine shrimp or brine shrimp eggs may not be harvested in any manner, nor may a harvest location be claimed unless and until an original copy of the certificate of registration is at the harvest location and the corresponding certificate of registration marker is properly displayed as required in this section.

(7) The certificate of registration and corresponding certificate of registration marker shall not be transported to the harvest location by aircraft.

(a) "Aircraft" for purposes of this section, means any contrivance now known or in the future invented, used, or designed for navigation of or flight in the air.

(8) A person may not harvest any brine shrimp or brine shrimp eggs within a 300 yard radius of a certificate of registration marker displayed at a harvest location without permission from the company that first began harvesting in that location.

R657-52-17. Use of Booms.

(1)(a) A primary seiner, alternate seiner, or helper must remain within one mile of any boom attached to the shore, whether open or closed, 24 hours a day so that an officer may easily locate the person tending the boom.

(b) A boom may be left unattended in the open water during the legal harvest season if:

(i) the boom is properly identified as provided in Subsection R657-52-15(1)(d);

(ii) the boom is closed;

(iii) the boom is marked with a certificate of registration marker as described in Subsections R657-52-16(2) and (3); and

(iv) the certificate of registration marker is lighted as described in Subsections R657-52-16(2)(f) and (4).

(2) On a causeway or dike where camping is not allowed, a primary seiner, alternate seiner, or helper must be stationed at the closest possible camping site, not more than 10 miles away, and that location must be clearly identified on a tag securely attached to the shore end of the boom.

(3)(a) A person may not harvest any brine shrimp or brine shrimp eggs within 300 yards of any certificate of registration marker displayed at a harvest location as provided in Subsection R657-52-16(8) without permission from the company that first began harvesting in that location.

(b) The certificate of registration marker must be deployed as provided in Section R657-52-16 and accompanied by an individual at the harvest location to receive the 300 yard encroachment protection.

(4) Brine shrimp and brine shrimp eggs may be removed from another person's boom only with written permission from the person who owns the boom.

(5) A person may not deploy more than one continuous length of boom for each certificate of registration.

R657-52-18. Use of Equipment.

(1) A person may not intentionally drive a boat through or create a wake through a streak of brine shrimp eggs that another person is harvesting.

(2)(a) A person or business entity possessing a valid certificate of registration may test the equipment to be used in harvesting brine shrimp from March 1 through the official opening date of the brine shrimp harvest season, as declared by rule or the division.

(b) At least 48 hours before testing the equipment, the person must notify the division's Northern Regional Office.

(c) Any brine shrimp or brine shrimp eggs collected while testing the equipment must be immediately returned to the water, if collected from the water, or returned to the beach, if collected from the beach, within 1/4 mile of the location in which they were collected.

(3) Brine shrimp and brine shrimp eggs may not be taken to a storage facility, test site located greater than 1/4 mile from the location in which they were collected, or to shore, except as provided in Section R657-52-13(4).

R657-52-19. Violations.

(1) The penalty for any violation of this rule is a class C misdemeanor as provided in Section 23-13-11(2).

(2) Any violation of, or failure to comply with the provisions of this rule, any requirement contained in a certificate of registration issued pursuant to this rule, any Wildlife Board Order, or any statute related to the harvesting, possession or transfer of brine shrimp or brine shrimp eggs may be grounds for revocation, suspension or denial of future certificates of registration as determined by a division hearing officer.

KEY: brine shrimp, commercialization

2002

23-14-3

23-14-18

23-14-19

23-15-7

23-15-8

23-15-9

23-19-1(2)

▼ ————— ▼

Workforce Services, Workforce Information and Payment Services **R994-406-402** Fraud

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 25085

FILED: 07/12/2002, 13:12

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Consistent with recent legislation (S.B. 83 Amendments to Unemployment Insurance, General Session 2000), this rule amendment eliminates the requirement that the Department provide the claimant with an opportunity for a hearing prior to an initial determination concerning unemployment insurance (UI) fraud. The initial adjudication of UI fraud will be handled in the same manner as other initial-adjudication issues. (DAR NOTE: S.B. 83 is found at UT L 2000 Ch 60, and was effective May 1, 2000.)

SUMMARY OF THE RULE OR CHANGE: This rule amendment is necessary to comply with legislative changes which eliminated the requirement that the Department provide the claimant with an opportunity for a hearing prior to an initial determination concerning UI fraud.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 35A-4-406(2), 35A-4-406(3), 35A-4-406(4), and 35A-4-406(5)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be no costs associated with this change since the Department is already following this procedure.

❖ LOCAL GOVERNMENTS: This rule does not apply to local government and therefore there are no costs or savings to local government.

❖ OTHER PERSONS: There will be no costs or savings associated with this amendment to any person. The rule does not change the procedure, the statute which was passed in 2000 did. The rule and statute eliminate a step in the administrative process so there are no savings or costs to any person.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no compliance costs or savings associated with this amendment for the affected persons. This rule change is being made to make the rules consistent with legislation passed during the General Session of 2000. Because the rule does not make the change and this change eliminates a step in the administrative process, there are no costs or savings to any affected person.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendment will have no impact on businesses.

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

WORKFORCE SERVICES
WORKFORCE INFORMATION
AND PAYMENT SERVICES
140 E 300 S
SALT LAKE CITY UT 84111-2333, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/03/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 09/04/2002

AUTHORIZED BY: Raylene G. Ireland, Executive Director

R994. Workforce Services, Workforce Information and Payment Services.

R994-406. Appeal Procedures.

R994-406-402. Fraud.

(1) When the Department has evidence of an overpayment resulting from the claimant's failure to properly report material information, the claimant will be notified of the issue, given an opportunity ~~[for a hearing] to provide information concerning the issue,~~ and told that payments are being held pending a decision. In such circumstances, payment of benefits for claims currently in process may be held for up to two weeks pending ~~[a hearing with regard to the issue of fraud or]~~ the issuance of a ~~[n]~~ fraud or overpayment decision. Benefit payments which have not been paid for eligible weeks prior to the disqualification period under Subsection 35A-4-405(5), shall be used to reduce such an overpayment. 100% of the benefit check to which he is entitled will be used to reduce the overpayment.

(2) The overpayment and penalties for fraud are established only when benefits have been denied under Subsection 35A-4-405(5). The repayment amount is determined by Subsection 35A-4-405(5) and, following a decision, repayment must be made in cash before the claimant will be eligible to establish a waiting week credit or receive future benefit payments. Therefore, the overpayment and penalties cannot be offset.

KEY: appellate procedures, jurisdiction, overpayments, unemployment compensation

~~[April 5, 2001]~~ 2002

Notice of Continuation May 23, 2002

35A-4-406(2)

35A-4-406(3)

35A-4-406(4)

35A-4-406(5)



End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a PROPOSED RULE in the *Utah State Bulletin*, it may receive public comment that requires the PROPOSED RULE to be altered before it goes into effect. A CHANGE IN PROPOSED RULE allows an agency to respond to comments it receives.

As with a PROPOSED RULE, a CHANGE IN PROPOSED RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the CHANGE IN PROPOSED RULE including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the RULE ANALYSIS, the text of the CHANGE IN PROPOSED RULE is usually printed. The text shows only those changes made since the PROPOSED RULE was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [~~example~~]). A row of dots in the text (.) indicates that unaffected text was removed to conserve space. If a CHANGE IN PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends September 3, 2002. At its option, the agency may hold public hearings.

From the end of the waiting period through November 29, 2002, the agency may notify the Division of Administrative Rules that it wants to make the CHANGE IN PROPOSED RULE effective. When an agency submits a NOTICE OF EFFECTIVE DATE for a CHANGE IN PROPOSED RULE, the PROPOSED RULE as amended by the CHANGE IN PROPOSED RULE becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file another CHANGE IN PROPOSED RULE in response to additional comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or another CHANGE IN PROPOSED RULE, the CHANGE IN PROPOSED RULE filing, along with its associated PROPOSED RULE, lapses and the agency must start the process over.

CHANGES IN PROPOSED RULES are governed by *Utah Code* Section 63-46a-6 (2001); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

The Changes in Proposed Rules Begin on the Following Page.

Commerce, Occupational and
Professional Licensing
R156-73
Chiropractic Physician Practice Act
Rules

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 24828
Filed: 07/03/2002, 11:14

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: After a public hearing and further Division review, one substantive change is being made to Section R156-73-303b.

SUMMARY OF THE RULE OR CHANGE: In Subsection R156-73-303b(2): changed the amount of time a licensed chiropractic physician is responsible for maintaining competent records of completed continuing education from four to two years. The amount of time was originally two years and in the rule amendment filing, the Division changed it to four years. However, it is now being returned to two years. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the June 1, 2002, issue of the Utah State Bulletin, on page 26. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-73-101, and Subsections 58-1-106(1) and 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The Division does not anticipate any additional costs or savings associated with this change in proposed rule filing beyond those already identified in the original rule filing.
- ❖ LOCAL GOVERNMENTS: Proposed rule amendment does not apply to local governments.
- ❖ OTHER PERSONS: The Division anticipates no additional costs or savings associated with this change in proposed rule filing beyond those already identified in the original rule filing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Division anticipates no additional costs or savings associated with this change in proposed rule filing beyond those already identified in the original rule filing.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There appears to be no fiscal impact with the change in proposed rule, returning to the

original requirement that continuing education records be maintained for two years. Ted Boyer, Executive Director
THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Daniel T. Jones at the above address, by phone at 801-530-6767, by FAX at 801-530-6511, or by Internet E-mail at dantjones@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/03/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 09/04/2002

AUTHORIZED BY: J. Craig Jackson, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-73. Chiropractic Physician Practice Act Rules.
R156-73-303b. Continuing Education - Standards.**

- (1) The standards for continuing education are as follows:
 - (a) the content must be relevant to chiropractic practice and consistent with the laws and rules of this state;
 - (b) the course must be under the sponsorship of or approved by:
 - (i) a chiropractic college or university whose doctor of chiropractic program is accredited by the Council on Chiropractic Education, Inc.;
 - (ii) a professional association or nonprofit organization representing a licensed profession whose program objectives relate to the practice of chiropractic; or
 - (iii) the licensing agency of another state;
 - (c) learning objectives must be reasonably and clearly stated;
 - (d) teaching methods must be clearly stated and appropriate;
 - (e) faculty must be qualified, both in experience and in teaching expertise;
 - (f) documentation of attendance must be provided; and
 - (g) there shall be no more than four clock hours related to chiropractic practice marketing or practice building.
- (2) A licensee shall be responsible for maintaining competent records of completed continuing education for a period of ~~four~~ two years after close of the two year period to which the records pertain.
- (3) The board may, after review, waive the continuing education requirements for a licensee presenting sufficient evidence of hardship or illness or other reason making it impossible or highly impractical for the licensee to attend or have attended a sufficient number of continuing education classes.

**KEY: chiropractors, licensing, chiropractic physician
2002
Notice of Continuation July 5, 2001**

58-73-101
58-1-106(1)
58-1-202(1)(a)

▼ ————— ▼

Environmental Quality, Air Quality R307-110-10

Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 24593
Filed: 07/08/2002, 14:28

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE:
Corrections and clarifications are made in the State
Implementation Plan (SIP) in response to public comments.

SUMMARY OF THE RULE OR CHANGE: Changes are made throughout the text of the SIP that is incorporated by reference under Section R307-110-10. Small changes are made in response to public comments to clarify provisions in the original proposal. In addition, comments about mobile source emissions led to re-running the computer modeling, making small changes in the attainment demonstrations for each of the monitored sites. No changes are made in the emissions budget to demonstrate transportation conformity. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the April 1, 2002, issue of the Utah State Bulletin, on page 8. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(3)(e)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter of the State Implementation Plan

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The changes are minor corrections and clarifications in the text of the SIP and do not affect costs and benefits to the state.
- ❖ LOCAL GOVERNMENTS: The changes are minor corrections and clarifications in the text of the SIP and do not affect costs and benefits to local governments.
- ❖ OTHER PERSONS: The changes are minor corrections and clarifications in the text of the SIP and do not affect costs and benefits to anyone.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs for affected persons are not affected by the minor corrections and clarifications in the SIP.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes in the SIP are minor corrections and clarifications and do not change anticipated costs for affected businesses.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/03/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 09/04/2002

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

**R307. Environmental Quality, Air Quality.
R307-110. General Requirements: State Implementation Plan.
R307-110-10. Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter.**

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter, as most recently amended by the Utah Air Quality Board on [~~June 5, 2002~~] July 3, 2002, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

**KEY: air pollution, small business assistance program, particulate matter, ozone
2002**

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

▼ ————— ▼

Environmental Quality, Air Quality R307-110-17

Section IX, Control Measures for Area and Point Sources, Part H, Emission Limits

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 24592
Filed: 07/08/2002, 14:26

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: There is no change in the text of the rule. Corrections and clarifications are made in the State Implementation Plan (SIP) in response to public comments.

SUMMARY OF THE RULE OR CHANGE: There is no change in the text of the rule. However, there are changes in the text of the SIP that is incorporated by reference under Section R307-110-17. For Geneva Rock Products, a new provision requires that an opacity observation of emissions from the asphalt plant be taken at least once every 12 months. For Provo City Power, the required stack tests shall be used to update the emissions rate factors. For Springville City's power plant, a clarification requires that compliance shall be determined using the total hours of operation for the 12-month period. In response to public comments, the details of how Geneva Steel will demonstrate compliance with emission limits and other provisions are spelled out in greater detail. These are not new requirements for the company, as they already are detailed in Geneva's permit and approval orders. In addition, the text is restructured so that similar items are grouped together. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the April 1, 2002, issue of the Utah State Bulletin, on page 9. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(3)(e)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Section IX, Control Measures for Area and Point Sources, Part H, Emission Limits of the State Implementation Plan

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The corrections and clarifications do not affect the costs or benefits to the state. The additional requirements for Geneva Steel are not new requirements for the company, as they already are detailed in Geneva's permit and approval orders. Thus, DAQ is already tracking compliance with these requirements and no new expense to the state is incurred by adding the requirements to the SIP.

❖ LOCAL GOVERNMENTS: The only affected local governments are Provo and Springville. The corrections and clarifications in their emission limits do not change their costs or benefits.

❖ OTHER PERSONS: For Geneva Rock Products, the clarification in the emission limits does not change the company's costs or benefits. For Geneva Steel, the additional requirements are not new requirements for the company, as they already are detailed in Geneva's permit and approval orders. Including them in the SIP does not change the cost to the company.

COMPLIANCE COSTS FOR AFFECTED PERSONS: For Geneva Rock Products, the clarification in the emission limits does not change the company's costs or benefits. For Geneva Steel, the additional requirements are not new requirements for the company, as they already are detailed in Geneva's permit and approval orders. Including them in the SIP does not change the cost to the company.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes are made in response to public comments and do not represent new requirements for the affected companies. Thus, there is no change in costs for the companies.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/03/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 09/04/2002

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

**R307. Environmental Quality, Air Quality.
R307-110. General Requirements: State Implementation Plan.
R307-110-17. Section IX, Control Measures for Area and Point Sources, Part H, Emissions Limits.**

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part H, Emissions Limits, as most recently amended by the Utah Air Quality Board on June 5, 2002, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

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

2002

Notice of Continuation March 27, 2002

19-2-104(3)(e)

▼ ————— ▼

**Labor Commission, Occupational
Safety and Health
R614-1-5**

**Adoption and Extension of Established
Federal Safety Standards and State of
Utah General Safety Orders**

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 24916
Filed: 07/09/2002, 08:00

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed changes expand the coverage of Utah's enforcement of 29 CFR 1910.119, Process Safety Management For Highly Hazardous Chemicals, to include blister agents: HT, HD, H, and Lewisite; and the nerve agents: GA and VX. The failure to previously include the foregoing chemical warfare agents in Utah's enforcement of 29 CFR 1910.119 was an oversight arising from the fact that these agents are not typical industrial chemicals. However, a small release of these lethal agents could produce catastrophic results. The extension of Utah's enforcement of 29 CFR 1910.119 to include these agents will require management controls in the form of programs and procedures to prevent the occurrence of, and minimize the consequences of, releases of such agents.

SUMMARY OF THE RULE OR CHANGE: The proposed change expands the coverage of Utah's enforcement of the existing standards found in 29 CFR 1910.119 to include blister agents: HT, HD, H, and Lewisite; and the nerve agents: GA and VX. The change also applies the threshold quantity of 100 pounds currently found in 29 CFR 1910.119. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the July 1, 2002, issue of the Utah State Bulletin, on page 105. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 34A, Chapter 6

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** Because Occupational Safety and Health already administers 29 CFR 1910.119 with respect to other highly hazardous chemicals, there are no anticipated additional enforcement costs related to expansion of the coverage of 29 CFR 1910.119 to the specified blister agents and nerve agents. Since the State does not store, handle, or dispose of the specified blister agents and nerve agents, the proposed change will produce no cost or savings to the State budget.

❖ **LOCAL GOVERNMENTS:** Because local governments do not store, handle, or dispose of the specified blister agents or nerve agents, the proposed change will have not cost or savings impact on local government budgets.

❖ **OTHER PERSONS:** Because the specified agents are not typical industrial hazardous chemicals, there should be minimal or no cost impact on other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It is anticipated that the proposed change will, in practice, have application only to a limited number of persons. The affected persons already have trained personnel and programs in place to meet the requirements of 29 CFR 1910.119. The proposed amendment should not impose any additional compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As noted above, it is anticipated that the proposed change will, in practice, have application to only a few persons, which already have trained personnel and programs in place to meet 29 CFR 1910, and 119's requirements. The proposed amendment should not impose any additional compliance costs on the affected persons and should not impact other businesses at all.

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

LABOR COMMISSION
OCCUPATIONAL SAFETY AND HEALTH
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
William Adams at the above address, by phone at 801-530-6897, by FAX at 801-530-7606, or by Internet E-mail at wadams@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 09/03/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 09/04/2002

AUTHORIZED BY: R Lee Ellertson, Commissioner

R614. Labor Commission, Occupational Safety and Health.

R614-1. General Provisions.

R614-1-5. Adoption and Extension of Established Federal Safety Standards and State of Utah General Safety Orders.

A. Scope and Purpose.

1. The provisions of this rule adopt and extend the applicability of: (1) established Federal Safety Standards, (2) R614, and (3) Workers' Compensation Coverage, as in effect July 1, 1973 and subsequent revisions, with respect to every employer, employee and employment within the boundaries of the State of Utah, covered by the Utah Occupational Safety and Health Act of 1973.

2. All standards and rules including emergency and/or temporary, promulgated under the Federal Occupational Safety and Health Act of 1970 shall be accepted as part of the Standards, Rules and Regulations under the Utah Occupational Safety and Health Act of 1973, unless specifically revoked or deleted.

3. All employers will provide workers' compensation benefits as required in Section 34A-2-201.

4. Any person, firm, company, corporation or association employing minors must comply fully with all orders and standards of the Labor Division of the Commission. UOSH standards shall prevail in cases of conflict.

B. Construction Work.

Federal Standards, 29 CFR 1926 and selected applicable sections of R614 are accepted covering every employer and place of employment of every employee engaged in construction work of:

1. New construction and building;
2. Remodeling, alteration and repair;
3. Decorating and painting;
4. Demolition; and
5. Transmission and distribution lines and equipment erection, alteration, conversion or improvement.

C. Reporting Requirements.

1. Each employer shall investigate or cause to be investigated all work-related injuries and occupational diseases and any sudden or unusual occurrence or change of conditions that pose an unsafe or unhealthful exposure to employees.

2. Each employer shall within 12 hours of occurrence, notify the Division of Utah Occupational Safety and Health of the Commission of any work-related fatalities, of any disabling, serious, or significant injury and of any occupational disease incident. Call (801) 530-6901 or one of the individuals on the following personnel list.

TABLE 1

LABOR COMMISSION
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH
BAGLEY, Jay W. (Administrator)
Kaysville, Utah 84037
543-1369
ADAMS, William W. Jr.
Park City, Utah 84060
649-4309

BURNS, Tori L.
Salt Lake City, Utah 84102
364-6673

ANDERSON, Neil A.
Kaysville, Utah 84037
544-2791

KING, Daniel L.
Lake Point, Utah 84074
250-6781

3. Each employer shall file a report with the Commission within seven days after the occurrence of an injury or occupational disease, after the employer's first knowledge of the occurrence, or after the employee's notification of the same, on forms prescribed by the Commission, of any work-related fatality or any work-related injury or occupational disease resulting in medical treatment, loss of consciousness or loss of work, restriction of work, or transfer to another job. Each employer shall file a subsequent report with the Commission of any previously reported injury or occupational disease that later resulted in death. The subsequent report shall be

filed with the Commission within seven days following the death or the employer's first knowledge or notification of the death. No report is required for minor injuries, such as cuts or scratches that require first-aid treatment only, unless the treating physician files, or is required to file the physician's initial report of work injury or occupational disease with the Commission. Also, no report is required for occupational diseases which manifest after the employee is no longer employed by the employer with which the exposure occurred, or where the employer is not aware of an exposure occasioned by the employment which results in an occupational disease as defined by Section 34A-3-103.

4. Each employer shall provide the employee with a copy of the report submitted to the Commission. The employer shall also provide the employee with a statement, as prepared by the Commission, of his rights and responsibilities related to the industrial injury or occupational disease.

5. Each employer shall maintain a record in a manner prescribed by the Commission of all work-related injuries and all occupational diseases resulting in medical treatment, loss of consciousness, loss of work, restriction of work, or transfer to another job.

6. Tools, equipment, materials or other evidence that might pertain to the cause of such accident shall not be removed or destroyed until so authorized by the Labor Commission or one of its Compliance Officers.

7. No person shall remove, displace, destroy, or carry away any safety devices or safeguards provided for use in any place of employment, or interfere in any way with the use thereof by other persons, or interfere in any method or process adopted for the protection of employees. No employee shall refuse or neglect to follow and obey reasonable orders that are issued for the protection of health, life, safety, and welfare of employees.

D. Employer, Employee Responsibility.

1. It shall be the duty and responsibility of any employee upon entering his or her place of employment, to examine carefully such working place and ascertain if the place is safe, if the tools and equipment can be used with safety, and if the work can be performed safely. After such examination, it shall be the duty of the employee to make the place, tools, or equipment safe. If this cannot be done, then it becomes his or her duty to immediately report the unsafe place, tools, equipment, or conditions to the foreman or supervisor.

2. Employees must comply with all safety rules of their employer and with all the Rules and Regulations promulgated by UOSH which are applicable to their type of employment.

3. Management shall inspect or designate a competent person or persons to inspect frequently for unsafe conditions and practices, defective equipment and materials, and where such conditions are found to take appropriate action to correct such conditions immediately.

4. Supervisory personnel shall enforce safety regulations and issue such rules as may be necessary to safeguard the health and lives of employees. They shall warn all employees of any dangerous condition and permit no one to work in an unsafe place, except for the purpose of making it safe.

E. General Safety Requirements.

1. Where there is a risk of injury from hair entanglement in moving parts of machinery, employees shall confine their hair to eliminate the hazard.

2. Body protection: Clothing which is appropriate for the work being done should be worn. Loose sleeves, tails, ties, lapels, cuffs, or similar garments which can become entangled in moving

machinery shall not be worn where an entanglement hazard exists. Clothing saturated or impregnated with flammable liquids, corrosive substances, irritant, oxidizing agents or other toxic materials shall be removed and shall not be worn until properly cleaned.

3. General. Wrist watches, rings, or other jewelry shall not be worn on the job where they constitute a safety hazard.

4. Safety Committees. It is recommended that a safety committee comprised of management and employee representatives be established. The committee or the individual member of the committee shall not assume the responsibility of management to maintain and conduct a safe operation. The duties of the committee should be outlined by management, and may include such items as reviewing the use of safety apparel, recommending action to correct unsafe conditions, etc.

5. No intoxicated person shall be allowed to go into or loiter around any operation where workers are employed.

6. No employee shall carry intoxicating liquor into a place of employment, except that the place of employment shall be engaged in liquor business and this is a part of his assigned duties.

7. Employees who do not understand or speak the English language shall not be assigned to any duty or place where the lack or partial lack of understanding or speaking English might adversely affect their safety or that of other employees.

8. Good housekeeping is the first law of accident prevention and shall be a primary concern of all supervisors and workers. An excessively littered or dirty work area will not be tolerated as it constitutes an unsafe, hazardous condition of employment.

9. Emergency Posting Required.

a. Good communications are necessary if a fire or disaster situation is to be adequately coped with. A system for alerting and directing employees to safety is an essential step in a safety program.

b. A list of telephone numbers or addresses as may be applicable shall be posted in a conspicuous place so the necessary help can be obtained in case of emergency. This list shall include:

- (1) Responsible supervision (superintendent or equivalent)
- (2) Doctor
- (3) Hospital
- (4) Ambulance
- (5) Fire Department
- (6) Sheriff or Police

10. Lockouts and Tagging.

a. Where there is any possibility of machinery being started or electrical circuits being energized while repairs or maintenance work is being done, the electrical circuits shall be locked open and/or tagged and the employee in charge (the one who places the lock) shall keep the key until the job is completed or he is relieved from the job, such as by shift change or other assignment. If it is expected that the job may be assigned to other workers, he may remove his lock provided the supervisor or other workers apply their lock and tag immediately. Where there is danger of machinery being started or of steam or air creating a hazard to workers while repairs on maintenance work is being done, the employee in charge shall disconnect the lines or lock and tag the main valve closed or blank the line on all steam driven machinery, pressurized lines or lines connected to such equipment if they could create a hazard to workers.

b. After tagging and lockout procedures have been applied, machinery, lines, and equipment shall be checked to insure that they cannot be operated.

c. If locks and tags cannot be applied, conspicuous tags made of nonconducting material and plainly lettered, "EMPLOYEES WORKING" followed by the other appropriate wording, such as "Do not close this switch" shall be used.

d. When in doubt as to procedure, the worker shall consult his supervisor concerning safe procedure.

11. Safety-Type hooks shall be used wherever possible.

12. Emergency Showers, Bubblers, and Eye Washers.

a. Readily accessible, well marked, rapid action safety showers and eye wash facilities must be available in areas where strong acid, caustic or highly oxidizing or irritating chemicals are being handled. (This is not applicable where first aid practices specifically preclude flushing with running water.)

b. Showers should have deluge type heads, easily accessible, plainly marked and controlled by quick opening valves of the type that stay open. The valve handle should be equipped with a pull chain, rope, etc., so the blinded employee will be able to more easily locate the valve control. In addition, it is recommended that the floor platform be so constructed to actuate the quick opening valve. The shower should be capable of supplying large quantities of water under moderately high pressure. Blankets should be located so as to be reasonably accessible to the shower area.

c. All safety equipment should be inspected and tested at regular intervals, preferably daily and especially during freezing weather, to make sure it is in good working condition at all times.

13. Grizzlies Over Chutes, Bins and Tank Openings.

a. Employees shall be furnished with and be required to use approved type safety harnesses and shall be tied off securely so as to suspend him above the level of the product before entering any bin, chute or storage place containing material that might cave or run. Cleaning and barring down in such places shall be started from the top using only bars blunt on one end or having a ring type or D handhold.

b. Employees shall not work on top of material stored or piled above chutes, drawholes or conveyor systems while material is being withdrawn unless protected.

c. Chutes, bins, drawholes and similar openings shall be equipped with grizzlies or other safety devices that will prevent employees from falling into the openings.

d. Bars for grizzly grids shall be so fitted that they will not loosen and slip out of place, and the operator shall not remove a bar temporarily to let large rocks through rather than to break them.

F. All requirements of PSM Standard 29 CFR 1910.119 are hereby extended to include the blister agents, HT, HD, H, Lewisite, and the nerve agents, GA, VX[~~to be disposed of at the Tooele Chemical Agent Disposal Facility (TOCDF)~~].

KEY: safety

2002

34A-6



End of the Notices of Changes in Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1998).

Commerce, Occupational and
Professional Licensing
R156-11a
Cosmetologist/Barber, Esthetician,
Electrologist, and Nail Technician
Licensing Act Rules

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

DAR FILE No.: 25077
FILED: 07/11/2002, 14:04

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 11a, provides for the licensure of cosmetologist/barbers, estheticians, electrologists, and nail technicians. Subsection 58-1-106(1) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-11a-201(3) provides that the Cosmetology/Barbering, Esthetics, Electrology, and Nail Technology Licensing Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that one of the duties of each board is to recommend appropriate rules to the division director. This rule was enacted to clarify the provisions of Title 58, Chapter 11a, with respect to cosmetologists/barbers, estheticians, electrologists, and nail technicians.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was enacted in August 1997, it has been amended two times. The rule was amended in December 2000 as a result of changes made to Title 58, Chapter 11a, during the 2000 legislative

session. Following a December 4, 2000, rule hearing, additional changes were identified with respect to on-the-job training internship and a change in proposed rule filing was filed. No written comments were received by the Division as a result of this rule filing. The amendments in this rule filing were made effective on March 6, 2001. The rule was again amended in August 2001 as a result of additional statutory amendments being made during the 2001 legislative session to Title 58, Chapter 11a. During a rule hearing on August 20, 2001, minor nonsubstantive changes were identified. The Division filed a nonsubstantive filing on September 17, 2001. No written comments were received by the Division as a result of this rule filing. The amendments in this rule filing were made effective September 17, 2001.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it clarifies the provisions of Title 58, Chapter 11a, with respect to cosmetologist/barbers, estheticians, electrologists, and nail technicians.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Daniel T. Jones at the above address, by phone at 801-530-6767, by FAX at 801-530-6511, or by Internet E-mail at dantjones@utah.gov

AUTHORIZED BY: J. Craig Jackson, Director

EFFECTIVE: 07/11/2002



Commerce, Occupational and
Professional Licensing
R156-64
Deception Detection Examiners
Licensing Act Rules

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

DAR FILE NO.: 25078
FILED: 07/11/2002, 14:15

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 64, provides for the licensure of deception detection examiners and deception detection interns. Subsection 58-1-106(1) provides that the Division may adopt and enforce rules to administer Title 58. Subsection 58-64-201(3) provides that the Deception Detection Examiners Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that one of the duties of each board is to recommend appropriate rules to the division director. This rule was enacted to clarify the provisions of Title 58, Chapter 64, with respect to deception detection examiners and interns.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was originally enacted in August 1997, no amendments have been filed or made to the rule. Prior to the enactment of this rule, an April 2, 1997, rule hearing was conducted. The Division did receive two written comments regarding the proposed rule filing. A March 7, 1997, memorandum from Sgt. David Ball, Department of Public Safety, and an April 2, 1997, handwritten facsimile transmission from Lt. Frank Wall were received regarding the proposed rules. Following the April 1997 rule hearing, a change in proposed rule filing was made as a result of comments received during the rule hearing and the written comments received by the Division. The new proposed rule and amendments made in the change in proposed rule filing were made effective on August 15, 1997. The Division has received no other written comments with respect to this rule since it was originally enacted.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it clarifies the provisions of Title 58, Chapter 64, with respect to deception detection examiners and interns.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Clyde Ormond at the above address, by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at cormond@utah.gov

AUTHORIZED BY: J. Craig Jackson, Director

EFFECTIVE: 07/11/2002



Health, Health Care Financing, Medical
Assistance Program
R420-1
Utah Medical Assistance Program

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

DAR FILE NO.: 25086
FILED: 07/12/2002, 15:21

**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 Section 26-18-10 which requires Utah to develop a medical assistance program for low income persons who are not eligible under the state plan for Medicaid under Title XIX of the Social Security Act or Medicare under Title XVIII of that act.

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 most recent revision of this rule was made effective on July 2, 2002. It transferred much of the statutory responsibility for providing a low income, program for non-Medicaid/Medicare persons to the new Primary Care Network (PCN) which went into effect on July 1, 2002. This change is so new that the division has received no written comments. There were no written comments received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The revised Utah Medical

Assistance Program rule covers specialty care that is received during an authorized and donated hospital stay. Retaining this small complimentary piece for donated inpatient hospital care provides a great additional benefit for enrollees in the PCN and should be continued. Utah's hospitals are to be commended for their willingness to continue to provide this donated care.

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

HEALTH
HEALTH CARE FINANCING,
MEDICAL ASSISTANCE PROGRAM
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ross Martin at the above address, by phone at 801-538-6592, by FAX at 801-538-6099, or by Internet E-mail at rmartin@utah.gov

AUTHORIZED BY: Rod Betit, Executive Director

EFFECTIVE: 07/12/2002

▼ ————— ▼

Insurance, Administration
R590-122
Permissible Arbitration Provisions

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 25081
FILED: 07/12/2002, 12:14

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-2-201(3) allows the commissioner to make rules to implement the provisions of Title 31A. The purpose of the rule is to define the term "permissible arbitration" and to set guidelines upon which disclosure of a contract arbitration provision is to be made. This is done in Sections R590-122-3 and R590-122-4 of this rule.

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 by this department in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is important that this rule be continued in force to provide guidance to insurance companies about the type of arbitration provisions they may

put into their policies. These provisions provide steps to be taken by insureds who disagree with the settlement of their claims and would like to involve a third party in the settlement of their claim. The rule gives the department the authority to make sure these provisions are fair and nondiscriminatory.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 07/12/2002

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Insurance, Administration
R590-149
ADA Complaint Procedure Rule

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 25082
FILED: 07/12/2002, 12:26

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule implements the provisions of Title II of the Americans with Disabilities Act (ADA), 42 USC 12201. The rule defines and publishes complaint procedures providing for prompt and equitable resolution of complaints filed in accordance with Title II.

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 regarding this rule within the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is important that this rule be continued in effect to provide that no qualified individual with a disability, by reason of such disability, be excluded from participation in or the benefits of the services, programs, and activities of the Insurance Department. The rule needs to remain in force so that the department will remain in compliance with the federal ADA.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 07/12/2002

Insurance, Administration

R590-173

Credit for Reinsurance

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 25083
FILED: 07/12/2002, 12:43

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 31A-2-201 provides the commissioner with the authority to make rules to implement the provisions of Title 31A. In this case, it is to set forth requirements the commissioner feels are necessary to carry out the provisions of Section 31A-17-404.

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 written comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule provides protection to the ceding insurers within the state of Utah and also provides for protection of the individuals insured and should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 07/12/2002

Money Management Council, Administration

R628-2

Investment of Funds of Member Institutions of the State System of Higher Education and Public Education Foundations established under Section 53A-4-205

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 25075
FILED: 07/10/2002, 12:22

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 enacted under Subsection 51-7-13(2) which says that rules established by the Money Management Council will govern how these types of funds are invested. Subsection 51-7-18(2)(b) gives the Council their rulemaking authority.

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 written comments received either supporting or opposing this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Council reviewed the rule in its last meeting in June 2002. Two universities and one public education foundation were in attendance. They discussed the rule in detail and agreed that the rule needs to be in place to provide guidelines to the higher education institutions and public education foundations for investing longer term "permanent" money. These types of funds have different objectives from general fund monies and therefore need a different criteria than that provided in the Money Management Act (Title 51, Chapter 7) for other funds. Having this criteria in rule format allows the Council to be flexible to the potential for any changing needs these institutions may have and the rule should be continued.

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

MONEY MANAGEMENT COUNCIL
ADMINISTRATION
Room 215 STATE CAPITOL
350 N STATE ST
SALT LAKE CITY UT 84114-1103, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ann Pedroza at the above address, by phone at 801-538-1883, by FAX at 801-538-1465, or by Internet E-mail at apedroza@utah.gov

AUTHORIZED BY: Larry Richardson, Chair

EFFECTIVE: 07/10/2002



Natural Resources, Wildlife Resources **R657-14** Commercial Harvesting of Protected Aquatic Wildlife

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 25080
FILED: 07/12/2002, 09:53

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 23-14-3, 23-14-18, and 23-14-19, the Wildlife Board is authorized and required to regulate and prescribe the means by which 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 of Wildlife Resources (DWR) and the Wildlife Board have received written comments indicating that this rule has evolved to incorporate concerns about preservation and protection of the brine shrimp resource, and has balanced the needs of the various commercial competitors involved. Written comments are generally supportive of the rule commending DWR and the Wildlife Board for imposing a moratorium on the number of Certificates of Registration issued to limit harvest pressure, establish a seasonal harvest limit, closing the season when the harvest limits are met, and the commitment for further research on the Great Salt Lake. DWR and the Wildlife Board have received several verbal comments during public meetings, both in support and opposition to Rule R657-14. Verbal comment received during the last five-year review specifically regarded brine shrimp harvesting methods, concerns over the salinity of the south arm of the lake and to take some kind of action concerning the culverts on the north

arm, the culverts in the current causeway need to be modified or breached to meet their intended purpose, and general agreement and support of the rule. DWR intends to propose a new rule to the Regional Advisory Councils and the Wildlife Board to remove the provisions regarding commercially harvesting brine shrimp and brine shrimp eggs from Rule R657-14 and incorporate those provisions into a new rule due to the recommendations of the brine shrimp industry. Both written and verbal comments received opposing the rule are resolved using existing policies and procedures or the issue is placed on the Regional Advisory Council's and Wildlife Board's agenda for review and discussion during the review 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 DWR.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-14 provides the procedures, standards, and requirements for: harvesting protected aquatic wildlife for use as fish bait; commercially harvesting brine shrimp and brine shrimp eggs; and seining protected wildlife. The provisions adopted in this rule are effective. Continuation of this rule is necessary for continued success for allowing harvesting of protected aquatic wildlife for use as fish bait and seining protected wildlife. DWR intends to amend Rule R657-14 to clarify the procedures, standards, and requirements for harvesting protected aquatic wildlife for use as fish bait, and seining protected wildlife, except brine shrimp. DWR intends to create a separate rule for providing the procedures, standards, and requirements for commercially harvesting brine shrimp and brine shrimp eggs. (DAR NOTE: The proposed amendments to Rule R657-14 is under DAR No. 25091 in this Bulletin; and the proposed new rule which will be R657-52 is under DAR No. 25090 in this Bulletin.)

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Sundell at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at debbiesundell@utah.gov

AUTHORIZED BY: Kevin Conway, Director

EFFECTIVE: 07/12/2002



Natural Resources, Wildlife Resources **R657-44** Big Game Depredation

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 25070
 FILED: 07/03/2002, 09:39

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 23-16-2, 23-16-3, 23-16-3.5, and 23-16-4, the Wildlife Board is authorized and required to regulate and prescribe the means for assessing big game depredation, and provide mitigation procedures for big game depredation.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Division of Wildlife Resources (DWR) and the Wildlife Board have not received written comments, either in support or opposition to Rule R657-44. DWR and the Wildlife Board have received minimal verbal comments during the public meetings in support of Rule R657-44. Verbal comment received during the last five-year review was not specific, but generally supported Rule R657-44. Both written and verbal comments received opposing the rule are resolved using existing policies and procedures or the issue is placed on the Regional Advisory Council's and Wildlife Board's agenda for review and discussion during the review 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 DWR.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-44 provides the procedures, standards, requirements, and limits for assessing big game depredation and mitigation procedures for big game depredation. The procedures adopted in this rule have provided an effective and efficient process. Continuation of this rule is necessary for continued success of the big game depredation program.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Debbie Sundell at the above address, by phone at 801-538-4707, by FAX at 801-538-4745, or by Internet E-mail at debbiesundell@utah.gov

AUTHORIZED BY: Kevin Conway, Director

EFFECTIVE: 07/03/2002



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

NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

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

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

Commerce

Securities

No. 25068 (filed 07/02/2002 at 6:42 p.m.): R164-13. Definitions.

Enacted or Last Five-Year Review: 07/03/97 (No. 19259, filed 05/15/97 at 4:46 p.m., publised 06/01/97)

Extended Due Date: 10/01/2002

End of the Notices of Five-Year Review Extensions Section

Notices of Rule Effective Dates Begin on the Following Page

NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

Abbreviations

AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Administrative Services

Finance

No. 24844 (AMD): R25-6. Relocation Reimbursement.
Published: June 1, 2002
Effective: July 2, 2002

No. 24843 (AMD): R25-7. Travel-Related Reimbursements for State Employees.
Published: June 1, 2002
Effective: July 2, 2002

Commerce

Administration

No. 24860 (AMD): R151-2. Government Records Access and Management Act Rules.
Published: June 1, 2002
Effective: July 2, 2002

No. 24862 (AMD): R151-46b. Department of Commerce Administrative Procedures Act Rules.
Published: June 1, 2002
Effective: July 2, 2002

Occupational and Professional Licensing

No. 24818 (AMD): R156-26a-307. Reinstatement of Licenses.
Published: June 1, 2002
Effective: July 3, 2002

No. 24822 (AMD): R156-38. Residence Lien Restriction and Lien Recovery Fund Rules.
Published: June 1, 2002
Effective: July 3, 2002

Corrections

Administration

No. 24826 (AMD): R251-305. Visiting at Community Correctional Centers.
Published: June 1, 2002
Effective: July 8, 2002

Environmental Quality

Water Quality

No. 24664 (AMD): R317-10. Certification of Wastewater Work Operators.
Published: April 15, 2002
Effective: July 5, 2002

No. 24804 (AMD): R317-100. Utah State Project Priority System for the Utah Wastewater Project Assistance Program.
Published: May 15, 2002
Effective: July 5, 2002

Health

Children's Health Insurance Program
No. 24488 (CPR): R382-10. Eligibility.
Published: May 15, 2002
Effective: July 2, 2002

Epidemiology and Laboratory Services, Epidemiology
No. 24820 (AMD): R386-800. Immunization Coordination.
Published: June 1, 2002
Effective: July 8, 2002

Health Care Financing, Coverage and Reimbursement Policy
No. 24834 (AMD): R414-303. Coverage Groups.
Published: June 1, 2002
Effective: July 2, 2002

No. 24861 (AMD): R414-304. Income and Budgeting.
Published: June 1, 2002
Effective: July 2, 2002

No. 24864 (REP): R414-309. Utah Medical Assistance Program (UMAP).
Published: June 1, 2002
Effective: July 2, 2002

Health Care Financing, Medical Assistance Program
No. 24863 (AMD): R420-1. Utah Medical Assistance Program.
Published: June 1, 2002
Effective: July 2, 2002

Human Resource Management

Administration

No. 24845 (AMD): R477-1. Definitions.
Published: June 1, 2002
Effective: July 5, 2002

No. 24846 (AMD): R477-2. Administration.
Published: June 1, 2002
Effective: July 5, 2002

No. 24847 (REP): R477-3. Control of Personal Service Expenditures.
Published: June 1, 2002
Effective: July 5, 2002

No. 24848 (AMD): R477-4 (Changed to R477-3). Classification.
Published: June 1, 2002
Effective: July 5, 2002

No. 24849 (AMD): R477-5 (Changed to R477-4). Filling Positions.
Published: June 1, 2002
Effective: July 5, 2002

No. 24850 (AMD): R477-6 (Changed to R477-5). Employee Status and Probation.
Published: June 1, 2002
Effective: July 5, 2002

No. 24858 (AMD): R477-7 (Changed to R477-6). Compensation.
Published: June 1, 2002
Effective: July 5, 2002

No. 24851 (NEW): R477-7. Leave.
Published: June 1, 2002
Effective: July 5, 2002

No. 24852 (AMD): R477-8. Working Conditions.
Published: June 1, 2002
Effective: July 5, 2002

No. 24853 (AMD): R477-9. Employee Conduct.
Published: June 1, 2002
Effective: July 5, 2002

No. 24854 (AMD): R477-10. Employee Development.
Published: June 1, 2002
Effective: July 5, 2002

No. 24855 (AMD): R477-11. Discipline.
Published: June 1, 2002
Effective: July 5, 2002

No. 24856 (AMD): R477-12. Separations.
Published: June 1, 2002
Effective: July 5, 2002

No. 24857 (AMD): R477-14. Substance Abuse and Drug-Free Workplace.
Published: June 1, 2002
Effective: July 5, 2002

Human Services

Administration, Administrative Services, Licensing

No. 24519 (AMD): R501-12-8. Safety.
Published: March 15, 2002
Effective: July 12, 2002

Child and Family Services

No. 24831 (AMD): R512-43. Adoption Assistance.
Published: June 1, 2002
Effective: July 11, 2002

Mental Health

No. 24835 (AMD): R523-1-15. Funding Formula.
Published: June 1, 2002
Effective: July 2, 2002

Insurance

Administration

No. 24827 (AMD): R590-212. Requirements for Interest Bearing Accounts Used by Title Insurance Agencies for Trust Fund Deposits.
Published: June 1, 2002
Effective: July 12, 2002

Natural Resources

Wildlife Resources

No. 24839 (AMD): R657-2. Adjudicative Proceedings.
Published: June 1, 2002
Effective: July 3, 2002

No. 24838 (AMD): R657-5. Taking Big Game.
Published: June 1, 2002
Effective: July 3, 2002

No. 24837 (AMD): R657-29. Government Records Access Management Act.
Published: June 1, 2002
Effective: July 3, 2002

No. 24836 (AMD): R657-42. Accepted Payment of Fees, Late Fees, Exchanges, Surrenders, Refunds and Reallocation of Licenses, Certificates of Registration and Permits.
Published: June 1, 2002
Effective: July 3, 2002

Regents (Board Of)

University of Utah, Parking and Transportation Services

No. 24505 (AMD): R810-2. Parking Meters.
Published: March 15, 2002
Effective: July 10, 2002

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

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2002, including notices of effective date received through July 15, 2002, the effective dates of which are no later than August 1, 2002. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

DAR NOTE: Due to publication constraints, neither Index is included in this Bulletin.

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).
