

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
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Kenneth A. Hansen, Director  
Nancy L. Lancaster, Editor

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# SPECIAL NOTICES

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## GOVERNOR'S EXECUTIVE ORDER: DECLARING A STATE OF EMERGENCY IN UTAH COUNTY DUE TO FLOODING AND DEBRIS FLOWS IN SANTAQUIN CITY AND THE UNINCORPORATED AREA KNOWN AS SPRING LAKE

**WHEREAS**, beginning September 12, 2002, Santaquin City and the unincorporated area known as Spring Lake in Utah County, Utah, experienced heavy rainfall, flooding and numerous debris flows that damaged dozens of homes, public infrastructure, ruptured gas, water and electrical lines, agricultural land and an irrigation facility called the Highline Canal;

**WHEREAS**, one home was destroyed by fire as a result of a ruptured natural gas line and approximately 100 persons have been displaced from their homes as a result of the debris flows;

**WHEREAS**, large amounts of debris have created a continuing threat to public safety and health in the affected areas of Utah County;

**WHEREAS**, the National Weather Service has determined that pockets of unstable soil still remain on the mountainside that could trigger additional debris flows;

**WHEREAS**, these conditions are expected to worsen if left unattended; and

**WHEREAS**, these conditions constitute a disaster emergency within the intent of the Disaster Response and Recovery Act of 1981;

**NOW THEREFORE**, I, Michael O. Leavitt, Governor of the state of Utah, by virtue of the power vested in me by the Constitution and laws of the state of Utah,

**DO HEREBY DECLARE THAT:** It is found, determined and declared that a "State of Emergency" exists due to the aforesaid flooding and debris flows in Utah County, and the affected areas are declared to be a disaster requiring aid, assistance and relief available pursuant to state statutes, and the State Disaster Response Plan, which is activated.

**In Testimony, Whereof**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah, this 14th day of September, 2002.

(State Seal)

**Michael O. Leavitt**  
Governor

**Attest:**

**Olene S. Walker**  
Lieutenant Governor

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## GOVERNOR'S PROCLAMATION: STATING THE OUTCOME OF A VOTE TO ANNEX INTO EMERY COUNTY THE PORTION OF THE CITY OF GREEN RIVER NOW IN GRAND COUNTY AND STATING THE EFFECTIVE DATE OF THE ANNEXATION

I, MICHAEL O. LEAVITT, Governor of the State of Utah, pursuant to the requirements of Section 17-2-9 of the Utah Code, proclaim the results of the Green River City annexation vote as follows:

SPECIAL NOTICES

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1. A majority of the residents of the area of Grand County proposed to be annexed into Emery County voted in favor of annexation, with a vote of 35 for annexation and 17 against.
2. A majority of the residents of Emery County voted in favor of accepting the proposed annexation, with a vote of 4012 for annexation and 197 against.
3. In accordance with law, the annexation shall take effect January 6, 2003.

(STATE SEAL)

IN WITNESS WHEREOF, I have here unto set my hand and cause to be affixed the Great Seal of the State of Utah. Done at the State Capitol in Salt Lake City, Utah, this 10th day of September, 2002.

**MICHAEL O. LEAVITT**  
Governor

**OLENE S. WALKER**  
Lieutenant Governor

**End of the Special Notices Section**

## NOTICES OF PROPOSED RULES

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A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between September 4, 2002, 12:00 a.m., and September 16, 2002, 11:59 p.m. are included in this, the October 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 October 31, 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 January 29, 2003, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than 31 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

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

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

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

Community and Economic  
Development, Community  
Development, History  
**R212-12**  
Computerized Record of Cemeteries,  
Burial Locations and Plots, and  
Granting Matching Funds

**NOTICE OF PROPOSED RULE**  
(Amendment)

DAR FILE NO.: 25243  
FILED: 09/10/2002, 08:16

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To clarify and make consistent the matching grant application procedures and funding realities.

SUMMARY OF THE RULE OR CHANGE: Section R212-12-3 is being amended to clarify and make consistent the matching grant application procedures and funding realities.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 9-8-203(3)(c)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There are no additional costs associated with this rule amendment. The changes are just clarifications.
- ❖ LOCAL GOVERNMENTS: There are no additional costs associated with this rule amendment. The changes are just clarifications.
- ❖ OTHER PERSONS: There are no additional costs associated with this rule amendment. The changes are just clarifications.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amendment to this rule is for clarification purposes only and will not impact the industry or consumers financially.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule amendment will have absolutely no fiscal impact on businesses.

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

COMMUNITY AND ECONOMIC DEVELOPMENT  
COMMUNITY DEVELOPMENT, HISTORY  
300 RIO GRANDE  
SALT LAKE CITY UT 84101-1182, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Alycia Aldrich at the above address, by phone at 801-533-3556, by FAX at 801-533-3503, or by Internet E-mail at AALDRICH@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 10/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/01/2002

AUTHORIZED BY: Wilson Martin, Acting Director

**R212. Community and Economic Development, Community Development, History.**

**R212-12. Computerized Record of Cemeteries, Burial Locations and Plots, and Granting Matching Funds.**

**R212-12-1. Scope and Applicability.**

To provide grants to assist cemeteries, computerize their records, and to develop a centralized database of names, dates of death, burial locations, and other information. This data base will include data on individuals interred in cemeteries and burial locations where a previous record exists regarding the burial in accordance with UCA 9-8-203(3)(c).

**R212-12-2. Definitions.**

1. "Board" means the Board of State History.
2. "Burial locations" means locations of human burials outside of established cemeteries where written records exist on the deceased.
3. "Burial Plot" means the burial location of an individual within a cemetery.
4. "Cemeteries" means formal groupings of burial locations, including public and private facilities, whether abandoned or currently used and maintained.
5. "Director" means the Director of the Division of State History.
6. "Division" means the Division of State History.
7. "Eligible Organizations" means cemeteries, genealogical associations, and other nonprofit groups interested in cemeteries and burial locations.
8. "GIS" means Geographic Information System. A system that links information to geographic locations.
9. "In kind" means volunteer hours, labor, equipment, etc., to match grant contributed after July 1, 1997.
10. "Matching grants" means grants made to eligible organizations that are matched, ordinarily on a fifty/fifty basis, through cash or in kind.
11. "Record" means existing record of name and other available information on the interred individual.
12. "Computerized record" means an electronic version of a record meeting the standards established by the Division.

**R212-12-3. Application and Distribution of Funds.**

Eligible organizations may apply for matching grants on a form approved by the Division. Matching grants shall be provided ~~[beginning no later than the fall of 1997]~~ to the extent that funding is available. No grant will be awarded to any single cemetery for more than \$10,000. Larger cemeteries needing more than \$10,000 may reapply in phases. Successful applicants may request fifty percent of the funds at the time of approval of the contract. The second fifty percent will be distributed upon receipt of acceptable final report and computerized records in the format agreed upon.

Grants will be allocated to applying eligible organizations on a first come, first served basis. The Division will award the grants and provide a list of successful applicants to the Board.

**R212-12-4. Reports and Deliverables.**

The grantee must submit complete computer files for the project in a format approved by the Division. The Division may verify the accuracy of the information prior to making final payment. In addition, a final report shall be completed by the grantee in a format designated by the Division. The report shall include a summary of the project, an accounting of matching share contributions, and a request for final payment.

**KEY: burial, cemetery, plots**

~~[March 10, 1998]~~2002

9-8-203(3)(c)



Corrections, Administration  
**R251-112**  
 Americans With Disabilities Act  
 Implementation and Complaint Process

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 25266

FILED: 09/11/2002, 13:56

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Department reorganization has designated the Americans with Disabilities Act (ADA) compliance responsibilities to other positions. The definitions have been changed to be consistent with State statute. Wording has been changed for clarity. More time has been provided for the decision process.

SUMMARY OF THE RULE OR CHANGE: The Office of Planning and Budget is no longer a part of the ADA State Coordinating Committee. Two definitions, "major life activities" and "individual with a disability", have been replaced with ADA's definition "qualified person with a disability" for consistency with the statute. A representative from the Department's Human Resource Bureau will now be assisting the ADA Coordinator with the process. The time frame for the decision process has been increased from 15 working days to 30 working days.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 42 USC Sec. 12134; 28 CFR 35.102 - 35.104; and Sections 34A-5-101 to 34A-5-108

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget associated with the changes to this rule. Wording problems and Department reorganization prompted the changes.
- ❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local governments associated with the changes to this rule. Wording problems and Department reorganization prompted the changes.
- ❖ OTHER PERSONS: There are no anticipated costs or savings to other persons associated with the changes to this rule.

Wording problems and Department reorganization prompted the changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons because the rule change affects only internal administration of the ADA process.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on businesses. The changes only affect internal operations.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ginny L Duncan at the above address, by phone at 801-545-5722, by FAX at 801-545-5523, or by Internet E-mail at glduncan@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 10/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/01/2002

AUTHORIZED BY: Michael P. Chabries, Executive Director

**R251. Corrections, Administration.**  
**R251-112. Americans With Disabilities Act Implementation and Complaint Process.**

**R251-112-1. Authority and Purpose.**

(1) This rule is promulgated pursuant to Section 63-46a-3(2) of the State Administrative Rulemaking Act. As required by 28 CFR 35.107 (1992 ed.), the Department of Corrections, as a public entity that employs more than 50 persons, adopts, defines, and publishes the complaint procedures within this rule for the prompt and equitable resolution of complaints alleging any action prohibited by the applicable provisions of the Americans With Disabilities Act.

(2) The applicable provisions of 29 C.F.R. 1630 implement the Americans With Disabilities Act, 42 U.S.C. 12101 through 12213, which provide that no qualified individual with a disability, by reason of such disability, be denied employment, be excluded from participation in, or be denied the benefits of services, programs, or activities of the Department of Corrections.

**R251-112-2. Definitions.**

(1) "ADA" means Americans With Disabilities Act.

(2) "ADA Coordinator" means the ~~[Director or designee of the Division of Administrative Services within the Department of Corrections who has responsibility for investigating and providing prompt and equitable resolution of complaints filed by qualified individuals with disabilities.]~~ Department designee who has the responsibility for the Department's compliance with ADA.

(3) "ADA State Coordinating Committee" means that committee with representatives designated by the directors of the following agencies:

~~[(a) Office of Planning and Budget;~~

~~—(b)](a) Department of Human Resource Management;~~

~~[(c)](b) Division of Risk Management;~~

~~[(d)](c) Division of Facilities Construction Management; and~~

~~[(e)](d) Office of the Attorney General.~~

(4) "Department" means the Department of Corrections.

(5) "Disability" means with respect to an individual with a physical or mental impairment that substantially limits one or more major life activities~~[-; has a record of such an impairment; or is regarded as having such an impairment,] as defined by ADA.~~

(6) "HRM Representative" means the Director or designee of the Bureau of Human Resource Management within the ~~[Division of Administrative Services of the]~~Department who has responsibility for the Department's compliance with ADA as it relates to employees.

~~[(7) "Major life activities" means functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.~~

~~—(8) "Individual with a disability", hereinafter individual, means a person who has a disability as defined by the Americans with Disabilities Act and who would otherwise be an eligible applicant for a vacant Department position or is currently employed by the Department and is able to perform the essential functions of the job with or without reasonable accommodations or who meets the essential eligibility requirement for the receipt of services or the participation in programs or activities provided by the Department.]~~  
(7) "Qualified person with a disability" means an individual with a disability who meets the skill, experience, education, and other job-related requirements of a position held or desired, and who, with or without reasonable accommodation, is able to perform the essential functions of a job or meets the criteria established for visiting offenders or accessing other programs and services offered.

### **R251-112-3. Filing of Complaints.**

(1) Any qualified individual with a disability should file a complaint with the Department no later than 60 days of the alleged act of discrimination in order to expedite resolution of the complaint. Any complaint alleging an act of discrimination occurring between January 26, 1992, and the effective date of this rule should be filed within 60 days of the effective date of this rule.

(2) The complaint shall be filed with the Department's ADA Coordinator in writing or in another accessible format suitable to the individual.

(3) Each complaint shall:

(a) include the individual's name, address, and phone number;

(b) include the nature and extent of the individual's disability;

(c) describe the Department's alleged discriminatory action in sufficient detail to inform the Department of the nature and date of the alleged violation;

(d) describe the action and accommodation desired; and

(e) be signed by the individual or by ~~his legal~~the individual's representative.

(4) Complaints filed on behalf of classes of third parties shall describe or identify by name, if possible, the alleged victims of discrimination.

### **R251-112-4. Investigation of Complaint.**

(1) The ADA Coordinator or designee and the HRM representative shall use reasonable diligence to investigate complaints received and obtain and document~~[to the extent necessary to assure] all relevant facts~~~~[-are collected and documented]~~. This may include gathering all information listed in Section R251-112-3(3), if it is not made available by the individual.

(2) When conducting the investigation, the ADA Coordinator or designee may seek assistance from the Department's legal, human resource, ~~and~~budget staff and division directors in determining what action, if any, shall be taken on the complaint. The ADA Coordinator or designee may also consult with the Executive Director in reaching a recommendation.

(3) The ADA Coordinator or designee and the HRM representative shall consult with the ADA State Coordinating Committee [B]~~[B]~~before making any decision that would involve:

(a) an expenditure of funds which is not absorbable within the Department's budget and would require appropriation authority;

(b) facility modifications which require an expenditure of funds which is not absorbable within the Department's budget and would require appropriation authority; or

(c) reclassification or reallocation in grade~~[-; the coordinator shall consult with the ADA State Coordinating Committee]~~.

### **R251-112-5. Issuance of Decision.**

(1) Within ~~[45]~~30 working days after receiving the complaint, the ADA Coordinator or designee or the HRM representative or designee shall issue a decision outlining in writing or in another accessible format suitable to the individual stating what action, if any, shall be taken on the complaint.

(2) If the ADA Coordinator or designee or the HRM representative or designee is unable to reach a decision within the ~~[45]~~30 working day period, ~~[he]~~the ADA Coordinator or the HRM representative or designee shall notify the individual in writing, or by another accessible format suitable to the individual, why the decision is being delayed and what additional time is needed to reach a decision.

### **R251-112-6. Appeals.**

(1) The individual may appeal the decision of the ADA Coordinator or designee or the HRM representative or designee by filing an appeal within ~~[five]~~ten working days from the receipt of the decision.

(2) The appeal shall be filed in writing or another accessible format suitable to the individual with the Executive Director of the Department. The Executive Director may name a designee other than the ADA Coordinator to assist on the appeal.

(3) The appeal shall describe in sufficient detail why the ADA Coordinator's decision does not meet the individual's needs without undue hardship to the Department, is incomplete or ambiguous, is not supported by the evidence, or is otherwise improper.

(4) The Executive Director or designee shall review the~~[-ADA Coordinator or designee's]~~ decision and the appeal~~[individual's statement regarding the inappropriateness of the decision]~~. The Executive Director may direct additional investigation as necessary before arriving at an independent conclusion.

(5) The Executive Director or designee may consult with the State ADA Coordinating Committee [P]~~[P]~~prior to making any decision that would involve:

- (a) an expenditure of funds which is not absorbable and would require appropriation authority;
  - (b) facility modifications; or
  - (c) reclassification or reallocation in grade; ~~the Executive Director or designee shall also consult with the State ADA Coordinating Committee.~~
- (6) The decision shall be issued within ten working days after receiving the appeal and shall be in writing or in another accessible format suitable to the individual.
- (7) If the Executive Director or designee is unable to reach a decision within the ten working day period, ~~he~~ the Executive Director shall notify the individual in writing or by another accessible format suitable to the individual why the decision is being delayed and the additional time needed to reach a decision.

**R251-112-7. Classification of Records.**

The record of each complaint and appeal, and all written records produced or received as part of such actions, shall be classified as protected as defined under Section 63-2-304, until the Executive Director, ADA Coordinator, HRM representative, or their designees issue the decision at which time any portions of the record which may pertain to the individual's medical condition shall remain classified as private as defined under Section 63-2-302, or controlled as defined in Section 63-2-303. All other information gathered as part of the complaint record shall be classified as private information. Only the written decision of the Executive Director, ADA Coordinator, HRM representative, or their designees shall be classified as public information.

**R251-112-8. Relationship to Other Laws.**

This rule does not prohibit or limit the use of remedies available to individuals under the Utah State Anti-Discrimination Complaint Procedures; the Federal Americans with Disabilities Act Complaint Procedures; or any other Utah State or federal law that provides equal or greater protection for the rights of individuals with disabilities.

**KEY: complaint procedures, disabled persons**  
~~June 15, 1998~~ **2002**  
 Notice of Continuation March 6, 1998  
 67-19-32  
 34A-5-101 to 34A-5-108  
 63-46a-3(2)



Education, Administration  
**R277-108**  
 Annual Assurance of Compliance by  
 School Districts

**NOTICE OF PROPOSED RULE**  
 (New Rule)  
 DAR FILE No.: 25325  
 FILED: 09/16/2002, 15:58

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule is to provide school districts with a comprehensive list of required assurances and provide for accountability to the State Board of Education.

**SUMMARY OF THE RULE OR CHANGE:** The rule lists required assurances, timelines, and consequences of noncompliance.

**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 budget. The State Board of Education currently receives most of the information and assurances required under this rule from local school boards. This is a consolidation effort and an effort toward providing important information to the Legislature. If local school boards do not provide information as required, there may be funds withheld from local school boards that benefit the state coffers.
- ❖ **LOCAL GOVERNMENTS:** There is no additional costs to local school boards to provide required information. Perhaps some minimal savings in providing all required assurances at one time.
- ❖ **OTHER PERSONS:** There is no anticipated cost or savings to other persons. All data is required from local school boards.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for affected persons. All data is required from 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 10/31/2002.**

**THIS RULE MAY BECOME EFFECTIVE ON:** 11/01/2002

**AUTHORIZED BY:** Carol Lear, Coordinator School Law and Legislation

**R277. Education, Administration.****R277-108. Annual Assurance of Compliance by School Districts.****R277-108-1. Definitions.**

A. "Annual assurance letter" means a letter required annually from each local school board by the Board to be received no later than October 1 of each year that provides the required compliance information and documentation, if directed, for identified programs and funds.

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

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

**R277-108-2. 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-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities and allows the Board to interrupt disbursements of state aid to any district which fails to comply with rules adopted in accordance with the law.

B. The purpose of this rule is to provide local school boards with a list of laws requiring school district action and a means of assuring that local boards are in compliance.

**R277-108-3. Board/USOE Responsibilities.**

A. The Board shall provide to school district superintendents, the superintendent for the Utah School for the Deaf and the Blind and charter school governing boards a list of laws and a list of State Board of Education Administrative Rules which require action or compliance by June 30 of each year.

B. The list shall identify laws and rules along with required compliance dates and reporting forms, if different or necessary than or in addition to the annual assurance letter.

C. The Board shall consolidate all required reporting and compliance forms and provide for electronic reporting, to the extent possible.

**R277-108-4. Local Board and Identified School Responsibilities.**

A. Local Boards shall submit the required Annual Assurance Letter(s) and other compliance forms on or before dates identified by the Board.

B. In the event that a local school board is unable to provide required assurances, compliance information or forms by required dates, the local school board shall provide to the USOE a written explanation of the district's inability and provide a compliance date. The request for delay in providing the assurance shall be reviewed by the Board or its designee and accepted or rejected in a timely manner.

**R277-108-5. Assurances.**

A. Each local school board shall provide, consistent with state law, written assurance of the following:

(1) the National motto is displayed in schools consistent with Section 53A-13-101.4(6);

(2) a policy has been developed, in consultation with school personnel, parents, and school community, to provide for effective implementation of student education plans/student education occupation plans (SEPs/SEOPs) consistent with Section 53A-1a-106(2)(b);

(3) a plan is in place for the expenditure of Interventions for Student Success Block Grant Program funds consistent with Section 53A-17a-123.5;

(4) a policy has been developed for Quality Teaching Block Grant Program consistent with Section 53A-17a-124;

(5) a policy has been developed on education association leave consistent with Section 53A-3-425; and

(6) each public school within the district has established a community council consistent with Section 53A-1-606.5, and the community council members have been advised of their responsibilities consistent with Sections 53A-1a-108 and 53A-1a-108.5.

(7) the district has provided the USOE with required Utah Performance Assessment System for Students (U-PASS) statistical data in order for the USOE to fulfill the requirements of 53A-1-605.

B. Letters from local school boards assuring compliance with the laws above are due to the State Superintendent of Public Instruction no later than October 1 of each year.

**R277-108-6. Penalties for Noncompliance.**

A. The Board shall request written explanation(s) from school districts and identified schools that fail to meet reporting and compliance deadlines.

B. Following an opportunity to provide explanations and request delays, school districts and identified schools shall be notified of penalties assessed by the Board against the school district or schools.

C. Penalties may include:

(1) warning letters;

(2) letters of reprimand sent to the school district or school with copies to appropriate Legislative committees;

(3) charter school review under R277-481; or

(4) interruption of monthly transfers of funds specified for administrative costs under Section 53A-17a-108, interruptions of disbursement of state aid under Section 53A-1-401(3) or withholding of specific program funds.

**R277-108-7. Record Retention.**

Letters of Assurance, as required by the Board, shall be kept on file at the USOE for five years, together with letters of explanation and documentation of penalties, as directed by the Board.

**KEY: school districts, compliance**

**2002**

**Art X Sec 3**

**53A-6-702**

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



Education, Administration  
**R277-462**  
 Comprehensive Guidance Program

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 25326

FILED: 09/16/2002, 15:59

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to establish Student Education Occupation Plan



(SEOP) criteria for districts receiving Applied Technology Education funds from the State Board of Education.

**SUMMARY OF THE RULE OR CHANGE:** The amendments provide for local school board review and approval of the school district's SEOP process and provide criteria for school districts to receive Comprehensive Guidance funds from the state.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 53A-1a-106(2)(b)

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** There is no anticipated cost or savings to state budget. Funds are already appropriated to local school boards that meet standards.

❖ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. School districts will receive funds if they meet the requirements of this rule.

❖ **OTHER PERSONS:** There is no anticipated cost or savings to other persons. Funds go to school districts.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for affected persons. School districts receive funds if they meet the requirements of this rule depending upon activities/services offered.

**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 10/31/2002.**

**THIS RULE MAY BECOME EFFECTIVE ON:** 11/01/2002

**AUTHORIZED BY:** Carol Lear, Coordinator School Law and Legislation

## **R277. Education, Administration.**

### **R277-462. Comprehensive Guidance Program.**

#### **R277-462-1. Definitions.**

A. "ATE Consortium" means representatives of nine ATE Regional Planning Areas.

[E]B. "Board" means the Utah State Board of Education and Applied Technology Education.

[A]C. "Comprehensive Guidance Program" means the organization of resources to meet the priority needs of students through four delivery system components:

(1) guidance curriculum which means providing guidance content to all students in a systematic way;

(2) student educational and occupational planning component which means individualized education and career planning with all students;

(3) responsive services component designed to meet the immediate concerns of certain students; and

(4) system support component which addresses management of the [p]Program and the needs of the school system itself.

D. "Comprehensive Guidance Steering and Advisory Committee" means representatives of district counseling supervisors, district ATE directors, PTA, the school counselor professional association, and practicing school counselors.

[E]E. "Direct services" means time spent on the guidance curriculum, SEOP, and responsive services activities meeting students' identified needs as [identified]discerned by students, school personnel and parents consistent with district policy.

[B]F. "SEOP" means student education[an] occupation[an] plan.

G. "Student achievement" means academic performance, career development, personal/social development, retention, attendance, SEOP outcomes and other measures of adequate yearly progress.

[F]H. "USOE" means the Utah State Office of Education.

[D]I. "WPU" means weighted pupil unit, the basic unit used to calculate the amount of state funds for which a school district is eligible.

#### **R277-462-2. Authority and Purpose.**

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and authority over public education in the Board, ~~[by Section 53A-15-201 which designates the Utah State Board of Education as the Board for Applied Technology Education, and Section 53A-17a-131.8 which directs the Board to establish qualification criteria and distribute Comprehensive Guidance Program funds]~~ by Section 53A-1a-106(2)(b) which directs local boards to develop policies for the implementation of student education plans (SEP) or SEOPs, and by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. This rule establishes standards and procedures for entities applying for funds appropriated for Comprehensive Guidance Programs administered by the Board.

#### **R277-462-3. Comprehensive Guidance Program Approval and Qualifying Criteria.**

A. Comprehensive [g]Guidance disbursement criteria:

(1) In order to qualify for Comprehensive Guidance Program funds, schools shall implement SEOP policies and practices, consistent with Section 53A-1a-106(2)(b), local board policy, and the school improvement plan developed for Northwest Accreditation.

([+])2) For each school which meets the qualifying criteria for a Comprehensive Guidance Program and which enrolls students in grades seven through twelve, districts shall receive from six to twenty-four WPU's based on school enrollment as of October 1 of the current fiscal year (e.g., 1 - 399 students = 6 WPU's, 400 - 799 students = 12 WPU's, 800 - 1,199 students = 18 WPU's, 1,200 students + = 24 WPU's).

(2) If at any time following a school's initial approval of its Comprehensive Guidance Program, the school's enrollment drops below the funding level approved for the school, the school may be held harmless for the change in enrollment for a maximum of two years following the decline in enrollment into the lower funding category, funds permitting.

(3) Priority for funding shall be given for grades nine through twelve for ATE programs including the Comprehensive Guidance Program and any remaining funds shall be allocated to grades seven and eight for the schools which meet Comprehensive Guidance Program standards. Grades nine through twelve shall be given priority for funding provided under Section 53A-17a-131.8. Remaining funds shall be allocated to grades seven and eight in those schools that meet program standards. Funds directed to grades seven and eight shall be distributed according to the formula under R277-462-3A(1) following the distribution of funds for grades nine through twelve.

(5) The school or school district Comprehensive Guidance Program shall be integrated into the mission of the school and be consistent with the Northwest Accreditation process as defined in R277-413, Accreditation of Secondary Schools, Alternative or Special Purpose Schools. School counselors shall provide evidence that the Comprehensive Guidance Program contributes to student achievement included in the local school improvement plan developed as part of the Northwest Accreditation process.

(6) Schools shall qualify to receive Comprehensive Guidance Program funds through participation in a regular schedule of on-site review by team members designated by the district. Scheduling of the on-site review process shall be coordinated with the Northwest Accreditation process for secondary schools as defined in R277-413 and shall, at a minimum, take place every three years. Successful on-site reviews of the Comprehensive Guidance Program shall indicate a balance of activities in individual student planning, guidance curriculum, responsive services and system support.

(4) Comprehensive Guidance Program funds shall be distributed to districts for each school within the district that have completed a regular schedule of on-site reviews and that meet[s] all of the following criteria:

(a) A school wide student/parent/teacher needs assessment completed within the last four years prior to the application deadline for funding;

(b) Documentation that a school advisory and a school steering committee have been organized and are functioning effectively;

(c) Evidence that eighty percent of aggregate counselors time is devoted to DIRECT services to students;

(d) A program that reflects a commitment that all students in the school shall benefit from the Comprehensive Guidance Program;

(e) Approval of the Program by the local board of education;

(f) The establishment of the SEOP requirements for all students both as process and product consistent with R277-911, Secondary Applied Technology Education and R277-700, The Elementary and Secondary School Core Curriculum and High School Graduation Requirements;

(g) Assistance for students in developing job seeking and finding skills and in post-high school placement;

(h) Inclusion in the guidance curriculum of activities for each of the twelve National Occupational Information Coordination Committee (NOICC) competencies (available from the USOE guidance specialist);

(i) Distribution to and discussion with feeder schools of the Comprehensive Guidance Program; and

(j) Sufficient district budget to adequately provide for guidance facilities, material, equipment and clerical support. (a) Approval of the Comprehensive Guidance Program by the local board of education and on-going communication with the local board regarding Program goals and outcomes supported by data;

(b) Regular participation of guidance team members in USOE sponsored Comprehensive Guidance training;

(c) Adequate resources and support for guidance facilities, material, equipment, clerical support, and school improvement processes;

(d) Evidence that eighty percent of aggregate counselors time is devoted to DIRECT service to students through a balanced program of individual planning, guidance curriculum, and responsive services consistent with the results of the school needs data;

(e) Communication, collaboration, and coordination within the feeder system regarding the Comprehensive Guidance Program;

(f) School-wide student/parent/teacher needs assessment data for the Comprehensive Guidance Program gathered and analyzed at least every three years;

(g) Structures and processes to ensure effective Program management including advisory and steering committees functioning effectively, school counselors working as Program leaders, and the Comprehensive Guidance Program contributing to school improvement teams;

(h) Responsive services are available to address the immediate concerns and identified needs of all students through an education-oriented and programmatic approach, and in collaboration with existing school programs and coordination with family, school and community resources;

(i) Delivery to students of a developmental and sequential guidance curriculum in harmony with content standards identified in the Utah model for the Comprehensive Guidance Program. Guidance curriculum is prioritized according to the results of the school needs assessment process;

(j) Assistance for students in career development, including awareness and exploration, job seeking and finding skills, and post high school placement;

(k) Establishment of Student Education Occupation Planning (SEOP), both as a process and a product consistent with local board policy and goals of the Utah Model for Comprehensive Guidance Program, Northwest Accreditation, R277-413, and Applied Technology Education, R277-911; and

(l) All Program elements are designed to recognize and address the diverse needs of every student.

B. All districts may qualify schools for the Comprehensive Guidance Program funds and shall certify in writing that all Program standards are being met by each school receiving funds under this rule and meet the following deadlines[-]:

(1) Procedures for qualifying schools within a district receiving funds shall be provided by the USOE.

(2) Qualifying schools shall complete the "Self Study for Meeting Comprehensive Guidance Program Standards" form provided by the USOE and supporting documentation, if requested.

(3) Qualifying schools shall receive on-site review of the program by team members designated by the school district. The on-site review team shall consist of at least five members.

(4) The district shall submit to the USOE the "Form for Program Approval" which has been completed by the Review Team, signed by the Team Chairperson and school/district personnel as indicated on the form.]

(~~5~~1) The "Form for Program Approval" shall be received by the USOE from schools scheduled for review in the three year cycle no~~t~~ later than May 20 of each year for disbursement of funds the next year.

(~~6~~2) Programs approved and forms submitted by December 20 of each year MAY be considered for partial disbursement, if funds are available.

~~**R277-462-4. Guidelines and Objectives for Individual and Small Group SEOP Conferences.**~~

~~— A. Districts shall provide annual individual SEOP conferences for students in grades 7-12 as directed in Section 53A-1a-106(2)(b)(ii)(C).~~

~~— B. Pursuant to Section 53A-1a-106(2)(b)(iii)(A), the USOE provides the following guidelines and expectations:~~

~~— (1) A small group SEOP conference should include no more than a classroom sized meeting of students together with the students' parents or guardians and an educator.~~

~~— (2) The small group SEOP conference should initially address the purposes of the basic SEOP, including:~~

~~— (a) the sharing of information useful for goal setting, problem solving, and planning related to a student's SEOP; and~~

~~— (b) the defining of respective roles assumed by the school, the student, and parent(s) in formulating an SEOP for the student.~~

~~— C. Parents, guardians and students should be advised that during grades 7 or 8, a small group SEOP conference is most effective when held or scheduled in conjunction with the Technology, Life and Careers course.~~

~~— D. Parents, guardians and students should be advised that during grades 9 or 10, the small group SEOP conference is designed to acquaint parents or guardians and students with the course work, career study, and activity options available to high school students.~~

~~— E. Parents, guardians and students should be advised that during the 12th grade year, the small group SEOP conference is most effective when implemented before the end of October, so that parents, guardians and students can focus attention on the necessary decisions and the deadlines during the senior year.]~~

**R277-462-5]4. Use of Funds.**

A. Funds disbursed for this [p]Program shall be used by the district ~~at~~ in the district secondary schools in grades seven through twelve to provide a guidance curriculum and an SEOP for each student at the school, to provide responsive services, and to provide system support for the Comprehensive Guidance Program. Such costs may include the following:

(1) personnel costs;

(2) career center equipment such as computers, or media equipment;

(3) career center materials such as computer software, occupational information, SEOP folders, and educational information;

(4) in-service training of personnel involved in the Comprehensive Guidance Program;

(5) extended day or year if REQUIRED to run the [p]Program; and

(6) guidance curriculum materials for use in classrooms.

B. Funds shall not be used for non-guidance purposes or to supplant funds already being provided for the Comprehensive [g]Guidance [p]Program except that:

(1) Districts may pay for the costs incurred in hiring NEW personnel as a means of reducing the pupil/counselor ratio and

eliminating time spent on non-guidance activities in order to meet the [p]Program criteria.

(2) Districts may pay other costs associated with a [e]Comprehensive [g]Guidance [p]Program which were incurred as a part of the [p]Program during the implementation phase but which WERE NOT a regular part of the [p]Program prior to that time.

**R277-462-6]5. Reporting.**

A. The USOE shall monitor the [p]Program and provide an annual report on its progress and success.

B. Districts shall certify on an annual basis that previously qualified schools continue to meet the [p]Program criteria and provide the USOE with data and information on the [p]Program as required or requested.

**KEY: public education, counselors**

~~[April 3,]200[0]2~~

**Notice of Continuation September 30, 1999**

**Art X Sec 3**

**53A-15-201**

**53A-17a-131.8**



**Education, Administration**  
**R277-473**  
**Testing Procedures**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 25321

FILED: 09/16/2002, 15:55

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The amendments to this rule provide additional definitions, provide for electronic testing, and provide testing windows.

SUMMARY OF THE RULE OR CHANGE: The amendments provide additional definitions, terminology changes, and new testing windows.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-603(3)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no anticipated cost or savings to state budget. There are no additional requirements at the state level, just changed dates.

❖ LOCAL GOVERNMENTS: There is no anticipated cost to local government because of changed/delayed timelines, perhaps minimal savings for electronic testing option.

❖ OTHER PERSONS: There is no anticipated cost or savings to other persons. Requirements only apply to school districts.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. School districts have specific changed timelines.

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 10/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/01/2002

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

## **R277. Education, Administration.**

### **R277-473. Testing Procedures.**

#### **R277-473-1. Definitions.**

A. "Basic skills course" means those courses specified in Utah law for which CRT testing is required.

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

C. "Constructed-response portions" means the portion of questions on the criterion-referenced tests that require a student to generate a response rather than select a response.

[B]D. "Criterion Reference Test (CRT) [~~Criterion Reference Test~~]" means a test to measure performance against a specific standard. The meaning of the scores is not tied to the performance of other students.

[C]E. "DCS" means the USOE District Computer Services Section.

[D]F. "Last day of school" means the last day classes are held in each school district.

[E]G. "Norm-reference Test (NRT) [~~Norm reference test~~]" means a test where the scores are based on comparisons with a nationally representative group of students in the same grade. The meaning of the scores is tied specifically to student performance relative to the performance of the students in the norm group under very specific testing conditions.

H. "Raw test results" means number correct out of number possible, without scores being equated and scaled.

[F]I. "Secure test materials" means consumable and nonconsumable test booklets, directions for administering the assessments [~~kindergarten assessment answer sheets, scoring keys and rubrics~~] and supplementary assessment materials (e.g., videotapes) designated as secure test materials by the USOE. Secure test materials shall be used for testing only and shall be stored where they can be accessed by authorized personnel only.

[G]J. "Standardized tests" means tests required, ~~under Utah state law~~ consistent with Sections 53A-1-601 through 53A-1-611, to be administered to all students in identified subjects at the specified grade levels.

[H]K. "USOE" means the Utah State Office of Education.

#### **R277-473-2. 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-1-603(3) which directs the Board to adopt rules for the conduct and administration of the testing programs 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 specific standards and procedures by which school districts shall handle and administer standardized tests.

#### **R277-473-3. Time Periods for Administering and Returning Materials.**

A. School districts shall require that by or before school year 2004-2005, all schools [within the school district] administer CRTs [within a continuous three week period beginning three weeks before the last day of the year or course] only according to the following schedule:

(1) The Utah Basic Skills Competency Test-Tuesday, Wednesday, and Thursday of the first week of February and Tuesday, Wednesday, and Thursday of the third week of October;

(2) Secondary Language Arts, 9th grade Direct Writing Assessment, and the Supplementary Reading Assessments-in a two week window beginning 14 weeks prior to the last day of school or of the course;

(3) Constructed-response portions of the Elementary and Secondary Math assessments-in a one week window beginning nine weeks prior to the last day of school or of the course;

(4) Grade 1 and 2 Supplementary Reading Tests-in a four week window eight weeks prior to the last day of school;

(5) Elementary Language Arts tests, grades 3-6 Supplementary Reading Tests, and 6th grade Direct Writing Assessment-in a two week window seven weeks prior to the last day of school;

(6) Multiple-choice portions of the Elementary and Secondary Math tests, and grades 4-12 Science tests-in a two week window four weeks prior to the last day of school or of the course.

B. When determining the date of testing, schools on trimester schedules shall schedule the testing at the point in the course where students have had approximately the same amount of instructional time as students on a regular schedule and provide the schedule to the USOE. Basic skills courses ending in the first trimester of the year shall be assessed with the previous year's form of the CRTs.

[B]C. School districts shall require that all schools within the school district administer NRTs within the time period specified by the publisher of the test.

[C]D. School districts shall submit all answer sheets for the CRT and NRT tests to DCS for scanning and scoring as follows:

(1) For CRTs, school districts with fewer than [4]25,000 students shall return answer sheets no later than one week after testing is completed.

(2) For CRTs, school districts with [4]25,000 or more students shall return answer sheets no later than two weeks after testing is completed, except the science and math multiple choice tests, which shall be returned one week after testing is completed.

(3) For NRTs, school districts shall return answer sheets no later than one week after the last day of the testing time period specified by the publisher of the test.

**R277-473-4. Security of Testing Materials.**

A. The USOE shall maintain a record of all of the secure test materials sent to the school districts.

B. Each school district shall maintain a record of the number of booklets of all secure test materials sent to each school in the district, and shall submit the record to USOE upon request.

[B]C. Each school district shall ensure that all test materials are secured in an area where only authorized personnel have access, or are returned to USOE following testing as required by the USOE. Individual educators shall not retain test materials, in either paper or electronic form beyond the time period allowed for test administration.

[C]D. Individual schools within a school district shall secure or return paper test materials within three working days of the completion of testing. Electronic testing materials shall be secured between administrations of the test, and shall be removed from teacher and student access immediately following the final administration of the test.

[D]E. The USOE shall ensure that all test materials sent to a district are returned as required by USOE, and may periodically audit school districts to [ensure]confirm that test materials are properly accounted for and secured.

[E]E. School district employees and school personnel may not copy or in any way reproduce secure test materials without the express permission of the specific test publisher, including the USOE.

**R277-473-5. Format for Electronic Submission of Data.**

A. DCS shall communicate regularly with school districts regarding required formats for electronic submission of any required data.

B. School districts shall ensure that any computer software for maintaining school district data is, or can be made, compatible with DCS requirements and shall report data as required by the USOE.

**R277-473-6. Format for Submission of Answer Sheets and Other Materials.**

A. The USOE shall provide a checklist to each school district with directions detailing the format in which answer documents are to be collected, reviewed, and returned to the USOE.

B. Each school district shall verify that all the requirements of the testing checklist have been met.

C. CRT data may be submitted in batches in cooperation with the assigned DCS data technician.

**R277-473-7. Timing for Return of Results to School Districts.**

A. Scanning and scoring shall occur in the order data is received from the school districts.

B. Consistent with Utah law, raw test results from all CRTs shall be returned to the school before the end of the school year.

[B]C. Each school district[~~in cooperation with the USOE,~~] shall check all test results for each school within the district and for the district as a whole. [and]verify their accuracy with DCS, and certify that they are prepared for publication within two weeks of receipt of the data. Except in compelling circumstances, as determined by the USOE, no changes shall be made to school or district data after this two week period. Compelling circumstances may include:

(1) a natural disaster or other catastrophic occurrence (e.g., school fire) that precludes timely review of data; and

(2) resolution of a professional practices issue that may impede reporting of the data.

[C]D. Districts shall not release data until authorized to do so by the USOE.

**R277-473-8. Standardized Testing Rules and ~~In-service Training~~Professional Development Requirement.**

A. It is the responsibility of all educators to take all reasonable steps to ensure that standardized tests reflect the ability, knowledge, aptitude, or basic skills of each individual student taking standardized tests.

B. School districts shall develop policies and procedures consistent with the law and Board rules for standardized test administration and make them available and provide training to all teachers and administrators.

C. At least twice each school year, school districts shall provide ~~[in-service training]~~professional development for all teachers, administrators, and standardized test administrators concerning guidelines and procedures for standardized test administration, including teacher responsibility for test security and proper professional practices, R686-103-6(I).

D. All teachers and test administrators shall conduct test preparation, test administration, and the return of all secure test materials in strict accordance with the procedures and guidelines specified in test administration manuals, school district rules and policies, Board rules, and state application of federal requirements for funding.

E. Teachers, administrators, and school personnel shall not:

(1) provide students directly or indirectly with specific questions, answers, or the subject matter of any specific item in any standardized test prior to test administration;

(2) copy, print, or make any facsimile of secure testing material prior to test administration without express permission of the specific test publisher, including USOE, and school district administration;

(3) change, alter, or amend any student answer sheet or any other standardized test materials at any time in such a way as to alter the student's intended response;

(4) use any prior form of any standardized test (including pilot test materials) in test preparation without express permission of the specific test publisher, including USOE, and school district administration;

(5) violate any specific test administration procedure or guideline specified in the test administration manual, or violate any state or school district standardized testing policy or procedure;

(6) knowingly and intentionally do anything that would inappropriately affect the security, validity, or reliability of standardized test scores of any individual student, class, or school;

F. Violation of any of these rules may subject licensed educators to possible disciplinary action under Rules of Professional Practices and Conduct for Utah Educators, R686-103-6(I).

**KEY: educational testing**

**~~December 5, 2001~~2002**

**Art X Sec 3**

**53A-1-603(3)**

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



Education, Administration  
**R277-522**  
 Entry Years Enhancements (EYE) for  
 Quality Teaching - Level 1 Utah  
 Teachers

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 25328  
 FILED: 09/16/2002, 16:01

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This new rule provides assistance for entry level teachers to increase their expertise and confidence in their beginning teaching years.

SUMMARY OF THE RULE OR CHANGE: The rule provides for professional development, mentoring and testing of beginning teachers.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-6-106

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Nominal costs to the Utah State Office of Education for assisting school districts with professional development, testing, and review of beginning teachers. One-fourth time for a specialist in the licensing area would be approximately \$15,000 which will be absorbed in existing budget.

❖ LOCAL GOVERNMENTS: Services from school districts include professional development and testing of beginning teachers. School districts can use discretionary block grant funds. An estimate of 10 hours of mentoring at \$30/hour and \$100 for required tests seems reasonable for each beginning teacher. School districts will have to absorb the costs.

❖ OTHER PERSONS: Individuals may have minimal costs for portfolio and professional development (less than \$100), test costs are borne by the school district.

COMPLIANCE COSTS FOR AFFECTED PERSONS: School districts and individuals must comply with this rule. Compliance costs are speculative; may equal \$500 - \$700 per district for each beginning teacher and less than \$100 for teachers individually.

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 10/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/01/2002

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

**R277. Education, Administration.**  
**R277-522. Entry Years Enhancements (EYE) for Quality Teaching - Level 1 Utah Teachers.**

**R277-522-1. Definitions.**

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

B. "Computer-Aided Credentials of Teachers in Utah Schools (CACTUS)" means a database that maintains public information on licensed Utah educators.

C. "Educational Testing Services (ETS)" is an educational measurement institution that has developed standard-based teacher assessment tests.

D. "Entry years" means the three years a beginning teacher holds a Level 1 license.

E. "INTASC" means the Interstate New Teacher Assessment and Support Consortium, that has established Model Standards for Beginning Teacher Licensing and Development. The ten principles reflect what beginning teachers should know and be able to do as a professional teacher. The Board has adopted these principles as part of the NCATE standards.

F. "Level 1 license" means a license issued upon completion of an approved preparation program or an alternative preparation program, or pursuant to an agreement under the NASDTEC Interstate Contract, to applicants who have also met ancillary requirements established by law or rule.

G. "Mentor" means a Level 2 or Level 3 educator, who is trained to advise and guide Level 1 teachers.

H. "NCATE" means the National Council for Accreditation of Teacher Education, that has established standards for teacher education programs and holds accredited institutions accountable for meeting these standards.

I. "Praxis II - Principles of Learning and Teaching" is a standards-based test provided by ETS and designed to assess a beginning teacher's pedagogical knowledge. This test is used by many states as part of their teacher licensing process. Colleges and universities use this test as an exit exam from teacher education programs.

J. "Professional development" means locally or Board-approved education-related training or activities that enhance an educator's background consistent with R277-501. Educator License Renewal.

K. "Teaching assessment/evaluation" means an observation of a Level 1 teacher's instructional skills by a school district or school administrator using an evaluation tool based on or similar to INTASC principles.

L. "Working portfolio" means a collection of documents prepared by a Level 1 teacher and used as a tool for evaluation.

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

**R277-522-2. 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-9-103(5) which directs career ladder programs to include a program of evaluation and mentoring for beginning teachers designed to assist those beginning teachers in developing the skills required of capable teachers; Section 53A-6-102(a)(iii) which finds that the implementation of progressive strategies regarding induction, professional development and evaluation are essential in creating successful teachers; Section 53A-6-106 which directs the Board to establish a rule for the training and experience required of license applicants for teaching; 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 outline entry years enhancements of professional and emotional support for Level 1 teachers during their first three years of teaching to include mentoring, testing, assessment/evaluation, and developing a professional portfolio. The purpose of these enhancements is to develop in Level 1 teachers successful teaching skills and strategies with assistance from experienced colleagues.

**R277-522-3. Required Entry Year Enhancements for a Level 1 Teacher to Advance to a Level 2 License.**

A. Collaboration with an assigned mentor:

(1) Assignment of a mentor in the first semester of teaching:

(a) Each beginning teacher shall be assigned a trained mentor teacher by the principal to supervise and act as a resource for the entry level teacher.

(b) The mentor teacher shall teach in the same school, and where feasible, in the same subject area as the Level 1 teacher.

(2) Qualification of a mentor:

(a) A mentor shall hold a Utah Professional Educator's Level 2 or 3 license;

(b) A mentor shall have completed a mentor training program including continuing professional development.

(3) A mentor shall:

(a) guide Level 1 teachers to meet the procedural demands of the school and school district;

(b) provide moral and emotional support;

(c) arrange for opportunities for the Level 1 teacher to observe teachers who use various models of teaching;

(d) share personal knowledge and expertise about new materials, planning strategies, curriculum development and teaching methods;

(e) assist the Level 1 teacher with classroom management and discipline;

(f) supervise Level 1 teachers on an ongoing basis;

(g) help Level 1 teachers understand the implications of student diversity for teaching and learning;

(h) engage the Level 1 teacher in self-assessment and reflection; and

(i) assist with development of Level 1 teacher's portfolio.

B. Passage of a pedagogical examination:

(1) The Praxis II - Principles of Learning and Teaching shall

(a) be administered by ETS;

(b) require a qualifying score of at least 160;

(c) be taken only once a year.

(2) Scores shall be posted on CACTUS.

C. Successful evaluation under a school district level assessment/evaluation program:

(1) Employing school districts shall be responsible for the evaluation; this duty may be assigned to the school principal.

(2) The assessment/evaluation shall take place at least twice during the first year of teaching and at least twice during each of the following two years with a satisfactory final evaluation.

D. Compilation of a working portfolio:

(1) The portfolio shall be received by the employing school district and reviewed by USOE staff on a random sampling basis or upon request during the Level 1 teacher's second year of teaching.

(2) the portfolio shall be based upon INTASC principles; and may:

(a) include teaching artifacts;

(b) include notations explaining the artifacts; and

(c) include a reflection and self-assessment of his or her own practice; or

(d) be interpreted broadly to include the employing school district's requirement of samples of the first year teaching experience.

**R277-522-4. Satisfaction of Entry Years Enhancements.**

A. If a Level 1 teacher fails to complete all enhancements as enumerated in this rule, the Level 1 teacher shall remain in a provisional employment status until the Level 1 teacher completes the enhancements.

(1) The school district may make a written request to the USOE Educator Licensing Section for a one year extension of the Level 1 license in order to provide time to the educator to satisfy entry years enhancements.

(2) The Level 1 teacher may repeat some or all of the entry years enhancements.

(3) An opportunity to repeat or appeal an incomplete or unsatisfactory entry years enhancements process shall be designed and offered by the employing school district.

B. Recommendation for a Level 2 license:

(1) Each school district shall make an annual recommendation to the Board of teachers approved in its schools to receive a Level 2 license, including documentation demonstrating completion of the enhancements.

(2) The names of teachers who did not successfully complete entry years enhancements shall also be reported to the Board annually by school districts.

**KEY: teachers**

**2002**

**Art X Sec 3**

**53A-9-103(5)**

**53A-6-102(a)(iii)**

**53A-6-106**

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



Education, Administration  
**R277-723**

Child Care and Adult Care Food  
 Program Sponsors of Day Care Homes

**NOTICE OF PROPOSED RULE**

(Repeal)

DAR FILE NO.: 25324

FILED: 09/16/2002, 15:57

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is repealed because of improved federal regulations that support the same criteria as in this rule.

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(3)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There is no anticipated cost or savings to state budget. Federal regulations now require the same information.
- ❖ LOCAL GOVERNMENTS: There is no anticipated cost or saving to local government. Local boards and local agencies never had responsibility under this program.
- ❖ OTHER PERSONS: There is no anticipated cost for other persons. All requirements are now from the federal government, previously from the state government.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Individuals now follow federal regulations instead of state rules.

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 10/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/01/2002

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

**R277. Education, Administration.**

~~[R277-723. Child Care and Adult Care Food Program Sponsors of Day Care Homes.~~

**~~R277-723-1. Definitions.~~**

~~— A. "Affiliated" means that a provider has met the Utah Human Services Licensing Criteria, or USOE alternative approval criteria, has signed a Sponsor's Agreement, AND has observed the three day waiting period beginning on the date of the Agreement.~~

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

~~— C. "Child and Adult Care Food Program" or "CACFP" means the section of the USOE that administers the initiation, maintenance, and expansion of non-profit food service programs for children in non-residential centers and homes which provide child care. The definition also includes the administration of food service programs for non-residential adult day care.~~

~~— D. "Family Day Care Home" means an organized non-residential child care program operating in a private home, licensed or approved as a family or group day care home and receiving services and reimbursements for food from a sponsor.~~

~~— E. "Licensed" means a provider that has been licensed by the Department of Human Services to care for more than four children in a private home.~~

~~— F. "Relative care" means a provider that has a health and fire inspection and has satisfied the CACFP related care criteria by providing child care for grandchildren, nieces, nephews, aunts, uncles or siblings.~~

~~— G. "Provider" means the caregiver legally and fiscally responsible for the operation of a family day care home.~~

~~— H. "Sponsoring Organization of Family Day Care Homes" or "sponsor" means a public or non-profit private organization which contracts with the USOE CACFP to provide food reimbursements and services to providers under CACFP regulations.~~

~~— I. "Start-Up Payments" means payment made by the CACFP: (1) to potential sponsors that meet specific criteria for the express purpose of initiating CACFP operations in day care homes; and~~

~~(2) to participating sponsors that have never previously received such funds, sponsor fewer than 50 homes, and wish to attempt to increase operations.~~

~~— J. "Unaffiliated" means a provider or persons of the immediate family who is not currently "Affiliated" or who has not been "Affiliated" in the prior 12 months.~~

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

~~— L. "Monitor" means an employee of the sponsor organization who is responsible for supervising the files and homes of day care providers, may also work as a provider while supervising other providers.~~

**~~R277-723-2. 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, by Section 53A-1-402(3) which authorizes the Board to administer and distribute funds made available through programs of the federal government 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 standards for sponsor directors and changes in directors, to provide start-up funds to new or expanding sponsors, and to provide general audit requirements for family day care sponsors.

**R277-723-3. Sponsor Director Requirements.**

— A. Minimum educational/experience qualifications for a sponsor director shall include:

- (1) a BS degree in business management or accounting; or
  - (2) five years of full time paid employment in a business or position requiring business management, accounting and personnel management skills; or
  - (3) a combination of (1) and (2) above acceptable to CACFP; or
  - (4) demonstrated experience, documented by at least three references, in managing funds and activities of an organization.
- (5) In addition, a director shall have prior experience in employee supervision; and
- (6) shall demonstrate willingness to work with and train both personnel and day care providers of all nationalities, races, and ethnic groups.

— B. The sponsor director shall be a full-time position unless a director employed half-time demonstrates that:

- (1) there is an assistant director who supervises and verifies monitor reviews and provider files; and
- (2) a director or an assistant director works in the sponsor organization's office for a combined time of at least eight hours per day.

— C. Restructuring of directorships

— (1) A one-half time director may change to full-time status and receive a full-time salary when:

- (a) the sponsor organization supervises a minimum of 150 homes; or
- (b) the sponsor organization has been operating for at least 18 months.

— (2) If a sponsor organization chooses, the director may remain as a one-half time director if:

- (a) there is a full-time assistant director or co-director; or
- (b) there are two half-time co-directors; or
- (c) the organization has fewer than 150 homes.

— (3) An assistant director or a co-director of a sponsor may not become a sponsor director without submitting an amended sponsor annual Agreement. CACFP may require more information regarding the qualifications of the prospective director or an oral presentation by the applicant prior to approving the change.

— (4) If a sponsor organization desires to change directors, the new director shall independently qualify as a director and CACFP shall designate the procedure for approving the proposed change.

— D. Conflicts of interest

— (1) A sponsor applicant, or any member of his immediate family, shall not be affiliated as director, co-director, member of a Board of Trustees, staff or provider, with any other sponsor for 3 months prior to applying as a CACFP sponsor.

— (2) Upon the effective date of this rule, a sponsor applicant, or any member of his immediate family, shall not have been an employee of the USOE CACFP for 12 months prior to applying as a CACFP sponsor.

**R277-723-4. Presentation(s) Required by Sponsor Applicant.**

— A. A sponsor applicant shall submit a completed and approved CACFP FDCH application and Agreement.

— B. A sponsor applicant shall make written and, if requested, oral presentation of information to CACFP staff and others invited by CACFP staff including the following:

- (1) proposed administrative staff patterns including job descriptions and role descriptions of contracted employees including accountants and lawyers;
- (2) proposed procedures for managing funds including:
  - (a) detailed accounting procedures;
  - (b) examples of how ledgers, receipts, books, bank accounts shall be set up and managed;
  - (c) demonstrated understanding of CACFP terminology, procedures, and standards;
  - (d) demonstrated understanding of CACFP claims processing procedures including staff payment and late and amended claims processing procedures;
  - (e) competency in child care and child nutrition management responsibilities, including but not limited to menu planning, file management, licensing and license renewal procedures, appropriate provider monitoring procedures, provider review procedures and corrective action and provider sanctions for unsatisfactory provider performance;
- (3) a copy of the corporation bylaws;
- (4) written policies which describe recruitment and enrollment procedures to enroll new providers; and
- (5) any other portion of the application packet supplied by CACFP.

**R277-723-5. CACFP Notice Requirements.**

— CACFP staff shall meet immediately following approval with approved new sponsors to review regulations and time-lines for beginning sponsors.

**R277-723-6. Start-Up Funding.**

— A. A prospective sponsor shall provide a complete CACFP application and Agreement including a list of 50 unaffiliated providers in the geographic area where the sponsor is applying to operate prior to receiving start-up funds.

— B. A prospective sponsor who meets the application criteria may apply to enter into an agreement with the USOE to acquire start-up payments to meet the administrative costs of enrolling day care home providers.

— C. Repayment to the USOE may be required for expenditure of all or any part of the start-up funds which are not supported by documentation to initiate or expand operations in day care homes, as specified in the Start-up Payments Agreement with the USOE.

— D. A sponsor may receive start-up funds only one time from the CACFP.

**R277-723-7. Audits for Family Day Care Sponsoring Organizations.**

— A. The USOE, consistent with federal regulations, shall require audits from family day care sponsoring organizations annually, as opposed to biannually.

— B. Audits from family day care sponsoring organizations shall be provided to the USOE no later than March 31 of each year for the preceding federal fiscal year, beginning with the 2001 federal fiscal year.

**KEY: nutrition**

**November 16, 1999**

**Notice of Continuation April 15, 2002**

**Art X Sec 3**  
**53A-1-402(3)**  
**53A-1-401(3)]**



Education, Administration  
**R277-911**  
 Secondary Applied Technology  
 Education

**NOTICE OF PROPOSED RULE**

(Amendment)  
 DAR FILE No.: 25323  
 FILED: 09/16/2002, 15:56

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to change the funding for applied technology education programs to students from grades 7 through 12 to grades 9 through 12 because of budget constraints.

SUMMARY OF THE RULE OR CHANGE: Changes grades 7 through 12 to grades 9 through 12.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-15-202

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: With the amendment, costs will be handled within the state appropriation.
- ❖ LOCAL GOVERNMENTS: The amendment will allow districts to provide courses within allocated resources.
- ❖ OTHER PERSONS: There are no anticipated cost or savings to other persons. All costs of rule will be absorbed by the state and school districts.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The amendment allows districts to meet their responsibility with available 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 10/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/01/2002

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

**R277. Education, Administration.**

**R277-911. Secondary Applied Technology Education.**

**R277-911-1. Definitions.**

- A. "ADM" means average daily membership.
- B. "Applied technology education" means organized educational programs which directly or indirectly prepare individuals for employment, or for additional preparation leading to employment, in occupations where entry requirements generally do not require a baccalaureate or advanced degree. These programs provide all students an undisrupted education system, driven by a student education occupation plan (SEOP), through competency-based instruction, culminating in essential life skills, certified occupational skills, and meaningful employment. Occupational categories include agriculture; business; family and consumer sciences; health science and technology; information technology; marketing; trade and technical education; and technology education.
- C. "Approved program" means a program approved by the Board that meets or exceeds the state program standards or outcomes for applied technology education programs.
- D. "Board" means the Utah State Board of Education.
- E. "Bureau of Apprenticeship and Training" means a branch office for apprenticeship administered by the United States Department of Labor and located in Salt Lake City.
- F. "CIP code" means the Classification of Instructional Programs, a federal curriculum listing.
- G. "Comprehensive counseling and guidance program" means the organization of resources to meet the priority needs of students through four delivery system components as outlined in R277-462.
- H. "Course" means an individual applied technology education class structured by state-approved standards and CIP code. An approved course may require one or two periods for up to one year. Courses may be completed by demonstrated competencies or by course completion.
- I. "Entry-level" means a set of tasks identified and validated by workers and employers in an occupation as those of a beginner in the field. Entry-level skills are a limited subset of the total set of tasks performed by an experienced worker in the occupation. Competent performance of entry-level tasks enhances employability and initial productivity.
- J. "Extended year program" means applied technology education programs no longer than 12 weeks in duration, offered during the summer recess, and supported by extended-year or other applied technology education funds.
- K. "Program" means a combination of applied technology education courses that provides the competencies for specific job placement or continued related training and is outlined in the SEOP using all available and appropriate high school courses.

L. "Program completion" means the student completion of a sequence of approved courses, work-based learning experiences, and/or other prescribed learning experiences as determined by the student education occupation plan (SEOP).

M. "Regional Consortium" means the school districts, applied technology colleges, colleges and universities within the regions that approve applied technology education programs.

N. "Registered Apprenticeship" means a training program that includes on-the-job training in a specific occupation combined with related classroom training and has approval of the Bureau of Apprenticeship and Training.

O. "Related training" means a course or program directly related to an occupation that is compatible with apprenticeship training and is taught in a classroom and approved by the Bureau of Apprenticeship and Training.

P. "Scope and Sequence" means the organization of all applied technology education courses and related academic courses into programs within the high school curriculum that lead to specific skill certification, job placement, continued education or training.

Q. "SEOP" means student education occupation plan.

R. "Skill Certification" means a verification of competent task performance. Verification of the skills standard is provided by an approved state or national program certification process.

S. "Tech Prep" means a planned applied technology education/academic continuum of courses within an applied technology education field beginning in the 9th grade and continuing with post secondary training which culminates in an associate degree, apprenticeship, certificate of completion, or baccalaureate degree.

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

U. "WPU" means weighted pupil unit. The basic unit used to calculate the amount of state funds for which a school district is eligible.

V. "Work-based Learning" means a program in which a student is trained by employment or other activity at a work site, either at place of business, a home, or a farm, supplemented by needed classroom instruction or teacher assistance.

#### **R277-911-2. 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, by Section 53A-15-202 which allows the Board to establish minimum standards for applied technology education programs in the public education system, and Sections 53A-17a-113 and 114 which direct the Board to distribute specific amounts and percentages for specific applied technology education programs and facilitate administration of various programs.

B. This rule establishes standards and procedures for school districts seeking to qualify for funds administered by the Board for applied technology education programs in the public education system.

#### **R277-911-3. Applied Technology Education Program Approval.**

A. Program Planning: applied technology education programs are based on verified training needs of the area and provide students with the competencies necessary to progress in occupations for which an occupational potential exists. Programs are supported by a data base, including:

- (1) local, regional, state, and federal manpower projections;
- (2) student occupational/interest surveys;
- (3) regional job profile;

- (4) advisory committee input; and
- (5) follow-up evaluation and reports.

B. Program Administration: School district applied technology education directors shall meet the requirements specified in Subsections 9(A), (B) and (C).

C. Learning Resources: Within available resources, instructional materials, including textbooks, reference materials, and media, shall reflect current technology, processes, and information for the applied technology education programs being taught.

D. Student Services:

(1) Applied technology education guidance, counseling, and Board approved testing shall be provided for students enrolled in applied technology education programs.

(2) A written plan for placement services shall be developed with the assistance of local advisory committees, business and industry and the Department of Workforce Services.

(3) An SEOP shall be developed for all students. The plan shall include:

- (a) a student's education occupation plans (grades 7-12) including job placement when appropriate;
- (b) all Board graduation requirements;
- (c) evidence of parent, student, and school representative involvement annually;
- (d) attainment of approved workplace skill competencies;
- (e) identification of an applied technology education post-secondary goal and an approved sequence of academic and applied technology education courses.

E. Instruction: Curricula and instruction shall be directly related to business and industry validated competencies. Successful completion of competencies shall be verified by a valid skill certification process. Instruction in proper and safe use of any equipment required for skill certification shall be provided within the approved program.

F. Equipment and Facilities: Equipment and facilities, consistent with the validated competencies identified in the instruction standard, shall be provided and maintained in a manner that meets safety requirements and applicable state and federal laws.

G. Instructional Staff: Counselors and instructional staff shall hold valid Utah teaching licenses with endorsements appropriate for the programs they teach. These may be obtained through an institutional recommendation or through occupational and educational experience verified by the USOE licensure process as outlined in R277-502. Applied technology education program instructors shall keep technical and professional skills current through business/industry involvements in order to ensure that students are provided accurate state-of-the-art information.

H. Equal Educational Opportunity: Applied technology education programs are conducted in agreement with the Board policies and state and federal laws and regulations on access that prohibit discrimination on the basis of race, creed, color, national origin, religion, age, sex, and disability.

I.(1) Applied technology education advisory council: An active advisory council shall be established to review all applied technology education programs annually. The council may serve several school districts or a region. The council reviews the program offerings, quality of programs, and equipment needs.

(2) Program advisory committee: Each state funded approved occupational applied technology education program shall be supported at the school district/regional level by a program advisory committee made up of individuals who are working in the

occupational area. Basic exploratory programs are to have an advisory committee.

J. Applied technology education student leadership organizations: School districts are encouraged to make this training available through nationally-chartered applied technology education student leadership organizations in each program area.

K. Program and instruction evaluation: Each school district, with oversight by local program advisory committee members, shall make an annual evaluation of its applied technology education programs.

**R277-911-4. Disbursement and Expenditure of Applied Technology Education Funds--General Standards.**

A. To be eligible for state applied technology education program funds, a school district shall first expend for applied technology education programs an amount equivalent to the regular WPU for students in approved applied technology education programs, grades ~~seven~~<sup>nine</sup> through twelve, based on prior year ADM, times the current year WPU value, less an amount for indirect costs as computed by the State School Finance Unit.

B. State applied technology education program funds may thereafter be expended only for approved applied technology education programs.

**R277-911-5. Disbursement of Funds--Added Cost Funds.**

A. Weighted pupil units are allocated for the added instructional costs of approved applied technology education programs operated or contracted by school districts. Programs and courses provided through applied technology colleges, and higher education institutions do not qualify for added cost funds except for specific contractual arrangements approved by the Board.

B. All approved applied technology education programs shall receive funds determined by prior year hours of membership for approved programs.

C. Allocations are computed using grades nine through twelve ADM in approved programs for the previous year with a growth factor applied to school districts experiencing growth of one percent or greater in grades nine through twelve except as provided by R277-462 and R277-916.

D. Added cost funds shall be used to cover the added applied technology education program instructional costs of school district programs.

**R277-911-6. Disbursement of Funds--Equipment Set Aside Funds.**

A. Equipment set aside funds are used to pay for applied technology education program equipment needs.

B. Each school district is eligible for a minimum amount of equipment set aside funds.

C. Applicants for funds may submit proposals as individual school districts or as regional groups. All proposals shall show evidence of coordination within a service delivery area. A regional group shall include recommended priorities for funding in its proposal.

**R277-911-7. Disbursement of Funds--Skill Certification.**

A. School districts that demonstrate approved student skill certification may receive additional compensation.

B. To be eligible for skill certification compensation, a school district shall show its student completer has demonstrated mastery of

standards, as established by the Board. An authorized test administrator shall verify student mastery of the skill standards.

C. Skill certification compensation is available only if an approved skill certification assessment is developed for the program.

**R277-911-8. Disbursement of Funds--Applied Technology Education Leadership Organization Funds.**

A. Participating school districts sponsoring applied technology education leadership organizations are eligible for a portion of the funds set aside for this purpose.

B. Qualifying applied technology education leadership organizations shall be nationally chartered and include: SkillsUSA/VICA (Vocational Industrial Clubs of America), DECA (Distributive Education Clubs of America), FFA (Future Farmers of America), HOSA (Health Occupations Students of America), FBLA (Future Business Leaders of America), FCCLA (Family, Career and Community Leaders of America), and ITEA/TSA (International Technology Education Association/Technology Students Association).

C. Up to one percent of the state applied technology education appropriation for school districts shall be allocated to eligible school districts based on documented prior year student membership in approved applied technology education leadership organizations.

D. A portion of funds allocated to school districts for applied technology education leadership organizations shall be used to pay the school district's portion of statewide administrative and national competition costs. The remaining amount shall be available for school district applied technology education leadership organization expenses.

**R277-911-9. Disbursement of Funds--School District WPUs.**

A. Twenty (20) WPUs are allocated to each school district for costs associated with the administration of applied technology education. To encourage multidistrict applied technology education administrative services, 25 WPUs may be allocated to each school district that consolidates applied technology education administrative services with one or more other school district.

B. To qualify for 20 or 25 WPUs per school district, the school district applied technology education director shall:

(1) hold or be in the process of completing requirements for a current Utah Administrative/Supervisory License specified in R277-505; and

(2)(a) have an endorsement in at least one applied technology area listed in R277-518, Vocational-Technical Certificates, and have four years of experience as a full-time applied technology educator; or

(b) complete a prescribed in-service program provided by the USOE within a period of two years following local board appointment as a school district applied technology education director.

B. To qualify for 25 WPUs for consolidated, multi-district administration, the participating school districts shall employ a full-time multi-district applied technology education director.

C. In addition to WPUs appropriated to school districts qualifying according to the above criteria, each approved high school may qualify for funding according to the following criteria:

(1) Ten (10) WPUs are allocated to each high school that:

(a) conducts approved programs in a minimum of two applied technology education areas e.g. agriculture; business; family and consumer sciences; health science and technology; information

technology; marketing; trade and technical education; and technology education.

(b) conducts a minimum of six different state-approved CIP coded courses. Consolidated courses in small schools may count as more than one course as approved by the appropriate state applied technology education specialist(s);

(2) Fifteen (15) WPU's are allocated to each high school that:

(a) conducts approved programs in a minimum of three applied technology education areas;

(b) conducts a minimum of nine different state-approved CIP coded courses. Consolidated courses in small schools may count as more than one course as approved by the appropriate state applied technology education specialist(s);

(c) has at least one approved applied technology education student leadership organization;

(3) Twenty (20) WPU's are allocated to each high school that:

(a) conducts approved programs in a minimum of four applied technology education areas,

(b) conducts a minimum of twelve different state-approved CIP coded courses. Consolidated courses in small schools may count more than one course as approved by the appropriate state applied technology education specialist(s),

(c) has at least two approved applied technology education student leadership organizations;

(4) Twenty-five (25) WPU's are allocated to each high school that:

(a) conducts approved programs in a minimum of five applied technology education areas,

(b) conducts a minimum of fifteen different state-approved CIP coded courses. Consolidated courses in small schools may count more than one course as approved by the appropriate state applied technology education specialist(s),

(c) has at least three approved applied technology education student leadership organizations.

D. Also, a maximum of one approved alternative high school, as outlined in R277-730, per school district may qualify. School districts sharing an alternative school share receive a prorated share.

E. Programs and courses provided through school district technical centers shall not receive funding under this section.

#### **R277-911-10. Disbursement of Funds--School District Technical Centers.**

A. A maximum of forty WPU's may be computed for each school district operating an approved school district center. To qualify under the approved school district technical center provision, the school district shall:

(1) provide at least one facility other than an existing high school as a designated school district technical center;

(2) employ a full-time applied technology education administrator for the center;

(3) enroll a minimum of 400 students in the school district technical center;

(4) prevent unwarranted duplication by the school district technical center of courses offered in existing high schools, applied technology colleges and higher education institutions;

(5) centralize high-cost programs in the school district technical center;

(6) conduct approved programs in a minimum of five applied technology education areas;

(7) conduct a minimum of fifteen different state-approved CIP coded courses.

#### **R277-911-11. Disbursement of Funds--Summer Applied Technology Education Agriculture Programs.**

A. To receive state summer applied technology education agriculture program funds, a school district shall submit to the USOE, an application for approval of the school district's program. Applications shall be received prior to the annual due date specified each year. Notification of approval of the school district's program shall be made within ten calendar days of receiving the application.

B. A teacher of a summer applied technology education agriculture program shall:

(1) hold a valid Utah teaching license, with an endorsement in agriculture, as outlined in R277-911-3G;

(2) develop a calendar of activities which shall be approved by school district administration and reviewed by the state specialist for applied technology education agricultural education;

(3) work a minimum of eight hours a day in the summer applied technology education agriculture program. Exceptions shall be reflected in the calendar of activities and be approved by the school district administration;

(4) not engage in other employment, including self-employment, which conflicts with the teacher's performance in the summer applied technology education agriculture program;

(5) develop and file a weekly schedule and a monthly report outlining accomplishments related to the calendar of activities with the school principal, school district applied technology education director, and the state specialist for agricultural education; and

(6) visit the participating students a minimum of two times during the summer program with a minimum average of four on-site visits to students.

C. College interns may be approved to conduct summer applied technology education agriculture programs upon approval by the state specialist for applied technology education agricultural education.

D. Students enrolled in the summer applied technology education agriculture program shall:

(1) have on file in the teacher's and school district office a student education occupation plan (SEOP) goal related to agriculture;

(2) in conjunction with the student's parent or employer and the teacher, develop an individual plan of activities, including a supervised occupational experience program;

(3) have completed the eighth grade; and

(4) have not have graduated from high school.

E. The USOE applied technology education agricultural education specialist collects data from the program and staff of each school district to ensure compliance with approved standards. A final program report, on forms provided by the USOE, shall be submitted to the USOE Division of School Finance on the annual due date specified.

F. Summer applied technology education agricultural funding is allocated to each school district conducting an approved program for a minimum of 35 students lasting nine weeks. A school district may receive funding for no more than nine weeks or 35 students.

G. School districts operating programs with fewer than 35 students per teacher or for fewer than nine weeks shall receive a prorated share of the summer applied technology education agricultural allocation.

**R277-911-12. Disbursement of Funds - Comprehensive Guidance; Technology, Life, and Careers, and Work-Based Learning Programs.**

A. The board shall distribute funds to school districts consistent with Section 53A-17a-113(2)(3)(4) and (6).

B. School districts shall spend funds distributed for comprehensive guidance consistent with Section 53A-1a-106(2)(b) and R277-462 which explain the purpose and criteria for student education plans (SEP) and student education occupation plans (SEOP).

C. School districts may spend funds allocated under this section to fund work-based learning programs consistent with Section 53A-17a-113(1)(c), other criteria of the Section, R277-915 and R277-916.

D. School districts may spend funds allocated under this section to fund technology, life, and careers programs consistent with Section 53A-17a-113 and R277-916.

**KEY: technical education, applied technology education**

~~April 23,~~ 2002

Notice of Continuation September 12, 2002

Art X Sec 3

53A-15-202

53A-17a-113 through 115

▼ ————— ▼

## Environmental Quality, Air Quality **R307-170** Continuous Emissions Monitoring Program

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 25247

FILED: 09/11/2002, 06:32

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To clarify that supplementary monitoring methods must be chosen from those listed in 40 CFR Part 60, Appendix A.

SUMMARY OF THE RULE OR CHANGE: In Section R307-170-4 in the definition of "Relative Accuracy Audit," changes the reference to Appendix A to Appendix F, and adds a clarification that reference method test procedures are found in 40 CFR Part 60, Appendix A. In Sections R307-170-5 and R307-170-9, delete references to approval of supplemental tests by the executive secretary and add that supplemental test methods are found in 40 CFR Part 60, Appendix A. There is no change in implementation of the rule, as the intent of the existing rule is that the executive secretary would approve only methods found in Appendix A. The amendments clarify that intent.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(c)(i); and 40 CFR Part 60, Appendix A

#### ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: No change in the state budget, as the amendments only clarify how the rule is currently implemented.

❖ LOCAL GOVERNMENTS: The only local governments subject to the rule are those that operate their own electric generating plants. There is no change in their costs, as the amendments only clarify how the rule is currently implemented.

❖ OTHER PERSONS: Affected persons include those operating large industrial facilities that are federally required to maintain continuous emissions monitoring systems. Their costs will not change, as the amendments only clarify how the rule is currently implemented.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Affected persons include those operating large industrial facilities that are federally required to maintain continuous emissions monitoring systems. Their costs will not change, as the amendments only clarify how the rule is currently implemented.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These changes were requested by EPA, and clarify the way the rule is implemented. They do not change the implementation or the cost to 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](mailto: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 10/31/2002

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 10/16/2002 at 1:30 PM, DEQ Building, 168 N 1950 W, Room 201, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 12/05/2002

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

### **R307. Environmental Quality, Air Quality. R307-170. Continuous Emission Monitoring Program. R307-170-4. Definitions.**

The following additional definitions apply to R307-170.

"Accuracy" means the difference between a continuous monitoring system response and the results of an applicable EPA reference method obtained over the same sampling time.

"Averaging Period" means that period of time over which a pollutant or opacity is averaged to demonstrate compliance to an emission limitation or standard.

"Block Averages" means the total time expressed in fractions of hours over which emission data is collected and averaged.

"Calibration Drift" (zero drift and span drift) means the value obtained by subtracting the known standard or reference value from the raw response of the continuous monitoring system.

"Channel" means the pollutant, diluent, or opacity to be monitored.

"CMS Information" means the identifying information for each continuous monitoring system a source is required to install.

"Computer Enhancement" means computerized correction of a monitor's zero drift and span drift to reflect actual emission concentrations and opacity.

"Continuous Emission Monitoring System" (CEMS) means all equipment required to determine gaseous emission rates and to record the resulting data.

"Continuous Monitoring System" (CMS) means all equipment required to determine gaseous emission rates or opacity and to record the data.

"Continuous Opacity Monitoring System" means all equipment required to determine opacity and data recording.

"Cylinder Gas Audit" means an alternative relative accuracy test of a continuous emission monitoring system to determine its precision using gases certified by or traceable to National Institute of Standards and Technology (NIST) in the ranges specified in 40 CFR 60, Appendix F.

"Description Report" means a short but accurate description of events that caused continuous monitoring system irregularities or excess emissions which occurred during the reporting period submitted in the state electronic data report.

"Excess Emission Report" means a report within the state electronic data report which documents the date, time, and magnitude of each excess emission episode occurring during the reporting period.

"Excess Emissions" means the amount by which recorded emissions exceed those allowed by approval orders, operating permits, the state implementation plan, or any other provision of R307.

"Monitor" means the equipment in a continuous monitoring system that analyzes concentration or opacity and generates an electronic signal which is sent to a recording device.

"Monitor Availability" means any period in which both the source of emissions and the continuous monitoring system are operating and the minimum frequency of data capture occurred as required in 40 CFR 60.13.

"Monitor Unavailability" means any period in which the source of emissions is operating and the continuous monitoring system is:

- not operating or minimum data capture did not occur,
- not generating data, not recording data, or data is lost, or
- out-of-control in the case of a continuous emissions monitor used for continuous compliance purposes.

"New Source Performance Standards" (NSPS) means 40 CFR 60, Standards of Performance for New Stationary Sources, incorporated by reference at R307-210.

"Operations Report" means the report of all information required under 40 CFR 60 for utilities and fossil fuel fired boilers.

"Performance Specification" means the operational tolerances for a continuous monitoring system as outlined in 40 CFR 60, Appendix B.

"Precision" means the difference between a continuous monitoring system response and the known concentration of a calibration gas or neutral density filter.

"Quality Assurance Calibrations" means calibrations, drift adjustments, and preventive maintenance activities on a continuous monitoring system.

"Raw Continuous Monitoring System Response" means a continuous monitoring system's uncorrected response used to determine calibration drift.

"Relative Accuracy Audit" means an alternative relative accuracy test procedure outlined in 40 CFR 60, Appendix [A]E, which is used to correlate continuous emission monitoring system data to simultaneously collected reference method test data, as outlined in 40 CFR Part 60, Appendix A, using no fewer than three reference method test runs.

"Relative Accuracy Test Audit" means the primary method of determining the correlation of continuous emissions monitoring system data to simultaneously collected reference method test data, using no fewer than nine reference method test runs conducted as outlined in 40 CFR 60, Appendix A.

"State Electronic Data Report" (SEDR) means the sum total of a source's monitoring activities which occurred during a reporting period.

"Summary Report" means the summary of all monitor and excess emission information which occurred during a reporting period.

"Tamper" means knowingly:

a. to make a false statement, representation, or certification in any application, report, record, plan, or other document filed or required to be maintained under R307-170, or

b. to render inaccurate any continuous monitoring system or device or any method required to maintain the accuracy of the continuous monitoring system or device.

"Valid Monitoring Data" means data collected by an accurately functioning continuous monitoring system while any installation monitored by the continuous monitoring system is in operation.

### **R307-170-5. General Requirements.**

(1) Each source required to operate a continuous monitoring system is subject to the requirements of 40 CFR 60.13 (d) through (j), except as follows:

(a) When minimum emission data points are collected by the continuous monitoring system as required in 40 CFR 60.13 or applicable subparts, quality assurance calibration and maintenance activities shall not count against monitor availability.

(b) a monitor's unavailability due to calibration checks, zero and span checks, or adjustments required in 40 CFR 60.13 or R307-170 will not be considered a violation of R307-170.

(c) Monitor unavailability due to continuous monitoring system breakdowns will not be considered a monitor unavailability violation provided that the owner or operator demonstrates ~~[-to the satisfaction of the executive secretary,]~~ that the malfunction was unavoidable and ~~[is being]~~ was repaired ~~[as]~~ expeditiously ~~[as possible].~~

(d) ~~[Each]~~ To supplement continuous monitor data, a source with minimum continuous monitoring system data collection requirements may conduct ~~[alternative sampling approved in writing by the executive secretary to supplement monitor availability requirements]~~ applicable reference method tests outlined in 40 CFR 60, Appendix A, or as directed in the source's applicable Subpart of the New Source Performance Standards.

(2) Each source shall monitor and record all emissions data during all phases of source operations, including start-ups, shutdowns, and process malfunctions.

(3) Each source operating a continuous emissions monitoring system for compliance determination shall document each out-of-control period in the state electronic data report.

(4) Each continuous monitoring system subject to R307-170 shall be installed, operated, maintained, and calibrated in accordance with applicable performance specifications found in 40 CFR 60 Appendix B and Appendix F.

(5) Each continuous emissions monitoring system shall be configured so that calibration gas can be introduced at or as near to the probe inlet as possible. Each source shall conduct daily calibration zero drift and span drift checks and cylinder gas audits by flowing calibration gases at the probe inlet, or as near to the probe inlet as possible. Daily calibration drift checks and quarterly cylinder gas audit data shall be recorded by the continuous emissions monitoring system electronically to a strip chart recorder, data logger, or data recording devices.

(6) No person shall tamper with a continuous monitoring system.

(7) Any source that constructs two or more emission point sources which may interfere with visible emissions observations shall install a continuous opacity monitor to show compliance with visible emission limitations on each obstructed stack, duct or vent that has a visible emission limitation.

### **R307-170-9. State Electronic Data Report.**

#### (1) General Reporting Requirements.

(a) Each source required to install a continuous monitoring system shall submit the state electronic data report including all information specified in (2) through (10) below. Each source shall submit a complete, unmodified report in an electronic ASCII format specified by the executive secretary.

#### (b) Partial Reports.

(i) If the total duration of excess emissions during the reporting period is less than one percent of the total operating time and the continuous monitoring system downtime is less than five percent of the total operating time, only the summary portion of the state electronic data report need be submitted.

(ii) If the total excess emission during the reporting period is equal to or greater than one percent of the total operating time, or the total monitored downtime is equal to or greater than five percent of the total operating time, the total state electronic data report shall be submitted.

(iii) Each source required to install a continuous monitoring system for the sole purpose of generating emissions inventory data is not required to submit the excess emission report required by (7) below or the excess emission summary required by (6)(b) below unless otherwise directed by the executive secretary.

(c) Frequency of Reporting. Each source subject to this rule shall submit a report to the executive secretary with the following frequency:

(i) Each source shall submit a report quarterly if required by the executive secretary or by 40 CFR Part 60, or if the continuous monitoring system data is used for compliance determination. Each source submitting quarterly reports shall submit them by January 30, April 30, July 30, and October 30 for the quarter ending 30 days earlier.

(ii) Any source subject to this rule and not required to submit a quarterly report shall submit its report semiannually by January 30 and July 30 for the six month period ending 30 days earlier.

(iii) The executive secretary may require any source to submit all emission data generated on a quarterly basis.

#### (2) Source Information.

The report shall contain source information including the company name, name of manager or responsible official, mailing address, AIRS number, phone number, environmental contact name, each source required to install a monitoring system, quarter or quarters covered by the report, year, and the operating time for each source.

#### (3) Continuous Monitoring System Information.

The report shall identify each channel, manufacturer, model number, serial number, monitor span, installation dates and whether the monitor is located in the stack or duct.

#### (4) Monitor Availability Reporting.

(a) The report shall include all periods that the pollutant concentration exceeded the span of the continuous monitoring system by source, channel, start date and time, and end date and time.

(b) Each continuous monitoring system outage or malfunction which occurs during source operation shall be reported by source, channel, start date and time, and end date and time.

(c) When it becomes necessary to supplement continuous monitoring data to meet the minimum data requirements, the source shall use applicable reference methods and procedures as outlined in 40 CFR 60, or as stipulated in the source's applicable Subpart of the New Source Performance Standards. ~~Alternative sampling methods approved in writing by the executive secretary may be used to supplement monitor availability and~~ Supplemental data shall be reported by source, channel, start date and time, and end date and time, and may be used to offset monitor unavailability.

(d) Monitor modifications shall be reported by source, channel, date of modification, whether a support document was submitted, and the reason for the modification.

#### (5) Continuous Monitoring System Performance Specification Audits.

(a) Each source shall submit the results of each relative accuracy test audit, relative accuracy audit and cylinder gas audit. Each source which reports linearity tests may omit reporting cylinder gas audits.

(b) Each relative accuracy test audit shall be reported by source, channel, date of the most current relative accuracy test audit, date of the preceding relative accuracy test audit, number of months between relative accuracy test audits, units of applicable standard, average continuous emissions monitor response during testing, average reference method value, relative accuracy, and whether the continuous emissions monitor passed or failed the test or audit.

(c) A relative accuracy audit shall be reported by source, channel, date of audit, continuous emissions monitor response, relative accuracy audit response, percent precision, pass or fail results, and whether the monitor range is high or low.

(d) Cylinder gas audit and linearity tests shall be reported by source, channel, date, audit point number, cylinder identification, cylinder expiration date, type of certification, units of measurement, continuous emissions monitor response, cylinder concentration, percent precision, pass or fail results, and whether the monitor range is high or low.



## (6) Summary reports.

(a) Each source shall summarize and report each continuous monitoring system outage that occurred during the reporting period in the continuous monitoring system performance summary report. The summary must include the source, channels, monitor downtime as a percent of the total source operating hours, total monitor downtime, hours of monitor malfunction, hours of non-monitor malfunction, hours of quality assurance calibrations, and hours of other known and unknown causes of monitor downtime. A source operating a backup continuous monitoring system must account for monitor unavailability only when accurate emission data are not being collected by either continuous monitoring system.

(b) The summary report shall contain a summary of excess emissions which occurred during the reporting period unless the continuous monitoring system was installed to document compliance with an emission cap or to generate data for annual emissions inventories.

(i) Each source with multiple emission limitations per channel being monitored shall summarize excess emissions for each emission limitation.

(ii) The emission summary must include the source, channels, total hours of excess emissions as a percent of the total source operating hours, hours of start-up and shutdown, hours of control equipments problems, hours of process problems, hours of other known and unknown causes, emission limitation, units of measurement, and emission limitation averaging period.

(c) When no continuous monitoring unavailability or excess emissions have occurred, this shall be documented by placing a zero under each appropriate heading.

## (7) Excess Emissions Report.

(a) The magnitude and duration of all excess emissions shall be reported on an hourly basis in the excess emissions report.

(i) The duration of excess emissions based on block averages shall be reported in terms of hours over which the emissions were averaged. Each source that averages opacity shall average it over a six minute block and shall report the duration of excess opacity in tenths of an hour. Sources using a rolling average shall report the duration of excess emissions in terms of the number of hours being rolled into the averaging period.

(ii) Sources with multiple emission limitations per channel being monitored shall report the magnitude of excess emissions for each emission limitation.

(b) Each period of excess emissions that occurs shall be reported. Each episode of excess emission shall be accompanied with a reason code and action code which links the excess emission to a specific description which describes the events of the episode.

## (8) Operations Report.

Each source operating fossil fuel fired steam generators subject to 40 CFR 60, Standards of Performance for New Stationary Sources, shall submit an operations report.

## (9) Signed Statement.

(a) Each source shall submit a signed statement acknowledging under penalties of law that all information contained in the report is truthful and accurate, and is a complete record of all monitoring related events which occurred during the reporting period. In addition, each source with an operating permit issued under R307-415 shall submit the signed statement required in R307-415-5d.

## (10) Descriptions.

Each source shall submit a narrative description explaining each event of monitor unavailability or excess emissions. Each description also shall be accompanied with reason codes and action

codes that will link descriptions to events reported in the monitoring information and excess emission report.

**KEY: air pollution, monitoring[±], continuous monitoring[±]  
[April 1, 1999]2002**

**Notice of Continuation August 7, 2000**

**19-2-101**

**19-2-104(1)(c)**

**19-2-115(3)(b)**

**40 CFR 60**



## Environmental Quality, Drinking Water R309-700

### Utah Drinking Water Project Loan, Credit Enhancement, Interest Buy- Down, and Hardship Grant Program: Policies and Guidelines

#### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 25312

FILED: 09/16/2002, 14:18

#### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Expand the definitions contained within the rule, add the definition of "Emergency" and "Technical Assistance," change wording in item 4 of Table 3 concerning "regionalization," and add a section describing "Technical Assistance."

SUMMARY OF THE RULE OR CHANGE: Expand the definitions contained within the rule, add the definition of "Emergency" and "Technical Assistance" (all in Section R309-700-3), change wording in item 4 of Table 3 concerning "regionalization" (see Section R309-700-5), and add a section describing "Technical Assistance" (Section R309-700-8).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104; Title 73, Chapter 10b; and Title 73, Chapter 10c

#### ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--Since the proposed amendments simply reintroduce certain definitions previously moved to Rule R309-110 so that they are convenient to applicants; and since by adding a new definition for technical assistance which does not add any required time or expense for division staff as is the case with adding "emergency" to the criteria for the Board's prioritization of projects; or by changing the wording in item 4 of Table 3 which allows the Board, in effect to not penalize a system where regionalization is not possible; and since other amendments are simply spelling corrections or reference corrections there is no increase or reduction to the State budget as a result of these proposed changes.

❖ LOCAL GOVERNMENTS: Little to None--Some community projects that previously would not have been considered an

"emergency," may now be considered such and eligible for technical assistance.

❖ OTHER PERSONS: None--There is no increase or reduction in the impact these changes will have on persons performing engineering work or financial consulting for loan applicants.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Some loan applicants may receive technical assistance without need to repay as a result of the changes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The department agrees that the proposed changes to this rule will have no fiscal impact on water systems applying for or receiving financial assistance, nor will it impact any of the affiliated businesses such as engineering firms, escrow agents, bond counselors, or financial advisors which provide services to the applicants.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Bill Birkes at the above address, by phone at 801-536-4201, by FAX at 801-536-4211, or by Internet E-mail at bbirkes@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 10/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/01/2002

AUTHORIZED BY: Kevin Brown, Director

### R309. Environmental Quality, Drinking Water.

**R309-700. Financial Assistance: State Drinking Water Project Revolving Loan Program**~~Utah Drinking Water Project Loan, Credit Enhancement, Interest Buy-Down, and Hardship Grant Program: Policies and Guidelines~~.

#### R309-700-1. Purpose.

This rule establishes criteria for financial assistance to public drinking water systems in accordance with Title 73, Chapter 10 [b-]c, Utah Code Annotated using funds made available by the Utah legislature from time to time for this purpose.

#### R309-700-2. Statutory Authority.

The authority for the Department of Environmental Quality acting through the Drinking Water Board to issue loans to political subdivisions to finance all or part of drinking water project costs and to enter into "credit enhancement agreements", "interest buy-down agreements", and "Hardship Grants" is provided in Chapter [10b and ]10c, Title 73, Utah Code [Annotated 1953].

#### R309-700-3. Definitions and Eligibility.

Title 73, Chapter 10c, subsection 4(2)(a)[~~b-6(1)(a)~~] limits eligibility for financial assistance under this section to political subdivisions.

Definitions for terms used in this rule are given in R309-110. Definitions for terms specific to this rule are given below.

"Board" means the Drinking water Board.

"Drinking Water Project" means any work or facility necessary or desirable to provide water for human consumption and other domestic uses. Its scope includes collection, treatment, storage, and distribution facilities.

"Project Costs" include the cost of acquiring and constructing any project including, without limitation: the cost of acquisition and construction of any facility or any modification, improvement, or extension of such facility; any cost incident to the acquisition of any necessary project, easement or right of way, except property condemnation cost, which are not eligible costs; engineering or architectural fees, legal fees, fiscal agents' and financial advisors' fees; any cost incurred for any preliminary planning to determine the economic and engineering feasibility of a proposed project; costs of economic investigations and studies, surveys, preparation of designs, plans, working drawings, specifications and the inspection and supervision of the construction of any facility; Hardship Grant Assessments and interest accruing on loans made under this program during acquisition and construction of the project; and any other cost incurred by the Board or the Department of Environmental Quality, in connection with the issuance of obligation to evidence any loan made to it under the law.

"Drinking Water Project Obligation" means any bond, note or other obligation issued to finance all or part of the cost of acquiring, constructing, expanding, upgrading or improving a drinking water project, including, but not limited to, preliminary planning, studies, surveys, engineering or architectural fees, and preparation of plans and specifications.

"Credit Enhancement Agreement" means any agreement entered into between the Board, on behalf of the State, and an eligible water system for the purpose of providing methods and assistance to eligible water systems to improve the security for and marketability of drinking water project obligations.

"Eligible Water System" means any community drinking water system which is owned by a political subdivision of the State.

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

"Financial Assistance" means a project loan, credit enhancement agreement, interest buy-down agreement, or technical assistance.

"Interest" means an assessment applied to loan recipients. The assessment shall be calculated as a percentage of principal.

"Emergency" means an unexpected, serious occurrence of situation requiring urgent or immediate action. With regard to a water system this would be a situation resulting from the failure of equipment or other infrastructure, or contamination of the water supply, which threatens the health and / or safety of the public / water users.

"Technical Assistance" means financial assistance provided for a feasibility study or master plan, to identify and / or correct system deficiencies, to help a water system overcome other technical problems. The system receiving said technical assistance may or

may not be required to repay the funds received. If repayment is required, the Board will establish the terms of repayment.

#### **R309-700-4. Application and Project Initiation Procedures.**

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

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

(2) A completed application form, project engineering report as appropriate, and financial capability assessment are submitted to the Board. Comments from the local health department and/or district engineer shall accompany the application. Comments from other interested parties such as an association of governments will also be accepted.

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

(4) The Board "Authorizes" financial assistance for the project on the basis of the feasibility report prepared by the staff, designates whether a loan, credit enhancement agreement, interest buy-down agreement, hardship grant or any combination thereof, is to be entered into, and approves the project schedule (see R309-700-12[44]). The Board shall authorize a hardship grant only if it determines that other financing alternatives are unavailable or unreasonably expensive to the applicant. If the applicant seeks financial assistance in the form of a loan of amounts in the security account established pursuant to Chapter 10c, Title 73 "Utah Code[Annotated]"[(1953)], which loan is intended to provide direct financing of projects costs, then the Board shall authorize such loan only if it determines that credit enhancement agreements, interest buy-down agreements and other financing alternatives are unavailable or unreasonably expensive to the applicant or that a loan represents the financing alternative most economically advantageous to the state and the applicant; provided, that for purposes of this paragraph and for purposes of Section 73-10c-4(2), Utah Code[Annotated(1953)], the term "loan" shall not include loans issued in connection with interest buy-down agreements as described in R309-700-10[9](2) or in connection with any other interest buy-down arrangement.

(5) Planning Advance - The applicant requesting a Planning Advance must attend a preapplication meeting, complete an application for a Planning Advance, prepare a plan of study, satisfactorily demonstrate procurement of planning services, and prepare a draft contract for planning services including financial evaluations.

(6) Design Advance - The applicant requesting a Design Advance must have completed an engineering plan which meets program requirements.

(7) The project applicant must demonstrate public support for the project.

(8) For financial assistance mechanisms when the applicant's bond is purchased by the Board, the project applicant's bond documentation, including an opinion from legal counsel experienced in bond matters that the drinking water project obligation is a valid and binding obligation of the applicant (see R309-700-13[42](3)), must be submitted to the Assistant Attorney General for preliminary approval and the applicant shall publish a Notice of Intent to issue bonds in a newspaper of general circulation pursuant to the Utah Code[Annotated(1953)], Section 11-14-21. For financial assistance

mechanisms when the applicant's bond is not purchased by the Board, the applicant shall submit a true and correct copy of an opinion from legal counsel experienced in bond matters that the drinking water project obligation is a valid and binding obligation of the applicant.

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

(10) The Board issues a Plan Approval for plans and specifications and concurs in bid advertisement.

(11) If a project is designated to be financed by a loan or an interest buy-down agreement as described in R309-700-10[9](2), from the Board, to cover any part of project costs an account supervised by the applicant and the Board will be established by the applicant to assure that loan funds are used only for qualified project costs. If financial assistance for the project is provided by the Board in the form of a credit enhancement or interest buy-down agreement as described in R309-700-10[9](1) all project funds will be maintained in a separate account and a quarterly report of project expenditures will be provided to the Board.

(12) For a revenue bond a User Charge Ordinance must be submitted to the Board for review and approval to insure adequate provisions for debt retirement and/or operation and maintenance. For a general obligation bond, a User Charge Ordinance must be submitted to the Board for review and approval to insure the system will have adequate resources to provide acceptable service.

(13) A plan of operation, for the project after construction is complete, including adequate staffing with an operator, certified at the appropriate level in accordance with R309-301 in responsible charge, training, and start up procedures to assure efficient operation and maintenance of the facilities, must be submitted by the applicant and approved by the Board.

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

(15) The applicant's attorney must provide an opinion to the Board regarding legal incorporation of the applicant, valid legal title to rights-of-way and the project site, and adequacy of bidding and contract documents.

(16) A position fidelity bond must be provided for the treasurer or other local staff handling the repayment funds and revenues produced by the applicant's system.

(17) CREDIT ENHANCEMENT AGREEMENT AND INTEREST BUY-DOWN AGREEMENT ONLY - The Board issues the credit enhancement agreement or interest buy-down agreement setting forth the terms and conditions of the security or other forms of assistance provided by the agreement and notifies the applicant to sell the bonds (See R309-700-9[8] and -10[9]).

(18) CREDIT ENHANCEMENT AGREEMENT AND INTEREST BUY-DOWN AGREEMENT ONLY - The applicant sells the bonds on the open market and notifies the Board of the terms of sale. If a credit enhancement agreement is being utilized, the bonds sold on the open market shall contain the legend required by Section 73-10c-6(3)(d), Utah Code[Annotated(1953)]. If an interest buy-down agreement is being utilized, the bonds sold on the open market shall bear a legend which makes reference to the interest buy-down agreement and states that such agreement does not constitute a pledge of or charge against the general revenues, credit or taxing powers of the state and that the holder of any such bond may look only to the applicant and the funds and revenues

pledged by the applicant for the payment of interest and principal on the bonds.

(19) The applicant opens bids for the project.

(20) LOAN ONLY - The Board gives final approval to purchase the bonds and execute the loan contract (see R309-700-4(23)).

(21) LOAN ONLY - The final closing of the loan is conducted.

(22) A preconstruction conference shall be held.

(23) The applicant issues a written notice to proceed to the contractor.

(24) The applicant must have in place a Water Management and Conservation Plan.

**R309-700-5. Loan, Credit Enhancement, Interest Buy-Down, and Hardship Grant Consideration Policy.**

(1) Board Priority Determination. In determining the priority for financial assistance the Board shall consider:

(a) The ability of the applicant to obtain funds for the drinking water project from other sources or to finance such project from its own resources;

(b) The ability of the applicant to repay the loan or other project obligations;

(c) Whether a good faith effort to secure all or part of the services needed from the private sector through privatization has been made; and

(d) Whether the drinking water project:

(i) meets a critical local or state need;

(ii) is cost effective;

(iii) will protect against present or potential hazards;

(iv) is needed to comply with the minimum standards of the Federal Safe Drinking Water Act, 42 USC, 300f, et. seq. or similar or successor statute;

(v) is needed to comply with the minimum standards of the Utah Safe Drinking Water Act, Title 19, Chapter 4 or similar or successor statute.

(vi) is needed as a result of an Emergency.

(e) The overall financial impact of the proposed project on the citizens of the community, including direct and overlapping indebtedness, tax levies, user charges, impact or connection fees, special assessments, etc., resulting from the proposed project, and anticipated operation and maintenance costs versus the median income of the community;

(f) Consistency with other funding source commitments which may have been obtained for the project;

(g) The point total from an evaluation of the criteria listed in Table 1;

TABLE 1

NEED FOR PROJECT	POINTS
<b>1. PUBLIC HEALTH AND WELFARE (SELECT ONE)</b>	
A. There is evidence that waterborne illnesses have occurred	15
B. There are reports of illnesses which may be waterborne	10
C. No reports of waterborne illness, but high potential for such exists	5
D. No reports of possible waterborne illness and low potential for such exists	0
<b>2. WATER QUALITY RECORD (SELECT ONE)</b>	
A. Primary Maximum Contaminant Level (MCL) violation more than 6 times in preceding 12 months	15
B. In the past 12 months violated a primary MCL 4 to 6 times	12

C. In the past 12 months violated a primary MCL 2 to 3 times or exceeded the Secondary Drinking Water Standards by double	9
D. In the past 12 months violated MCL 1 time	6
E. Violation of the Secondary Drinking Water Standards	5
F. Does not meet all applicable MCL goals	3
G. Meets all MCLs and MCL goals	0

**3. VERIFICATION OF POTENTIAL SHORTCOMINGS (SELECT ONE)**

A. Has had sanitary survey within the last year	5
B. Has had sanitary survey within the last five years	3
C. Has not had sanitary survey within last five years	0

**4. GENERAL CONDITIONS OF EXISTING FACILITIES (SELECT ALL THOSE WHICH ARE TRUE AND PROJECT WILL REMEDY)**

A. The necessary water treatment facilities do not exist, not functioning, functioning but do not meet the requirements of the Utah Public Drinking Water Rules (UPDWR)	10
B. Sources are not developed or protected according to UPDWR	10
C. Source capacity is not adequate to meet current demands and system occasionally goes dry or suffers from low pressures	10
D. Significant areas within distribution system have inadequate fire protection	8
E. Existing storage tanks leak excessively or are structurally flawed	5
F. Pipe leak repair rate is greater than 4 leaks per 100 connections per year	2
G. Existing facilities are generally sound and meeting existing needs	0

**5. ABILITY TO MEET FUTURE DEMANDS (Select One)**

A. Facilities have inadequate capacity and cannot reliably meet current demands	10
B. Facilities will become inadequate within the next three years	5
C. Facilities will become inadequate within the next five to ten years	3

**6. OVERALL URGENCY (Select One)**

A. System is generally out of water. There is no fire protection or water for flushing toilets	10
B. System delivers water which cannot be rendered safe by boiling	10
C. System delivers water which can be rendered safe by boiling	8
D. System is occasionally out of water	5
E. Situation should be corrected, but is not urgent	0

TOTAL POSSIBLE POINTS FOR NEED FOR PROJECT 100

(h) Other criteria that the Board may deem appropriate.

(2) Drinking Water Board Financial Assistance Determination.

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

(a) An evaluation based upon the criteria in Tables 2 and 3 of the applicant's financial condition, the project's impact on the community, and the applicant's commitment to operating a responsible water system.

The interest rate to be charged by the Board for its financial assistance will be computed using the number of points assigned to the project from Table 2 to reduce, in a manner determined by Board resolution from time to time, the most recent market yields for "A" rated, tax exempt, 20 year municipal revenue bonds. The interest rate so calculated will be assigned to the financial assistance. This interest rate may be further reduced, in a manner determined by Board resolution from time to time, by the ratio of the number of points assigned to the applicant's water system from Table 3 to the total points available.

For hardship grant consideration, exclusive of advances for planning and design, the estimated annual cost of drinking water service for the average residential user should exceed 1.75% of the median adjusted gross household income from the most recent available State Tax Commission records. The Board will also consider the applicant's level of contribution to the project.

TABLE 2

FINANCIAL CONSIDERATIONS		POINTS
1. COST EFFECTIVENESS RATIO (SELECT ONE)		
A. Project cost \$0 to \$500 per benefitting connection		15
B. \$501 to \$1,500		12
C. \$1,501 to \$2,000		9
D. \$2,001 to \$3,000		6
E. \$3,001 to \$5,000		3
F. \$5,001 to \$10,000		1
G. Over \$10,000		0
2. PRIVATE SECTOR OR OTHER FUNDING, BUT NOT OWN CONTRIBUTION (SELECT ONE)		
A. A reasonable search for it has been made without success		10
B. Will provide greater than 50% of project cost		10
C. Will provide 25 to 49% of project cost		8
D. Will provide 10 to 24% of project cost		5
E. Will provide 1 to 9% of project cost		3
F. Has not been investigated		0
3. CURRENT LOCAL MEDIAN ADJUSTED GROSS INCOME (AGI) (SELECT ONE)		
A. Less than 70% of State Median AGI		15
B. 71 to 90% of State Median AGI		12
C. 91 to 115% of State Median AGI		9
D. 116 to 135% of State Median AGI		6
E. 136 to 160% of State Median AGI		3
F. Greater than 161% of State Median AGI		0
4. APPLICANT'S COMMITMENT TO PROJECT		
4A. PROJECT FUNDING CONTRIBUTED BY APPLICANT (SELECT ONE)		
a. Greater than 25% of project funds		15
b. 10 to 25% of project funds		12
c. 5 to 9% of project funds		9
d. 2 to 4% of project funds		6
e. Less than 2% of project funds		0
4B. RESIDENTS ARE WILLING TO (AND IT IS CONFIRMED BY RESIDENTS) INCREASE WATER BILL BY (SELECT ONE)		
a. Greater than \$10.00 per month per connection		15
b. \$5.01 to \$10.00 per month per connection		11
c. \$2.51 to \$5.00 per month per connection		7
d. \$1.00 to \$2.50 per month per connection		3
e. Less than \$1.00 per month per connection		0
5. ABILITY TO REPAY LOAN		
5A. WATER BILL (INCLUDING TAXES) AFTER PROJECT IS BUILT RELATIVE TO LOCAL MEDIAN ADJUSTED GROSS INCOME (SELECT ONE)		
a. Greater than 2.50% of local median AGI		15
b. 2.01 to 2.50% of local median AGI		11
c. 1.51 to 2.00% of local median AGI		7
d. 1.01 to 1.50% of local median AGI		3
e. 0 to 1.00% of local median AGI		0
5B. TOTAL DEBT LOAD (PRINCIPAL ONLY) OF APPLICANT AFTER PROJECT IS CONSTRUCTED (INCLUDING WATER AND SEWER DEBT, LIGHTING DEBT, SCHOOL DEBT, ETC.) (SELECT ONE)		
a. Greater than 12% of fair market value		15
b. 8.1 to 12% of fair market value		12
c. 4.1 to 8.0% of fair market value		9
d. 2.1 to 4.0% of fair market value		6
e. 1.0 to 2.0% of fair market value		3
f. Less than 1% of fair market value		0
TOTAL POSSIBLE POINTS FOR FINANCIAL NEED		100

TABLE 3

SPECIAL INCENTIVES		POINTS
1. Applicant has secured adequate protection zones for all existing drinking water sources		5
2. Applicant has developed a master plan to guide water system growth in the next 20 years		5
3. Applicant has an established replacement fund		5
4. Project will create a new regionalization plan or maintain integrity of existing regionalization plan if regionalization is possible in the judgement of the Board. <u>If not, the points will not be assigned and the total possible points will be 35.</u>		5
5. Applicant has established a backflow prevention program		5
6. Applicant has established a rate structure to encourage water conservation		5
7. Project is necessary because of unforeseen circumstances		5
8. Applicant has a written emergency response plan		5
TOTAL POSSIBLE POINTS FOR SPECIAL INCENTIVES		40

- (b) Optimizing return on the security account while still allowing the project to proceed.
- (c) Local political and economic conditions.
- (d) Cost effectiveness evaluation of financing alternatives.
- (e) Availability of funds in the security account.
- (f) Environmental need.
- (g) Other criteria the Board may deem appropriate.

**R309-700-6. Planning Advance.**

(1) A Planning advance can only be made to a political subdivision which demonstrates a financial hardship which prevents the completion of project planning.

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

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

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

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

**R309-700-7. Design Advance.**

(1) A Design Advance can only be made to a political subdivision which demonstrates a financial hardship which prevents the completion of project design.

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

(3) The applicant must demonstrate that all funds necessary to complete the project design will be available prior to commencing the design effort. The Design Advance will be deposited with these

other funds into a supervised escrow account at the time the grant agreement between the applicant and the Board is executed.

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

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

**R309-700-8. Technical Assistance.**

The Board will establish a fund (or account) into which the proceeds of an annual fee on loans will be placed. These funds will be used to finance technical assistance for eligible water systems.

This fund will provide low interest loans for technical assistance and any other eligible purpose as defined by Section 1452 of the Safe Drinking Water Act (SDWA) Amendments of 1996 to water systems that are eligible for loans. Repayment of these loans may be waived in whole or in part (grant funds) by the Board whether or not the borrower is considered for a hardship grant.

(1) The Board will establish a fee to be assessed against loans authorized under the Federal SRF Loan Program. The revenue generated by this fee will be placed in a new fund called the "SRF Technical Assistance Fund".

(2) The amount will be assessed as a percentage of the Principal Balance of the loan on an annual basis, the same as the annual interest is assessed. The borrower will pay the fee annually when paying the principal and interest.

(3) The Board will set / change the amount of the fee from time to time as they determine meets the needs of the program.

(4) This fee will be part of the "effective rate" calculated for the loan using Table 2 and Table 3, R309-700. This fee will not be charged in addition to said effective rate. After the effective rate has been calculated for the loan using Table 2 and Table 3, the technical assistance fee will be subtracted from it.

(5) The proceeds of the fund will be used as defined above or as modified by the Board in compliance with Section 1452 of the SDWA Amendments of 1996.

**R309-700-9[8]. Credit Enhancement Agreements.**

The Board will determine whether a project may receive all or part of a loan, credit enhancement agreement or interest buy-down agreement subject to the criteria in R309-700-5. To provide security for project obligations the Board may agree to purchase project obligations of applicants or make loans to the applicants to prevent defaults in payments on project obligations. The Board may also consider making loans to the applicants to pay the cost of obtaining letters of credit from various financial institutions, municipal bond insurance, or other forms of insurance or security for project obligations. In addition, the Board may consider other methods and assistance to applicants to properly enhance the marketability of or security for project obligations.

**R309-700-10[9]. Interest Buy-Down Agreements.**

Interest buy-down agreements may consist of:

(1) A financing agreement between the Board and applicant whereby a specified sum is loaned or granted to the applicant to be placed in a trust account. The trust account shall be used exclusively to reduce the cost of financing for the project.

(2) A financing agreement between the Board and the applicant whereby the proceeds of bonds purchased by the Board is

combined with proceeds from publicly issued bonds to finance the project. The rate of interest on bonds purchased by the Board may carry an interest rate lower than the interest rate on the publicly issued bonds, which when blended together will provide a reduced annual debt service for the project.

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

**R309-700-11[10]. Loans.**

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

**R309-700-12[11]. Project Authorization (Reference R309-700-4(4)).**

A project may be "Authorized" for a loan, credit enhancement agreement, interest buy-down agreement, or hardship grant in writing by the Board following submission and favorable review of an application form, engineering report (if required), financial capability assessment and Staff feasibility report. The engineering report must include the preparation of a cost effective analysis of feasible project alternatives capable of meeting State and Federal drinking water requirements. It shall include consideration of monetary costs including the present worth or equivalent annual value of all capital costs, operation, maintenance, and replacement costs. The alternative selected must be the most economical means of meeting applicable State and Federal drinking water requirements over the useful life of the facility while recognizing environmental and other nonmonetary considerations. If it is anticipated that a project will be a candidate for financial assistance from the Board, the Staff should be contacted, and the plan of study for the engineering report (if required) should be approved before the planning is initiated.

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

Project Authorization is not a contractual commitment and is conditioned upon the availability of funds at the time of loan closing or signing of the credit enhancement, interest buy-down, or grant agreement and upon adherence to the project schedule approved at that time. If the project is not proceeding according to the project schedule the Board may withdraw the project Authorization so that projects which are ready to proceed can obtain necessary funding.

Extensions to the project schedule may be considered by the Board, but any extension requested must be fully justified.

**R309-700-13[42]. Financial Evaluations.**

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

(2) Hardship Grants will be evidenced by a grant agreement.

(3) In providing any form of financial assistance in the form of a loan, the Board may purchase bonds of the applicant only if the bonds are accompanied by a legal opinion of recognized municipal bond counsel to the effect that the bonds are legal and binding under applicable Utah law (including, if applicable, the Utah Municipal Bond Act). For bonds of \$150,000 or less the Board will not require this opinion.

(a) In providing any form of financial assistance in the form of a loan, the Board may purchase either a taxable or non-taxable bonds; provided that it shall be the general preference of the Board to purchase bonds issued by the applicant only if the bonds are tax exempt and are accompanied by a legal opinion of recognized municipal bond counsel to the effect that interest on the bonds is exempt from federal income taxation. Such an opinion must be obtained by the applicant in the following situations:

(i) Bonds which are issued to finance a project which will also be financed in part at any time by the proceeds of other bonds which are exempt from federal income taxation.

(ii) Bonds which are not subject to the arbitrage rebate provisions of Section 148 of the Internal Revenue Code of 1986 (or successor provision of similar intent), including, without limitation, bonds covered by the "small governmental units" exemption contained in Section 148(f)(4)(c) of the Internal Revenue Code of 1986 (or any successor provision of similar intent) and bonds which are not subject to arbitrage rebate because the gross proceeds from the loan will be completely expended within six months after the issuance of such bonds.

(b) In any other situations, the Board may purchase taxable bonds if it determines, after evaluating all relevant circumstances including the applicant's ability to pay, that the purchase of the taxable bonds is in the best interests of the State and applicant.

(c) If more than 25 percent of the project is to serve industry, bond counsel must evaluate the loan to ensure the tax exempt status of the loan fund.

(d) Revenue bonds purchased by the Board shall be secured by a pledge of water system revenues, and it is the general policy of the Board that the pledge of water revenues for the payment of debt service (principal and/or interest) on a particular revenue bond be on a parity with the pledge of those water revenues as security for the debt service payments on all other bonds or other forms of indebtedness which are secured by the water revenues.

(4) The Board will consider the financial feasibility and cost effectiveness evaluation of the project in detail. The financial capability assessment must be completed as a basis for the review. The Board will generally use these reports to determine whether a project will be Authorized to receive a loan, credit enhancement agreement, interest buy-down agreement, or hardship grant (Reference R309-700-8, -9 and -10). If a project is Authorized to receive a loan, the Board will establish the portion of the construction cost to be included in the loan and will set the terms for

the loan. The Board will require the applicants to repay the loan as rapidly as is reasonably consistent with the financial capability of the applicant. It is the Board's intent to avoid repayment schedules which would exceed the design life of the project facilities.

(5) Normal engineering and investigation costs incurred by the Department of Environmental Quality or Board during preliminary project investigation and prior to Board Authorization will not become a charge to the applicant if the project is found infeasible, denied by the Board, or if the applicant withdraws the Application prior to the Board's Authorization. If the credit enhancement agreement or interest buy-down agreement does not involve a loan of funds from the Board, then administrative costs will not be charged to the project. However, if the project is Authorized to receive a loan or grant of funds from the Board, all costs from the beginning of the project will be charged to the project and paid by the applicant as a part of the total project cost. If the applicant decides not to build the project after the Board has Authorized the project, all costs accruing after the Authorization will be reimbursed by the applicant to the Board.

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

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

(8) LOANS AND INTEREST BUY-DOWN AGREEMENTS ONLY - The Board may require, as part of the loan or interest buy-down agreement, that any local funds which are to be used in financing the project be committed to construction prior to or concurrent with the committal of State funds.

(9) The Board will not forgive the applicant of any payment after the payment is due.

(10) The Board will require a debt service reserve account be established by the applicant at or before the loan is closed. Deposits to that account shall be made at least annually in the amount of one-tenth of the annual payment on the bond(s) purchased by the Board and shall continue until the total amount in the debt service reserve fund is equal to the annual payment. The debt service reserve account shall be continued until the bond is retired. Annual reports/statements will be required. Failure to maintain the reserve account will constitute a technical default on the bond(s) and may result in penalties being assessed. Annual reports/statements will be required.

(11) The Board will require a capital facilities replacement reserve account be established at or before the loan is closed. Deposits to that account shall be made at least annually in the amount of five percent (5%) of the applicant's annual drinking water system budget, including depreciation, unless otherwise specified by the Board at the time of loan authorization, until the loan is repaid. This fund shall not serve as security for the payment of principal or interest on the loan. The applicant shall adopt such resolutions as necessary to limit the use of the fund to construct capital facilities for its water system and to notify the Board prior to making any disbursements from the fund so the Board can confirm that any expenditure is for an acceptable purpose. The applicant will not need the consent of the Board prior to making any expenditure from the fund. Failure to maintain the reserve account will constitute a technical default on the bond(s) and may result in penalties being assessed. Annual reports/statements will be required.

(12) If the Board is to purchase a revenue bond, the Board will require that the applicant's water rates be established such that sufficient net revenue will be raised to provide at least 125% (or such other amount as the Board may determine) of the total annual debt service.

**R309-700-14[13]. Committal of Funds and Approval of Agreements.**

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

**R309-700-15[14]. Construction.**

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

**KEY: loans, interest buy-down, credit enhancement, hardship grant**

~~[August 15, 2000]~~

Notice of Continuation October 31, 1997

19-4-104

~~[73-10b]~~

73-10c



**Environmental Quality, Drinking Water  
R309-705**

**Financial Assistance: Federal Drinking Water Project Revolving Loan Program**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 25313

FILED: 09/16/2002, 14:24

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Expand the criteria for consideration as a "Disadvantaged Community," add the definition of "Emergency" and "Technical Assistance," add a subsection describing Technical Assistance, remove Second Home Subdivisions from prohibited eligibility, change wording in item 1 of Table 2 concerning "regionalization," and add a section describing "Emergency Assistance."

SUMMARY OF THE RULE OR CHANGE: Expand the criteria for consideration as a "Disadvantaged Community," add the definition of "Emergency" and "Technical Assistance" (all in Section R309-705-3), add a subsection describing Technical Assistance (see Subsection R309-705-4(2)(d)), remove Second Home Subdivisions from prohibited eligibility (see Subsection R309-705-4(3)(e)), change wording in item 1 of Table 2 concerning "regionalization" (see Subsection R309-705-6(2)), and add a section describing "Emergency Assistance" (see Section R309-705-9).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104 and Title 73, Chapter 10c

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--Since the proposed amendment simply modifies the definition of "disadvantaged communities" to include criteria presently used in Rule R309-700; and since the adding of the definition for "emergency", "technical assistance", and "SRF technical assistance fund" does not add any required time or expense for division staff; or by changing the wording in item 1 of Table 2 which allows the Board, in effect to not penalize a system where regionalization is not possible; there is no increase or reduction to the State budget as a result of these proposed changes.

❖ LOCAL GOVERNMENTS: Little to None--Some communities that would have not been considered a "disadvantaged community" by the previous definition, may now be considered such and eligible for principal forgiveness or negative interest, reducing their debt service for an approved project.

❖ OTHER PERSONS: None--There is no increase or reduction in the impact these changes will have on persons performing engineering work or financial consulting for loan applicants.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Some loan applicants may receive lower interest rates or principal forgiveness as a result of the change in the definition of "disadvantaged community."

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The department agrees that the proposed changes to this rule will have little to no fiscal



impact on water systems applying for or receiving financial assistance, unless they are considered "disadvantaged communities"; nor will it impact any of the affiliated businesses such as engineering firms, escrow agents, bond counselors, or financial advisors which provide services to the applicants.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Bill Birkes at the above address, by phone at 801-536-4201, by FAX at 801-536-4211, or by Internet E-mail at bbirkes@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 10/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/01/2002

AUTHORIZED BY: Kevin Brown, Director

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

#### **R309-705. Financial Assistance: Federal Drinking Water Project Revolving Loan Program.**

##### **R309-705-1. Purpose.**

The purpose of this rule is to establish criteria for financial assistance to public drinking water system in accordance with a federal grant established under 42 U.S.C. 300j et seq., federal Safe Drinking Water Act.

##### **R309-705-2. Statutory Authority.**

The authority for the Department of Environmental Quality acting through the Drinking Water Board to issue financial assistance for drinking water projects from a federal capitalization grant is provided in 42 U.S.C. 300j et seq., federal Safe Drinking Water Act, and Title 73, Chapter 10c, Utah Code[Unannotated].

##### **R309-705-3. Definitions.**

Definitions for general terms used in this rule are given in R309-110. Definitions for terms specific to this rule are given below.

"Board" means the Drinking Water Board.

"Drinking Water Project" means any work or facility necessary or desirable to provide water for human consumption and other domestic uses. Its scope includes collection, treatment, storage, and distribution facilities.

"Project Costs" include the cost of acquiring and constructing any project including, without limitation: the cost of acquisition and construction of any facility or any modification, improvement, or extension of such facility; any cost incident to the acquisition of any necessary property, easement or right of way, except property condemnation cost, which are not eligible costs; engineering or architectural fees, legal fees, fiscal agents' and financial advisors'

fees; any cost incurred for any preliminary planning to determine the economic and engineering feasibility of a proposed project; costs of economic investigations and studies, surveys, preparation of designs, plans, working drawings, specifications and the inspection and supervision of the construction of any facility; Hardship Grant Assessments and interest accruing on loans made under this program during acquisition and construction of the project; and any other cost incurred by the Board or the Department of Environmental Quality, in connection with the issuance of obligation to evidence any loan made to it under the law.

"Disadvantaged Communities" are defined as those communities located in an area which has a median adjusted gross income which is less than or equal to 80% of the State's median adjusted gross income, as determined by the Utah State Tax commission from federal individual income tax returns excluding zero exemption returns or where the established annual cost of drinking water service to the average residential user exceeds 1.75% of the median adjusted gross income.

"Drinking Water Project Obligation" means any bond, note or other obligation issued to finance all or part of the cost of acquiring, constructing, expanding, upgrading or improving a drinking water project, including, but not limited to, preliminary planning, studies, surveys, engineering or architectural fees, and preparation of plans and specifications.

"Credit Enhancement Agreement" means any agreement entered into between the Board, on behalf of the State, and an eligible water system for the purpose of providing methods and assistance to eligible water systems to improve the security for and marketability of drinking water project obligations.

"Eligible Water System" means any community drinking water system, either privately or publicly owned; and nonprofit noncommunity water systems.

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

"Financial Assistance" means a project loan, credit enhancement agreement, ~~or~~ interest buy-down agreement, or technical assistance.

"Hardship Grant Assessment" means an assessment applied to loan recipients. The assessment shall be calculated as a percentage of principal. Hardship grant assessment funds shall be subject to the requirements of UAC R309-700 for hardship grants.

"Negative Interest" means a loan with an interest rate at less than zero percent. The repayment schedule for loans having a negative interest rate will be prepared by the Drinking Water Board.

"Principal Forgiveness" means a loan wherein a portion of the loan amount is "forgiven" upon closing the loan. The terms for principal forgiveness will be as directed by section 4 of this rule, and by the Drinking Water Board.

"Interest" means an assessment applied to loan recipients. The assessment shall be calculated as a percentage of principal.

"Emergency" means an unexpected, serious occurrence of situation requiring urgent or immediate action. With regard to a water system this would be a situation resulting from the failure of equipment or other infrastructure, or contamination of the water supply, which threatens the health and / or safety of the public / water users.

"Technical Assistance" means financial assistance provided for a feasibility study or master plan, to identify and / or correct system

deficiencies, to help a water system overcome other technical problems. The system receiving said technical assistance may or may not be required to repay the funds received. If repayment is required, the Board will establish the terms of repayment.

"SRF Technical Assistance Fund" means a fund (or account) that will be established for the express purpose of providing "Technical Assistance" to eligible drinking water systems.

#### **R309-705-4. Financial Assistance Methods.**

##### (1) Eligible Activities of the SRF.

Funds within the SRF may be used for loans and other authorized forms of financial assistance. Funds may be used for the construction of publicly or privately owned works or facilities, or any work that is an eligible project cost as defined by 73-10c-2 of the Utah Code.

##### (2) Types of Financial Assistance Available for Eligible Water Systems.

###### (a) Loans.

To qualify for "negative interest" or "principal forgiveness", the system must qualify as a "disadvantaged community". Upon application, the Board will make a case by case determination whether the system is a "disadvantaged community". To be eligible to be considered as a disadvantaged community, the system must be located in a service area or zip code area which has a median adjusted gross income which is less than or equal to 80% of the State's median adjusted gross income, as determined by the Utah State Tax Commission from federal individual income tax returns excluding zero exemption returns. Additionally, the Board will consider the type of community served by the system, the economic condition of the community, the population characteristics of those served by the system, factors relating to costs, charges and operation of the water system, and other such information as the Board determines relevant to making the decision to recognize the system as a "disadvantaged community".

###### (i) Hardship Grant Assessment.

The assessment will be calculated based on the procedures and formulas shown in section 6 of this rule.

###### (ii) Repayment.

Annual repayments of principal, interest and/or Hardship Grant Assessment generally commence not later than one year after project completion. Project completion shall be defined as the date the funded project is capable of operation. Where a project has been phased or segmented, the repayment requirement applies to the completion of individual phases or segments.

The loan must be fully amortized not later than 20 years after project completion or not later than 30 years after project completion if the community served by the water system is determined to be a disadvantaged community. The yearly amount of the principal repayment is set at the discretion of the Board.

###### (iii) Principal Forgiveness.

Eligible water systems meeting the definition of "disadvantaged community" may qualify for financial assistance in the form of forgiveness of the principal loan amount. Terms for principal forgiveness will be as determined by Board resolution.

Eligible applicants for "principal forgiveness" financial assistance will be considered by the Board on a case-by-case basis. The Board will consider the type of community served by the system, the economic condition of the community, the population characteristics of those served by the system, factors relating to costs, charges and operation of the water system, and such other

information as the Board determines relevant to making the decision to recognize the system as a disadvantaged community.

###### (iv) Negative Interest Rate.

Eligible water systems meeting the definition of "disadvantaged community" may qualify for financial assistance in the form of a loan with a negative interest rate, as determined by Board resolution.

Eligible applicants for "negative interest" financial assistance will be considered by the Board on a case-by-case basis. The Board will consider the type of community served by the system, the economic condition of the community, the population characteristics of those served by the system, factors relating to costs, charges and operation of the water system, and such other information as the Board determines relevant to making the decision to recognize the system as a disadvantaged community.

###### (v) Dedicated Repayment Source and Security.

Loan recipients must establish one or more dedicated sources of revenue for repayment of the loan. As a condition of financial assistance, the applicant must demonstrate a revenue source and security, as required by the Board.

###### (b) Refinancing Existing Debt Obligations.

The Board may use funds from the SRF to buy or refinance municipal, inter-municipal or interstate agencies, where the initial debt was incurred and construction started after July 1, 1993. Refinanced projects must comply with the requirements imposed by the Safe Drinking Water Act (SDWA) as though they were projects receiving initial financing from the SRF.

###### (c) Credit Enhancement Agreements and Interest Buy-Down Agreements.

The Board will determine whether a project may receive all or part of a loan, credit enhancement agreement or interest buy-down agreement. To provide security for project obligations, the Board may agree to purchase project obligations of applicants, or make loans to the applicants. The Board may also consider making loans to the applicants to pay the cost of obtaining letters of credit from various financial institutions, municipal bond insurance, or other forms of insurance or security for project obligations. The Board may also consider other methods of assistance to applicants to properly enhance the marketability of or security for project obligations.

Interest buy-down agreements may consist of any of the following:

(i) A financing agreement between the Board and applicant whereby a specified sum is loaned to the applicant. The loaned funds shall be placed in a trust account, which shall be used exclusively to reduce the cost of financing for the project.

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

(iii) Any other legal method of financing which reduces the annual payment amount on publicly issued bonds. The financing alternative chosen should be the one most economically advantageous for the State and the applicant.

###### (d) Technical Assistance.

The Board will establish a fund (or account) into which the proceeds of an annual fee on loans will be placed. These funds will be used to finance technical assistance for eligible water systems.

This fund will provide low interest loans for technical assistance and any other eligible purpose as defined by Section 1452 of the Safe Drinking Water Act (SDWA) Amendments of 1996 to water systems that are eligible for Federal SRF loans. Repayment of these loans may be waived in whole or in part (grant funds) by the Board whether or not the borrower is disadvantaged.

(i) The Board will establish a fee to be assessed against loans authorized under the Federal SRF Loan Program. The revenue generated by this fee will be placed in a new fund called the "SRF Technical Assistance Fund".

(ii) The amount will be assessed as a percentage of the Principal Balance of the loan on an annual basis, the same as the annual interest and hardship grant assessment are assessed. The borrower will pay the fee annually when paying the principal and interest or hardship grant assessments.

(iii) The Board will set / change the amount of the fee from time to time as they determine meets the needs of the program.

(iv) This fee will be part of the "effective rate" calculated for the loan using Table 2, R309-705-6. This fee will not be charged in addition to said effective rate. After the effective rate has been calculated for the loan using Table 2, the technical assistance fee will be subtracted from it. The difference will be assessed as the hardship grant assessment or interest rate.

(v) The proceeds of the fund will be used as defined above or as modified by the Board in compliance with Section 1452 of the SDWA Amendments of 1996.

(3) Ineligible Projects.

Projects which are ineligible for financial assistance include:

(a) Any project for a water system in significant non-compliance, as measured by a "not approved" rating, unless the project will resolve all outstanding issues causing the non-compliance.

(b) Any project where the Board determines that the applicant lacks the technical, managerial, or financial capability to achieve or maintain SDWA compliance, unless the Board determines that the financial assistance will allow or cause the system to maintain long-term capability to stay in compliance.

(c) Any project meant to finance the expansion of a drinking water system to supply or attract future population growth. Eligible projects, however, can be designed and funded at a level which will serve the population that a system expects to serve over the useful life of the facility.

(d) Projects which are specifically prohibited from eligibility by Federal guidelines. These include the following:

(i) Dams, or rehabilitation of dams;

(ii) Water rights, unless the water rights are owned by a system that is being purchased through consolidation as part of a capacity development strategy;

(iii) Reservoirs, except for finished water reservoirs and those reservoirs that are part of the treatment process and are located on the property where the treatment facility is located;

(iv) Laboratory fees for monitoring;

(v) Operation and maintenance costs;

(vi) Projects needed mainly for fire protection. [

~~(e) Second home subdivisions, meaning those subdivisions having a majority of non-primary living residents.]~~

**R309-705-5. Application and Project Initiation Procedures.**

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

(1) It is the responsibility of the applicant to obtain the necessary financial, legal and engineering counsel, as deemed acceptable by the Drinking Water Board, to prepare an effective and appropriate financial assistance agreement.

(2) A completed application form and project engineering report, as appropriate, are submitted to the Board.

(3) The staff prepares an engineering, capacity development analysis, and financial feasibility report on the project for presentation to the Board.

(4) The Board "Authorizes" financial assistance for the project on the basis of the feasibility report prepared by the staff. The Board then designates whether a loan, credit enhancement agreement, interest buy-down agreement, or any combination thereof, is to be entered into, and approves the project schedule (see section 7 of this rule).

(5) The applicant must demonstrate public support for the project prior to bonding, as deemed acceptable by the Drinking Water Board.

(6) For financial assistance mechanisms where the applicant's bond is purchased by the Board, the project applicant's bond documentation must include an opinion from recognized bond counsel. Counsel must be experienced in bond matters, and must include an opinion that the drinking water project obligation is a valid and binding obligation of the applicant (see section 8 of this rule). The opinion must be submitted to the Assistant Attorney General for preliminary approval and the applicant shall publish a Notice of Intent to issue bonds in a newspaper of general circulation pursuant to 11-14-21 of the Utah Code [Unannotated]. For financial assistance mechanisms when the applicant's bond is not purchased by the Board, the applicant shall submit a true and correct copy of an opinion from legal counsel, experienced in bond matters, that the drinking water project obligation is a valid and binding obligation of the applicant.

(7) The Board issues a Plan Approval for plans and specifications, if required, and concurs in bid advertisement.

(8) If a project is designated to be financed by a loan or an interest buy-down agreement, an account supervised by the applicant and the Board will be established by the applicant to assure that loan funds are used only for eligible project costs. If financial assistance for the project is provided by the Board in the form of a credit enhancement or interest buy-down agreement, all project funds will be maintained in a separate account, and a quarterly report of project expenditures will be provided to the Board.

Incremental disbursement bonds will be required. Cash draws will be based on a schedule that coincides with the rate at which project related costs are expected to be incurred for the project.

(9) For a revenue bond, a User Charge Ordinance, or water rate structure, must be submitted to the Board for review and approval to insure adequate provisions for debt retirement and/or operation and maintenance. For a general obligation bond, a User Charge Ordinance must be submitted to the Board for review and approval to insure the system will have adequate resources to provide acceptable service.

(10) A "Private Company" will be required to enter into a Loan Agreement with the Board. The loan agreement will establish the procedures for disbursement of loan proceeds and will set forth the security interests to be granted to the Board by the Applicant to secure the Applicant's repayment obligations.

(a) The Board may require any of the following forms of security interest or additional/other security interests to guarantee repayment of the loan: deed of trust interests in real property,

security interests in equipment and water rights, and personal guarantees.

(b) The security requirements will be established after the Board's staff has reviewed and analyzed the Applicants financial condition.

(c) These requirements may vary from project to project at the discretion of the Board

(d) The Applicant will also be required to execute a Promissory Note in the face amount of the loan, payable to the order of the lender, and file a Utah Division of Corporations and Commercial Code Financing Statement, Form UCC-1.

(e) The Board may specify that loan proceeds be disbursed incrementally into an escrow account for expected construction costs. Or it may authorize another acceptable disbursement procedure.

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

(12) The applicant's attorney must provide an opinion to the Board regarding legal incorporation of the applicant, valid legal title to rights-of-way and the project site, validity and quantity of water rights, and adequacy of bidding and contract documents, as required.

(13) A position fidelity bond must be provided for the treasurer or other local staff handling the repayment funds and revenues produced by the applicant's system.

(14) CREDIT ENHANCEMENT AGREEMENT AND INTEREST BUY-DOWN AGREEMENT ONLY - The Board shall issue the credit enhancement agreement or interest buy-down agreement setting forth the terms and conditions of the security or other forms of assistance provided by the agreement and shall notify the applicant to sell the bonds.

(15) CREDIT ENHANCEMENT AGREEMENT AND INTEREST BUY-DOWN AGREEMENT ONLY - The applicant shall sell the bonds on the open market and shall notify the Board of the terms of sale. If a credit enhancement agreement is being utilized, the bonds sold on the open market shall contain the legend required by 73-10c-6(3)(d) of the Utah Code [Unannotated]. If an interest buy-down agreement is being utilized, the bonds sold on the open market shall bear a legend which makes reference to the interest buy-down agreement and states that such agreement does not constitute a pledge of or charge against the general revenues, credit or taxing powers of the state and that the holder of any such bond may look only to the applicant and the funds and revenues pledged by the applicant for the payment of interest and principal on the bonds.

(16) The applicant shall open bids for the project.

(17) LOAN ONLY - The Board shall give final approval to purchase the bonds and execute the loan contract.

(18) LOAN ONLY - The final closing of the loan is conducted.

(19) A preconstruction conference shall be held.

(20) The applicant shall issue a written notice to proceed to the contractor.

**R309-705-6. Applicant Priority System and Selection of Terms of Assistance.**

(1) Priority Determination.

The Board may, at its option, modify a project's priority rating based on the following considerations:

(a) The project plans, specifications, contract, financing, etc., of a lesser-rated project are ready for execution.

- (b) Available funding.
- (c) Acute health risk.
- (d) Capacity Development.
- (e) An Emergency.

The Board will utilize the format shown in Table 1 to prioritize loan applicants.

TABLE 1  
Priority System

Deficiency Description	Points Received
Source Quality/Quantity	
Health Risk (select one)	
A. There is evidence that waterborne illnesses have occurred.	25
B. There are reports of illnesses which may be waterborne.	20
C. High potential for waterborne illness exists.	15
D. Moderate potential for waterborne illness	8
E. No evidence of potential health risks	0
Compliance with SDWA (select all that apply)	
A. Source has been determined to be under the influence of surface water.	25
B. System is often out of water due to inadequate source capacity.	20
-or- System capacity does not meet the requirements of UPDWR.	10
C. Source has a history of three or more confirmed microbiological violations within the last year.	10
D. Sources are not developed or protected according to UPDWR.	10
E. Source has confirmed MCL chemistry violations within the last year.	10
Total	100
Treatment	
Deficiency Description	
Health Risk/Compliance with SDWA (select all that apply)	
A. Treatment system cannot consistently meet log removal requirements and/or turbidity standards.	25
B. The required disinfection systems are not installed, are inadequate, or fail to provide adequate water quality.	25
C. Treatment system is subject to impending failure, or has failed.	25
-or- Treatment system equipment does not meet demands of UPDWR.	15
-or- System equipment is projected to become inadequate without upgrades.	5
Total	75
Storage	
Deficiency Description	
Health Risk / Compliance with SDWA (select all that apply)	
A. Storage system is subject to impending failure, or has failed.	25
-or- System is old, cannot be easily cleaned, or subject to contamination.	15
B. Storage system is inadequate for existing demands.	20
-or- Storage system demand exceeds 90% of storage capacity.	10
C. Applicable contact time requirements cannot be met without an upgrade.	15
D. System suffers from low static pressures.	15
Total	75
Distribution	
Deficiency Description	
Health Risk/Compliance with SDWA (select all that apply)	
A. Distribution system equipment is deteriorated or inadequate for existing demands.	20
-or-	

Distribution system is inadequate to meet 5 year projected demands.	10
B. Applicable disinfectant residual maintenance requirements are not met or high backflow contamination potential exists.	20
C. Project will replace pipe containing unsafe materials (lead, asbestos, etc).	15
D. Minimum dynamic pressure requirements are not met.	10
E. System experiences a heavy leak rate in the distribution lines.	10
Total	75

Priority Rating = (Average Points Received) x (Rate Factor) x (AGI Factor)

Where:

\* Rate Factor = (Average System Water Bill/Average State Water Bill)

\*\* AGI Factor = (State Median AGI/System Median AGI)

(2) Financial Assistance Determination. The amount and type of financial assistance offered will be based upon the criteria shown in Table 2. As determined by Board resolution, disadvantaged communities may also receive zero-percent loans, or other financial assistance as described herein.

Effective rate calculation methods will be determined by Board resolution from time to time, using the Revenue Bond Buyer Index (RBBI) as a basis point, the points assigned in Table 2, and a method to reduce the interest rate from a recent RBBI rate down to a potential minimum of zero percent.

TABLE 2  
Special Hardship Grant Assessment Rate Reduction Incentives

1. Project will include creation or enhancement of, or compliance with a regionalization plan if regionalization is possible in the judgement of the Board. If not, the points will not be assigned and the total possible points will be 75.	25
2. Applicant has, within the last 5 years, developed and implemented a water master plan	25
3. Applicant has a 5-year history of having implemented a replacement or depreciation fund, amounting to 5% of the drinking water budget for O and M, and debt service.	15
4. Applicant has a written emergency response plan.	10
5. Project funding contributed by applicant meets or exceeds 20% of estimated project cost	10
6. Applicant has established a rate structure to encourage water conservation	15
TOTAL POSSIBLE POINTS	100

**R309-705-7. Project Authorization.**

A project may be "Authorized" for a loan, credit enhancement agreement, ~~or~~ interest buy-down agreement, or technical assistance in writing by the Board following submission and favorable review of an application form, engineering report (if required), financial capability assessment and Staff feasibility report.

Once the application submittals are reviewed, the staff will prepare a project feasibility report for the Board's consideration in Authorizing a project. The project feasibility report will include an evaluation of the project with regard to the Board's funding priority criteria, and will contain recommendations for the type of financial assistance which may be extended (i.e., for a loan, credit enhancement agreement, or interest buy-down agreement).

The Board may authorize a loan for any work or facility to provide water for human consumption and other domestic uses. Generally, work means planning, engineering design, or other eligible activities defined elsewhere in these rules.

Project Authorization is conditioned upon the availability of funds at the time of loan closing or signing of the credit enhancement, or interest buy-down and upon adherence to the project schedule approved at that time. The Board, at its own discretion, may require the Applicant to enter into a "Commitment Agreement" with the Board prior to execution of final loan documents or closing of the loan. This Commitment Agreement or Binding Commitment may specify date(s) by which the Applicant must complete the requirements set forth in the Project Authorization Letter. The Commitment Agreement shall state that if the Department of Environmental Quality acting through the Drinking Water Board is unable to make the Loan by the Loan Date, this Agreement shall terminate without any liability ~~accruing~~ [accruing] to the Department or the Applicant hereunder. Also, if the project does not proceed according to the project schedule, the Board may withdraw project Authorization, so that projects which are ready to proceed can obtain necessary funding. Extensions to the project schedule may be considered by the Board, but any extension requested must be fully justified.

**R309-705-8. Financial Evaluations.**

(1) The Board considers it a proper function to assist project applicants in obtaining funding from such financing sources as may be available.

(2) In providing financial assistance in the form of a loan, the Board may purchase bonds of the applicant only if the bonds are accompanied by a legal opinion of recognized municipal bond counsel. Bond counsel must provide an opinion that the bonds are legal and binding under applicable Utah law (including, if applicable, the Utah Municipal Bond Act). For bonds of \$150,000 or less the Board will not require this opinion.

(3) In providing financial assistance in the form of a loan, the Board may purchase either taxable or non-taxable bonds; provided that it shall be the general preference of the Board to purchase bonds issued by the applicant only if the bonds are tax exempt. Tax-exempt bonds must be accompanied by a legal opinion of recognized municipal bond counsel to the effect that the Interest and the Hardship Grant Assessment (also interest) on the bonds is exempt from federal income taxation. Such an opinion must be obtained by the applicant in the following situations:

(a) Bonds which are issued to finance a project which will also be financed in part at any time by the proceeds of other bonds which are exempt from federal income taxation.

(b) Bonds which are not subject to the arbitrage rebate provisions of Section 148 of the Internal Revenue Code of 1986 (or successor provision of similar intent), including, without limitation, bonds covered by the "small governmental units" exemption contained in Section 148(f)(4)(c) of the Internal Revenue Code of 1986 (or any successor provision of similar intent) and bonds which are not subject to arbitrage rebate because the gross proceeds from the loan will be completely expended within six months after the issuance of such bonds.

(4) If more than 25 percent of the project is to serve industry, bond counsel must evaluate the loan to ensure the tax exempt status of the loan fund.

(5) Revenue bonds purchased by the Board shall be secured by a pledge of water system revenues, and it is the general policy of the Board that the pledge of water revenues for the payment of debt service (principal and/or Hardship Grant Assessment) on a particular revenue bond be on a parity with the pledge of those water revenues

as security for the debt service payments on all other bonds or other forms of indebtedness which are secured by the water revenues.

(6) If a project is Authorized to receive a loan, the Board will establish the portion of the construction cost to be included in the loan and will set the terms for the loan. It is the Board's intent to avoid repayment schedules which would exceed the design life of the project facilities.

(7) Normal engineering and investigation costs incurred by the Department of Environmental Quality (DEQ) or Board during preliminary project investigation and prior to Board Authorization will not become a charge to the applicant if the project is found infeasible, denied by the Board, or if the applicant withdraws the Application prior to the Board's Authorization.

If the credit enhancement agreement or interest buy-down agreement does not involve a loan of funds from the Board, then administrative costs will not be charged to the project. However, if the Board Authorizes a loan for the project, all costs incurred by the DEQ or Board on the project will be charged against the project and paid by the applicant as a part of the total project cost. Generally, this will include all DEQ and Board costs incurred from the beginning of the preliminary investigations through the end of construction and close-out of the project. If the applicant decides not to build the project after the Board has Authorized the project, all costs accrued after the Authorization date will be reimbursed by the applicant to the Board.

(8) The Board shall determine the date on which the scheduled payments of principal, Hardship Grant Assessment, and interest will be made. In fixing this date, all possible contingencies shall be considered, and the Board may allow the system user up to one year of actual use of the project facilities before the first repayment is required.

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

(10) LOANS AND INTEREST BUY-DOWN AGREEMENTS ONLY - The Board may require, as part of the loan or interest buy-down agreement, that any local funds which are to be used in financing the project be committed to construction prior to or concurrent with the committal of State funds.

(11) The Board will not forgive the applicant of any payment after the payment is due.

(12) The Board will require that a debt service reserve account be established by the applicant at or before the time that the loan is closed. Deposits to that account shall be made at least annually in the amount of one-tenth of the annual payment on the bond(s) purchased by the Board and shall continue until the total amount in the debt service reserve fund is equal to the annual payment. The debt service reserve account shall be continued until the bond is retired. Failure to maintain the reserve account will constitute a technical default on the bond(s).

(13) The Board will require a capital facilities replacement reserve account be established at or before the loan is closed. Deposits to that account shall be made at least annually in the amount of five percent (5%) of the applicant's annual drinking water system budget, including depreciation, unless otherwise specified by the Board at the time of loan authorization, until the loan is repaid. This fund shall not serve as security for the payment of principal or Hardship Grant Assessment on the loan. The applicant shall adopt such resolutions as necessary to limit the use of the fund to construct capital facilities for its water system. The applicant will not need the consent of the Board prior to making any expenditure from the fund.

Failure to maintain the reserve account will constitute a technical default on the bond(s) and may result in penalties being assessed.

(14) If the Board is to purchase a revenue bond, the Board will require that the applicant's water rates be established such that sufficient net revenue will be raised to provide at least 125% (or such other amount as the Board may determine) of the total annual debt service.

(15) A Water Management and Conservation Plan will be required.

### **R309-705-9. Emergency Assistance.**

(1) Authority: Title 73, Chapter 10c of State Statute and the SDWA Amendment of 1996 give the Board authority to provide emergency assistance to drinking water systems.

(2) Eligibility: Generally, any situation occurring as defined in Section R309-705-3 would qualify for consideration for emergency funding. However, prior to authorizing funds for an emergency the Board may consider one or more of the various factors listed below:

(i) Was the emergency preventable? Dis the utility / water system have knowledge that this emergency could be expected? If not, Should it have been aware of the potential for this problem? Did its management take reasonable action to either prevent it or to be as prepared as reasonably possible to correct the problem when it occurred (prepared financially and technically for the event causing the problem)?

(ii) Has the utility / system established a capital improvement replacement reserve fund? Has the utility / system been charging reasonably high rates in order to establish a reserve fund to cover normal infrastructure replacement and emergencies?

(iii) Is the community a disadvantaged (hardship) community?

(iv) Is the potential for illness, injury, or other harm to the public or system operators sufficiently high that the value of providing financial assistance outweighs other factors that would preclude providing this assistance. (Even though the State does not have any legal obligation to provide financial assistance to help correct the problem.)

(3) Requirements for the Applicant: The applicant will be required to do the following as a condition of receiving financial assistance:

(i) To the extent feasible, the utility / system shall first use its own resources, e.g. capital improvement replacement fund, to correct the problem.

(ii) If the utility / system is not placing funds into a reserve fund on a regular basis and / or is charging relatively low water rates it shall be required to examine its current rate structure and policies for placing funds into a reserve account. The Board may require the utility / system to establish a reserve account and / or to revise its rate structure (increasing its rate) as a condition of the loan.

(iii) The Board may place other requirements on the utility / system.

(4) Financial Agreements, Bonding, etc: The State will work with the Applicant to help secure obligating documents. For example, the Board:

(i) Could waive the 30-day notice period, if legally possible.

(ii) Could accept a generic bond.

(iii) Could accept an unsecured loan or bond.

(5) Funding Alternatives: An Applicant may be authorized to receive a loan by any of the financial assistance methods specified in R309-705-4 for funding an emergency project. The Board may set and revise the methodology and factors to be considered when determining the terms of financial assistance it provides. The terms

of the loan, including length of repayment period, interest or hardship grant assessment, and principal forgiveness (grant) or repayment waivers will be determined at the time the emergency funding is authorized.

(6) Funding Process - Emergencies: It is anticipated that under normal emergency conditions time restraints will not allow a request for emergency funding to be placed on the agenda of a regularly scheduled Board Meeting. Therefore, the following procedures will be followed in processing a loan application for emergency assistance:

(i) The Board will provide guidance to Division staff of the amounts of money, terms of financial assistance, and other factors it wants applied to financial assistance for emergencies.

(ii) Division staff will evaluate each application for emergency funding and determine if it is an emergency according to this rule and other relevant guidance. Staff will make recommendations to the Board to provide financial assistance. Staff will notify the local health department (LHD) and District Engineer, and will solicit recommendations from the LHD and District Engineer about the proposed project to mitigate the emergency. Staff will inform the Chairperson of the SRF / Conservation Committee of the apparent emergency.

(iii) The Committee Chairperson will arrange for a timely meeting of the SRF / Conservation Committee to consider authorizing assistance for the emergency. This meeting may be conducted by telephone.

(iv) If the SRF / Conservation Committee concludes that it will recommend emergency funding to the Board, the Committee Chairperson will request the Board Chairperson or Executive Secretary to the Board arrange for a Board meeting to consider the application.

### **R309-705-10[9]. Committal of Funds and Approval of Agreements.**

After the Board has approved the plans and specifications by the issuance of a Plan Approval, the loan will be considered by the Board for final approval. The Board will determine whether the agreement is in proper order. The Executive Secretary, or designee, may then execute final approval of the loan or credit enhancement agreement if obligations to the Board or other aspects of the project have not changed significantly since the Board's authorization of the loan or credit enhancement, provided all conditions imposed by the Board have been met. If significant changes have occurred the Board will then review the project and, if satisfied, the Board will then commit funds, approve the signing of the contract, credit enhancement agreement, or interest buy-down agreement, and instruct the Executive Secretary to submit a copy of the signed contract or agreement to the Division of Finance.

### **R309-705-11[10]. Construction.**

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

issued by the Executive Secretary to commence using the project facilities.

### **R309-705-12[11]. Compliance with Federal Requirements.**

(1) Applicants must show the legal, institutional, managerial, and financial capability to construct, operate, and maintain the drinking water system(s) that the project will serve.

(2) As required by Federal Code, applicants may be subject to the following federal requirements:

Archeological and Historic Preservation Act of 1974, Pub. L. 86-523, as amended

Clean Air Act, Pub. L. 84-159, as amended

Coastal Barrier Resources Act, Pub. L. 97-348

Coastal Zone Management Act, Pub. L. 92-583, as amended

Endangered Species Act, Pub. L. 92-583

Environmental Justice, Executive Order 12898

Floodplain Management, Executive Order 11988 as amended by Executive Order 12148

Protection of Wetlands, Executive Order 11990

Farmland Protection Policy Act, Pub. L. 97-98

Fish and Wildlife Coordination Act, Pub. L. 85-624

National Environmental Policy Act of 1969 (NEPA), Pub. L. 91-190

National Historic Preservation Act of 1966, PL 89-665, as amended

Safe Drinking Water Act, Pub. L. 93-523, as amended

Wild and Scenic Rivers Act, Pub. L. 90-542, as amended

Age Discrimination Act of 1975, Pub. L. 94-135

Title VI of the Civil Rights Act of 1964, Pub. L. 88-352

Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92-500 (the Clean Water Act)

Section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112 (including Executive Orders 11914 and 11250)

The Drug-Free Workplace Act of 1988, Pub. L. 100-690 (applies only to the capitalization grant recipient)

Equal Employment Opportunity, Executive Order 11246

Women's and Minority Business Enterprise, Executive Orders 11625, 12138 and 12432

Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988, Pub. L. 100-590

Anti-Lobbying Provisions (40 CFR Part 30)

Demonstration Cities and Metropolitan Development Act of 1966, Pub. L. 89-754, as amended

Procurement Prohibitions under Section 306 of the Clean Water Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans

Uniform Relocation and Real Property Acquisition Policies Act, Pub. L. 91-646, as amended

Debarment and Suspension, Executive Order 12549

Accounting procedures, whereby applicants agree to maintain a separate project account in accordance with Generally Accepted Accounting Standards and Utah State Uniform Accounting requirements

**KEY: SDWA, financial assistance, loans**

**[May 16, 2000]2002**

**19-4-104**

**73-10c**



Health, Center for Health Data, Vital  
Records and Statistics  
**R436-4-10**  
Delayed Registration of Birth Resulting  
in Stillbirth

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 25296

FILED: 09/13/2002, 14:06

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This section is required by Sections 26-2-14.1 and 26-2-14.2. The new law requires that in the case in which a Utah stillbirth has not been registered within one year after the date of delivery, a delayed certificate may be registered "in accordance with department rule relating to evidentiary and other requirements sufficient to substantiate the alleged facts of birth resulting in stillbirth." This section establishes these requirements.

SUMMARY OF THE RULE OR CHANGE: Instructs the Office of Vital Records and Statistics in the Utah Department of Health to provide a Birth Certificate Resulting in Stillbirth to parents who request such certificates for cases in which a Certificate of Fetal Death has previously been filed. In the case in which a Certificate of Fetal Death has not previously been filed, the rule describes the evidentiary requirements for creating a Birth Certificate Resulting in Stillbirth.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-2-14.2

## ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: This rule will not impose any costs to state government. Additional work required to issue certificates under this rule is supported by the fees collected in issuing the certificates.
- ❖ LOCAL GOVERNMENTS: This rule will not impose any costs to local governments. Additional work required to issue certificates under this rule is supported by the fees collected in issuing the certificates.
- ❖ OTHER PERSONS: \$800 cost to those requesting the new certificates.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Parents requesting these certificates will pay the same \$12 fee as established for Birth Certificates.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This voluntary opportunity for parents to obtain a certificate of stillbirth will appropriately be supported by user fees and should not have a negative impact on business. Rod L. Betit

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

HEALTH  
CENTER FOR HEALTH DATA,  
VITAL RECORDS AND STATISTICS  
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:

Barry Nangle at the above address, by phone at 801-538-6907, by FAX at 801-538-7012, or by Internet E-mail at [bnangle@doh.state.ut.us](mailto:bnangle@doh.state.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 10/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/01/2002

AUTHORIZED BY: Rod Betit, Executive Director

**R436. Health, Center for Health Data, Vital Records and Statistics.****R436-4. Delayed Registration of Birth.****R436-4-10. Delayed Registration of Birth Resulting in Stillbirth.**

(1) If the parent or parents of a stillborn child request a certificate of birth resulting in stillbirth for the stillborn child that has not been registered within one year after the date of delivery, the state registrar shall search for the certificate of fetal death required under Section 26-2-14.

(2) If a certificate of fetal death for the stillborn was registered in the state of Utah, the state registrar shall provide the parent or parents a certificate of birth resulting in stillbirth based on the facts on the certificate of fetal death, with no additional documentary evidence required. Correction of errors or omissions on the original certificate of fetal death will be made in accordance with R436-3, except that an affidavit from one parent is sufficient to establish the name of the stillborn child.

(3) If a certificate of fetal death was not registered for the stillborn, the minimum facts that the applicant must establish by documentary evidence to register the birth resulting in stillbirth are:

(a) date of delivery.

(b) place of delivery.

(c) full maiden name of the mother.

(d) full name of the father, except that if the mother was not married either at the time of conception or at any time during the pregnancy, the name of the father shall not be entered on the certificate except as provided in 436-3-5.

(e) gestation of 20 weeks or more, as reported by the physician in attendance.

(f) name of delivery attendant.

**KEY: vital statistics, evidence**~~1993~~2002

26-2-8

26-2-19

26-2-14.1

26-2-14.2



**Human Services, Services for People  
with Disabilities**  
**R539-8-3**  
**Supported Employment**

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE NO.: 25239  
FILED: 09/06/2002, 12:06

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** To clarify and update federal and state policy and procedures changes related to supported employment services; and add requirements for new Medicaid Waivers.

**SUMMARY OF THE RULE OR CHANGE:** The change does away with the old requirement that a person must have been discharged from an intermediate care facility for people with mental retardation before being eligible for Medicaid funding through the home and community based waiver. Changes make division policy, home and community based waiver definitions, and the rule congruent.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 62A-5-101 through 62A-5-103

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** Savings should be realized from having more people who receive supported employment enrolled in the home and community based waiver, thus drawing down more Medicaid match. Most savings will occur as people transition off the waiting list into services. In the past, most of the people in this group were not able to enter the waiver and had to be served with straight state funding. Since policy and practice were changed at the time that the federal policy was changed, everyone in service who qualified and received supported employment services has been changed over to waiver services.

❖ **LOCAL GOVERNMENTS:** No local government funding is used in determining eligibility for these services; it is expected, therefore that the cost to local governments is not applicable.

❖ **OTHER PERSONS:** People who are eligible for Waiver services but who chose not to participate may lose a portion of their support.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The only compliance cost may be for a very limited number of individuals who will need to spend down personal money to maintain eligibility for waiver funding. This policy could be exempted for some individuals with Division Director's approval.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** Service providers may lose some consumers if those consumers opt not to receive federal funds and thereby reduce the services they may purchase to the amount state funds will support. This potential effect should be mitigated by the addition of new consumers who will

be funded by the savings of general fund dollars. Service providers have expressed their support of this rule change.

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

HUMAN SERVICES  
SERVICES FOR PEOPLE WITH DISABILITIES  
Room 411  
120 N 200 W  
SALT LAKE CITY UT 84103-1500, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Paul Day at the above address, by phone at 801-538-4118, by FAX at 801-538-4279, or by Internet E-mail at pday@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 11/01/2002

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 10/18/2002 at 1:00 PM, Room 129, 120 North 200 West, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 11/04/2002

AUTHORIZED BY: Robin Arnold-Williams, Executive Director

**R539. Human Services, Services for People with Disabilities.**  
**R539-8. Community-Based Services.**  
**R539-8-3. Supported Employment.**

A. Policy.

~~[1.]~~The Division of Services for People with Disabilities will assist eligible individuals who want to work to obtain opportunities for ~~[competitive]supported~~ employment, ~~[in an integrated setting with on-going support services. Supported Employment services are available for Division eligible individuals for whom:~~

~~— a. Competitive employment has not traditionally occurred or has been interrupted or is intermittent as a result of disabilities;~~

~~— b. Competitive employment at or above minimum wage would be unlikely;~~

~~— c. Because of their disability, need ongoing support to perform in a competitive work setting beyond the time limited period in which the Division of Rehabilitation Services can provide services; and~~

~~— d. Have the ability or potential to obtain and maintain employment with the provision of training and ongoing support.]~~

B. Procedures.

~~[1. Individuals served shall be referred to the provider by the region case manager from the waiting list or existing day services programs.~~

~~— a. Individuals must be 22 years of age or older for Supported Employment services, unless waived by the Region Director.~~

~~— b. Depending upon the availability of funding, an individual may be placed on a waiting list in accordance with R539-3-1, Waiting List.~~

~~— c. If the individual receives this service funded through the Home and Community Based Waiver, then the individual shall have the following documentation in their individual file:~~

~~—(1) That this service is not otherwise available under a program funded under the Rehabilitation Act of 1973 or Public Law 94-142 (form 58 will satisfy this requirement); and~~

~~—(2) That the individual has been deinstitutionalized from a nursing facility or intermediate care facility, at some prior time.~~

~~—d. The individual shall be referred to the Supported Employment program of their choice and services will be coordinated and funded by the rehabilitation counselor for a predetermined amount of time (determined by the rehabilitation counselor according to Division of Rehabilitation Services Policy). Long term funding from the region or other community resource must be reasonably expected prior to the Division of Rehabilitation Services authorizing Supported Employment services.~~

~~—e. After the initial predetermined amount of time under the Division of Rehabilitation Services, the coordination and funding of supported employment services shall be the responsibility of the region.~~

~~—f. If an individual loses the supported employment job, the region is responsible to fund services to assist the individual to secure another job. Once the individual has secured another supported employment job, then additional funding for Supported Employment services may be available from the Division of Rehabilitation Services.~~

~~—g. If Division of Rehabilitation Services funding is not available, and regional funding is available, an individual may be served entirely through the Division system. There must still be a reasonable expectation for long term funding from the region.~~

~~—2. The provider will comply with:~~

~~—a. The Home and Community Based Services Waiver (if applicable);~~

~~—b. Division policies and procedures which apply;~~

~~—c. Office of Licensing standards and Division certification;~~

~~—d. All services must be provided by staff that meet Division provider qualifications as specified in the contract.~~

~~—e. Individuals shall have assurance that ongoing support is available as needed to assist them in placement, training and job maintenance.~~

~~—f. The provider will have a policy for services during periods of unemployment (Refer to Vendor Guidelines for billable hours).~~

~~—g. All other standards which are identified by the contract.]]~~

~~Supported employment can be full or part time and is in a work setting where the person works with others without disabilities, not including staff or contracted co-workers paid to support the person. Supported employment may occur anytime during a 24 hour day. Supports assist the person to achieve competitive employment. Competitive employment is defined as work compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by employees who are not disabled. Persons in supported employment are supported and employed consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the person as indicated in the person's individual service plan. A person may be supported one-on-one or in a group. When appropriate, the provider may contract with a co-worker to provide additional support, under the direction of a job coach, as a natural extension of the work day.~~

~~2. Payment will only be made for adaptations, supervision and training required by a person as a result of the person's disability and will not include payment for the supervisory activities rendered as a normal part of the business setting.~~

~~Documentation must be maintained, for all persons whose supports are funded by the waiver, showing that supported employment services rendered are not available under a program~~

funded by either the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act. Federal financial participation will not be claimed for incentive payments, subsidies, or unrelated vocational training expenses such as incentive payments made to an employer or beneficiaries to encourage or subsidize an employer's participation in a supported employment program, payments that are passed through to a beneficiary of supported employment programs, or for payments for vocational training that is not directly related to a beneficiary's supported employment program.

~~—3. The provider provides program services that will meet the following minimum standards:~~

~~—a. Individuals with disabilities shall be employed for a significant number of hours at a level which is optimal for them, in accordance with their capabilities and desires. This should be determined at the Individual Support Plan/Individual Plan meeting. The Division considers at least 20 hours per week the optimum minimum level for most individuals.~~

~~—b. Individuals shall be compensated at minimum wage or better. If minimum wage is not feasible, compensation shall be at a commensurate wage based on individual productivity. Individuals shall be provided benefits by the employer which are comparable to workers who are not disabled.~~

~~—c. Supported Employment is conducted in a variety of settings, particularly work sites in which persons without disabilities are employed. Individuals shall be encouraged to participate in work and non-work activities alongside individuals who are not disabled and who are not paid care givers.~~

~~—d. There shall be no more than eight individuals with disabilities in any one enclave.~~

~~—e. Satisfaction surveys shall be given to the individual, and if appropriate, family members and residential providers. Documentation is needed to show how the survey results are used to improve Supported Employment services.~~

~~—f. Work shall be performed to the satisfaction of employers. Assistive technology shall be used to enhance productivity when appropriate (referral through the Division of Rehabilitation Services/Division of Services for People with Disabilities).~~

~~—g. Jobs or contract employment shall be developed through the use of a written marketing plan.~~

~~—h. An individual assessment of functional capacity shall be conducted within thirty (30) days of the referral to the program. To increase the individual performance on the job, program staff shall perform a systematic procedure to insure that the job is appropriate for the individual, that the individual has had input into the decision of employment, and that the most effective training and support techniques are utilized. Techniques should foster the use of natural supports; example: family, friends, or co-workers.~~

~~—i. Supported Employment direct service staff and their immediate supervisors shall be trained in the standards and implementation procedures required for each individual's particular supported employment placement or job.~~

~~—j. Contractors shall have the support of their Board of Directors to build strong supported employment services and maintain accounting and management practices which assure accountability and effective services.]~~

~~3. Provider agency standards:~~

~~—a. Persons shall be employed for a significant number of hours, at a level optimal for the person and in accordance with the person's capabilities and desires. This should be determined at the person centered plan meeting. The hours worked by persons receiving supported employment should approximate the hours worked by~~

other employees; the division, however, considers at least 20 hours per week the minimum level acceptable for most persons.

b. Persons shall be compensated at minimum wage or better. If minimum wage is not feasible, compensation shall be at a commensurate wage based on a person's productivity. Persons shall be provided benefits by the employer which are comparable to workers who are not disabled.

c. There shall be no more than eight persons in any one enclave.

d. Assistive technology shall be used to enhance productivity when appropriate in accordance with the Americans with Disabilities Act.

e. Jobs or contract employment shall be developed through the use of a written marketing plan.

f. An individual assessment of work interests shall be conducted within 30 days of the person's referral to the provider agency. To increase the persons performance on the job, provider staff ensure that the job is appropriate for the person, that the person has had input into the decision of employment, and that the most effective training and support techniques are used. Techniques should foster the use of natural supports such as family, friends, and co-workers.

g. Supported employment direct service staff and their immediate superiors shall be trained in the support strategies required for each person's particular supported employment placement or job.

**KEY: disabled persons, social services**

**~~February 8, 1996~~2002**

**Notice of Continuation December 18, 1997**

**62A-5-103**



**School and Institutional Trust Lands,  
Administration  
R850-30-150  
Planning**

**NOTICE OF PROPOSED RULE  
(Amendment)**

DAR FILE NO.: 25298

FILED: 09/16/2002, 11:40

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rules which implement the statute creating the Resource Development Coordinating Committee (RDCC) allow for the execution of agreements between RDCC and state agencies to exempt certain items from review (Subsection R361-1-4(E)(1)(b)). A recently-negotiated agreement between the Trust Lands Administration and RDCC provides for the exemption of certain nonsignificant items from review. Agency rules are being modified to recognize the exemptions provided for in the agreement.

SUMMARY OF THE RULE OR CHANGE: The agency is amending this rule to remove the current requirement to submit all actions to RDCC for review and replace it with language that

requires us to submit only those actions not exempted by our agreement with RDCC.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 53C-1-302(1)(a)(ii), 53C-4-101(1), and Section 53C-4-2002

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This action clarifies the rule so that it reflects current practice. Consequently, there is no anticipated impact to either costs or income.

❖ LOCAL GOVERNMENTS: This action clarifies the rule so that it reflects current practice. Consequently, there is no anticipated impact to either costs or income.

❖ OTHER PERSONS: This action clarifies the rule so that it reflects current practice. Consequently, there is no anticipated impact to either costs or income.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since this proposed action only clarifies the rule so that it accurately reflects current practice, there should be no greater or lesser compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed amendment is expected to be transparent to businesses. The change clarifies the rule so that it reflects the agency's interpretation and practice. It is possible that without the change, an individual could challenge an action taken by the agency because an item was not submitted to RDCC, even though the agreement between the agency and RDCC exempted the item from review. In that case, the time delay could impose a financial burden upon the business, but the cost is unquantifiable.

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

SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION  
Room 500  
675 E 500 S  
SALT LAKE CITY UT 84102-2818, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kevin S. Carter at the above address, by phone at 801-538-5160, by FAX at 801-355-0922, or by Internet E-mail at kevincarter@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 10/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/01/2002

AUTHORIZED BY: Kevin S. Carter, Deputy Director

**R850. School and Institutional Trust Lands, Administration.****R850-30. Special Use Leases.****R850-30-150. Planning.**

Pursuant to Section 53C-2-201(1)(a), the Trust Lands Administration shall also undertake to complete the following planning obligations, in addition to the rule-based analysis and approval processes that are prescribed by this rule:

1. ~~Submission of~~ To the extent required by the Memorandum of Understanding between the State Planning Coordinator and the School and Institutional Trust Lands Administration, submit the proposal for review by the Resource Development Coordinating Committee (RDCC); and

2. Evaluation of comments received through the RDCC process.

3. Evaluation of and response to any comments received through the solicitation process conducted pursuant to R850-30-500(2)(a) or R850-30-500(2)(b).

**KEY: administrative procedures, leases, trust land management[<sup>2</sup>], request for proposals[<sup>2</sup>]**

~~July 2, 1996~~ **November 1, 2002**

**Notice of Continuation June 27, 2002**

**53C-1-302(1)(a)(ii)**

**53C-2-201(1)(a)**

**53C-4-101(1)**

**53C-4-202**



**School and Institutional Trust Lands,  
Administration  
R850-40-150  
Planning**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 25301

FILED: 09/16/2002, 12:11

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The statute which created the Resource Development Coordinating Committee (RDCC) allows for the execution of agreements between RDCC and state agencies to exempt certain items from review. A recently renegotiated agreement with RDCC provides 24 exemptions for our agency. These exemptions put us out of compliance with our current rules because they require that we submit all actions to RDCC for review. Therefore, this rule is being amended to require submitting proposed actions to RDCC only when not exempted by our agreement with RDCC.

SUMMARY OF THE RULE OR CHANGE: The agency is amending this rule to remove the current requirement to submit all actions to RDCC for review, and replace it with language that requires us to submit only those actions not exempted by our agreement with RDCC.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 53C-1-302 and 53C-4-203, and Subsection 53C-2-201(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This action clarifies the rule so that it reflects current practice. Consequently, there is no anticipated impact to either costs or income.

❖ LOCAL GOVERNMENTS: This action clarifies the rule so that it reflects current practice. Consequently, there is no anticipated impact to either costs or income.

❖ OTHER PERSONS: This action clarifies the rule so that it reflects current practice. Consequently, there is no anticipated impact to either costs or income.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since this proposed action only clarifies the rule so that it accurately reflects current practice, there should be no greater or lesser compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed amendment is expected to be transparent to businesses. The change clarifies the rule so that it reflects the agency's interpretation and practice. It is possible that without the change, an individual could challenge an action taken by the agency because an item was not submitted to RDCC, even though the agreement between the agency and RDCC exempted the item from review. In that case, the time delay could impose a financial burden upon the business, but the cost is unquantifiable.

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ADMINISTRATION  
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675 E 500 S  
SALT LAKE CITY UT 84102-2818, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kevin S. Carter at the above address, by phone at 801-538-5160, by FAX at 801-355-0922, or by Internet E-mail at kevincarter@utah.gov

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THIS RULE MAY BECOME EFFECTIVE ON: 11/01/2002

AUTHORIZED BY: Kevin S. Carter, Deputy Director

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**R850. School and Institutional Trust Lands, Administration.**

**R850-40. Easements.****R850-40-150. Planning.**

Pursuant to Section 53C-2-201(1)(a), the Trust Lands Administration shall also undertake to complete the following

planning obligations, in addition to the rule-based analysis and approval processes that are prescribed by this rule:

1. ~~[Submission of]~~To the extent required by the Memorandum of Understanding between the State Planning Coordinator and the School and Institutional Trust Lands Administration, submit the proposal for review by the Resource Development Coordinating Committee (RDCC); and

2. Evaluation of comments received through the RDCC process.

**KEY: natural resources, management, surveys, administrative procedures**

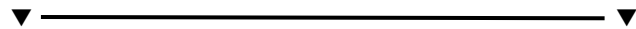
~~[October 18, 1999]~~November 1, 2002

Notice of Continuation June 27, 2002

53C-1-302

53C-2-201(1)(a)

53C-4-203



School and Institutional Trust Lands,  
Administration  
**R850-50-150**  
Planning

**NOTICE OF PROPOSED RULE**  
(Amendment)

DAR FILE NO.: 25302  
FILED: 09/16/2002, 12:19

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rules which implement the statute creating the Resource Development Coordinating Committee (RDCC) allow for the execution of agreements between RDCC and state agencies to exempt certain items from review (Subsection R361-1-4(E)(1)(b)). A recently-negotiated agreement between the Trust Lands Administration and RDCC provides for the exemption of certain nonsignificant items from review. Agency rules are being modified to recognize the exemptions provided for in the agreement.

SUMMARY OF THE RULE OR CHANGE: The agency is amending this rule to remove the current requirement to submit all actions to RDCC for review, and replace it with language that requires us to submit only those actions not exempted by our agreement with RDCC.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 53C-1-302(1)(a)(ii) and 53C-2-201(1)(a), and Section 53C-5-102

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This action clarifies the rule so that it reflects current practice. Consequently, there is no anticipated impact to either costs or income.

❖ LOCAL GOVERNMENTS: This action clarifies the rule so that it reflects current practice. Consequently, there is no anticipated impact to either costs or income.

❖ OTHER PERSONS: This action clarifies the rule so that it reflects current practice. Consequently, there is no anticipated impact to either costs or income.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since this proposed action only clarifies the rule so that it accurately reflects current practice, there should be no greater or lesser compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed amendment is expected to be transparent to businesses. The change clarifies the rule so that it reflects the agency's interpretation and practice. It is possible that without the change, an individual could challenge an action taken by the agency because an item was not submitted to RDCC, even though the agreement between the agency and RDCC exempted the item from review. In that case, the time delay could impose a financial burden upon the business, but the cost is unquantifiable.

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SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION  
Room 500  
675 E 500 S  
SALT LAKE CITY UT 84102-2818, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kevin S. Carter at the above address, by phone at 801-538-5160, by FAX at 801-355-0922, or by Internet E-mail at kevincarter@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 10/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/01/2002

AUTHORIZED BY: Kevin S. Carter, Deputy Director

**R850. School and Institutional Trust Lands, Administration.  
R850-50. Range Management.  
R850-50-150. Planning.**

1. Pursuant to Section 53C-2-201(1)(a), the issuance of grazing permits within this category of activity carries no planning obligations by the agency beyond existing rule-based analysis and approval processes.

2. Range improvement projects authorized pursuant to this section carry the following planning obligations beyond existing rule-based analysis and approval processes:

(a) ~~[Submission of]~~To the extent required by the Memorandum of Understanding between the State Planning Coordinator and the School and Institutional Trust Lands Administration, submit the proposal for review by the Resource Development Coordinating Committee (RDCC); and

(b) Evaluation of and response to comments received through the RDCC process.

**KEY: administrative procedures, range management**

~~[May 2, 2004]~~November 1, 2002

Notice of Continuation June 27, 2002

53C-1-302(1)(a)(ii)

53C-2-201(1)(a)

53C-5-102

▼ ————— ▼

## School and Institutional Trust Lands, Administration **R850-70-150** Planning

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 25303

FILED: 09/16/2002, 12:22

#### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rules which implement the statute creating the Resource Development Coordinating Committee (RDCC) allow for the execution of agreements between RDCC and state agencies to exempt certain items from review (Subsection R361-1-4(E)(1)(b)). A recently-negotiated agreement between the Trust Lands Administration and RDCC provides for the exemption of certain nonsignificant items from review. Agency rules are being modified to recognize the exemptions provided for in the agreement.

SUMMARY OF THE RULE OR CHANGE: The agency is amending this rule to remove the current requirement to submit all actions to RDCC for review, and replace it with language that requires us to submit only those actions not exempted by our agreement with RDCC.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 53C-1-302-(1)(a)(ii) and 53C-2-201(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This action clarifies the rule so that it reflects current practice. Consequently, there is no anticipated impact to either costs or income.

❖ LOCAL GOVERNMENTS: This action clarifies the rule so that it reflects current practice. Consequently, there is no anticipated impact to either costs or income.

❖ OTHER PERSONS: This action clarifies the rule so that it reflects current practice. Consequently, there is no anticipated impact to either costs or income.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since this proposed action only clarifies the rule so that it accurately reflects current practice, there should be no greater or lesser compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed amendment is expected to be transparent to businesses. The change clarifies the rule so that it reflects the agency's interpretation and practice. It is possible that without the change, an individual could challenge an action taken by the agency because an item was not submitted to RDCC, even though the agreement between the agency and RDCC exempted the item from review. In that case, the time delay could impose a financial burden upon the business, but the cost is unquantifiable.

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

SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION  
Room 500  
675 E 500 S  
SALT LAKE CITY UT 84102-2818, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kevin S. Carter at the above address, by phone at 801-538-5160, by FAX at 801-355-0922, or by Internet E-mail at kevincarter@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 10/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/01/2002

AUTHORIZED BY: Kevin S. Carter, Deputy Director

**R850. School and Institutional Trust Lands, Administration.  
R850-70. Sales of Forest Products From Trust Lands  
Administration Lands.  
R850-70-150. Planning.**

1. Pursuant to Section 53C-2-201(1)(a), the Trust Lands Administration shall also undertake to complete the following planning obligations, in addition to the rule-based analysis and approval processes that are prescribed by this rule:

(a) ~~[Submission of]~~ To the extent required by the Memorandum of Understanding between the State Planning Coordinator and the School and Institutional Trust Lands Administration, submit the proposal for review by the Resource Development Coordinating Committee (RDCC);

(b) Evaluation of and response to comments received through the RDCC process; and

(c) Evaluation of and response to any comments received through the solicitation process described in R850-70-800(1)(b).

2. All other forest product sales within this category of activity carry no planning obligations by the agency beyond existing rule-based analysis and approval processes.

**KEY: forest products, administrative procedures, timber**  
~~[September 4, 1995]~~November 1, 2002  
Notice of Continuation December 11, 1997

53C-1-302(1)(a)(ii)  
53C-2-201(1)(a)

▼ ————— ▼

**School and Institutional Trust Lands,  
Administration  
R850-80-150  
Planning**

**NOTICE OF PROPOSED RULE  
(Amendment)**

DAR FILE NO.: 25304  
FILED: 09/16/2002, 12:26

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rules which implement the statute creating the Resource Development Coordinating Committee (RDCC) allow for the execution of agreements between RDCC and state agencies to exempt certain items from review (Subsection R361-1-4(E)(1)(b)). A recently-negotiated agreement between the Trust Lands Administration and RDCC provides for the exemption of certain nonsignificant items from review. Agency rules are being modified to recognize the exemptions provided for in the agreement.

SUMMARY OF THE RULE OR CHANGE: The agency is amending this rule to remove the current requirement to submit all actions to RDCC for review, and replace it with language that requires us to submit only those actions not exempted by our agreement with RDCC.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 53C-1-302(1)(a)(ii), 53C-2-201(1)(a), 53C-4-101(1), and 53C-4-202(6), and Section 53C-4-102

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: This action clarifies the rule so that it reflects current practice. Consequently, there is no anticipated impact to either costs or income.
- ❖ LOCAL GOVERNMENTS: This action clarifies the rule so that it reflects current practice. Consequently, there is no anticipated impact to either costs or income.
- ❖ OTHER PERSONS: This action clarifies the rule so that it reflects current practice. Consequently, there is no anticipated impact to either costs or income.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since this proposed action only clarifies the rule so that it accurately reflects current practice, there should be no greater or lesser compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed amendment is expected to be transparent to businesses. The change clarifies the rule so that it reflects the agency's interpretation and practice. It is possible that without the change, an individual could challenge an action taken by the agency

because an item was not submitted to RDCC, even though the agreement between the agency and RDCC exempted the item from review. In that case, the time delay could impose a financial burden upon the business, but the cost is unquantifiable.

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

SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION  
Room 500  
675 E 500 S  
SALT LAKE CITY UT 84102-2818, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kevin S. Carter at the above address, by phone at 801-538-5160, by FAX at 801-355-0922, or by Internet E-mail at kevincarter@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 10/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/01/2002

AUTHORIZED BY: Kevin S. Carter, Deputy Director

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**R850. School and Institutional Trust Lands, Administration.  
R850-80. Sale of Trust Lands.  
R850-80-150. Planning.**

Pursuant to Section 53C-2-201(1)(a), the Trust Lands Administration shall also undertake to complete the following planning obligations, in addition to the rule-based analysis and approval processes that are prescribed by this rule:

1. ~~[Submission of]~~ To the extent required by the Memorandum of Understanding between the State Planning Coordinator and the School and Institutional Trust Lands Administration, submit the proposal for review by the Resource Development Coordinating Committee (RDCC);
2. Evaluation of and response to comments received through the RDCC process; and
3. Evaluation of and response to any comments received through the solicitation process conducted pursuant to R850-80-400(1).

**KEY: administrative procedures, sales<sup>[\*]</sup>  
~~December 4, 2000~~ November 1, 2002  
Notice of Continuation June 27, 2002**

53C-1-302(1)(a)(ii)  
53C-2-201(1)(a)  
53C-4-101(1)  
53C-4-102  
53C-4-202(6)

▼ ————— ▼

**School and Institutional Trust Lands,  
Administration  
R850-90-150  
Planning**

**NOTICE OF PROPOSED RULE**

(Amendment)  
DAR FILE NO.: 25306  
FILED: 09/16/2002, 12:35

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The rules which implement the statute creating the Resource Development Coordinating Committee (RDCC) allow for the execution of agreements between RDCC and state agencies to exempt certain items from review (Subsection R361-1-4(E)(1)(b)). A recently-negotiated agreement between the Trust Lands Administration and RDCC provides for the exemption of certain nonsignificant items from review. Agency rules are being modified to recognize the exemptions provided for in the agreement.

**SUMMARY OF THE RULE OR CHANGE:** The agency is amending this rule to remove the current requirement to submit all actions to RDCC for review, and replace it with language that requires us to submit only those actions not exempted by our agreement with RDCC.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsections 53C-1-302(1)(a)(ii), 53C-2-201(1)(a), and 53C-4-101(1), and Section 53C-4-102

**ANTICIPATED COST OR SAVINGS TO:**

- ❖ **THE STATE BUDGET:** This action clarifies the rule so that it reflects current practice. Consequently, there is no anticipated impact to either costs or income.
- ❖ **LOCAL GOVERNMENTS:** This action clarifies the rule so that it reflects current practice. Consequently, there is no anticipated impact to either costs or income.
- ❖ **OTHER PERSONS:** This action clarifies the rule so that it reflects current practice. Consequently, there is no anticipated impact to either costs or income.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Since this proposed action only clarifies the rule so that it accurately reflects current practice, there should be no greater or lesser compliance costs.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This proposed amendment is expected to be transparent to businesses. The change clarifies the rule so that it reflects the agency's interpretation and practice. It is possible that without the change, an individual could challenge an action taken by the agency because an item was not submitted to RDCC, even though the agreement between the agency and RDCC exempted the item from review. In that case, the time delay could impose a financial burden upon the business, but the cost is unquantifiable.

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SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION  
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675 E 500 S  
SALT LAKE CITY UT 84102-2818, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kevin S. Carter at the above address, by phone at 801-538-5160, by FAX at 801-355-0922, or by Internet E-mail at kevincarter@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 10/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/01/2002

AUTHORIZED BY: Kevin S. Carter, Deputy Director

**R850. School and Institutional Trust Lands, Administration.**

**R850-90. Land Exchanges.**

**R850-90-150. Planning.**

Pursuant to Section 53C-2-201(1)(a), the Trust Lands Administration shall also undertake to complete the following planning obligations, in addition to the rule-based analysis and approval processes that are prescribed by this rule:

1. ~~Submission of~~ To the extent required by the Memorandum of Understanding between the State Planning Coordinator and the School and Institutional Trust Lands Administration, submit the proposal for review by the Resource Development Coordinating Committee (RDCC);
2. Evaluation of and response to comments received through the RDCC process; and
3. Evaluation of and response to any comments received through the solicitation process conducted pursuant to R850-90-400(1).

**KEY: land exchange, administrative procedures**

~~July 2, 1996~~ **November 1, 2002**

**Notice of Continuation January 15, 2002**

**53C-1-302(1)(a)(ii)**

**53C-2-201(1)(a)**

**53C-4-101(1)**

**53C-4-102**

▼ ————— ▼  
**School and Institutional Trust Lands,  
Administration  
R850-120-150  
Planning**



**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 25307

FILED: 09/16/2002, 12:36

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rules which implement the statute creating the Resource Development Coordinating Committee (RDCC) allow for the execution of agreements between RDCC and state agencies to exempt certain items from review (Subsection R361-1-4(E)(1)(b)). A recently-negotiated agreement between the Trust Lands Administration and RDCC provides for the exemption of certain nonsignificant items from review. Agency rules are being modified to recognize the exemptions provided for in the agreement.

SUMMARY OF THE RULE OR CHANGE: The agency is amending this rule to remove the current requirement to submit all actions to RDCC for review, and replace it with language that requires us to submit only those actions not exempted by our agreement with RDCC.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 53C-1-302(1)(a)(ii), 53C-2-201(1)(a), and 53C-4-101(1)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: This action clarifies the rule so that it reflects current practice. Consequently, there is no anticipated impact to either costs or income.
- ❖ LOCAL GOVERNMENTS: This action clarifies the rule so that it reflects current practice. Consequently, there is no anticipated impact to either costs or income.
- ❖ OTHER PERSONS: This action clarifies the rule so that it reflects current practice. Consequently, there is no anticipated impact to either costs or income.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since this proposed action only clarifies the rule so that it accurately reflects current practice, there should be no greater or lesser compliance costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed amendment is expected to be transparent to businesses. The change clarifies the rule so that it reflects the agency's interpretation and practice. It is possible that without the change, an individual could challenge an action taken by the agency because an item was not submitted to RDCC, even though the agreement between the agency and RDCC exempted the item from review. In that case, the time delay could impose a financial burden upon the business, but the cost is unquantifiable.

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675 E 500 S

SALT LAKE CITY UT 84102-2818, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kevin S. Carter at the above address, by phone at 801-538-5160, by FAX at 801-355-0922, or by Internet E-mail at kevincarter@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 10/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/02/2002

AUTHORIZED BY: Kevin S. Carter, Deputy Director

**R850. School and Institutional Trust Lands, Administration.  
R850-120. Beneficiary Use of Institutional Trust Land.  
R850-120-150. Planning.**

Pursuant to Section 53C-2-201(1)(a), the Trust Lands Administration shall also undertake to complete the following planning obligations, in addition to the rule-based analysis and approval processes that are prescribed by this rule:

1. ~~[Submission of]~~ To the extent required by the Memorandum of Understanding between the State Planning Coordinator and the School and Institutional Trust Lands Administration, submit the proposal for review by the Resource Development Coordinating Committee (RDCC); and

2. Evaluation of and response to comments received through the RDCC process.

**KEY: beneficiaries, land use, administrative procedures**

~~[August 1, 1995]~~ November 1, 2002

Notice of Continuation January 15, 2002

53C-1-302(1)(a)(ii)

53C-2-201(1)(a)

53C-4-101(1)

▼ ————— ▼

**School and Institutional Trust Lands,  
Administration  
R850-130-150  
Planning**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 25305

FILED: 09/16/2002, 12:34

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rules which implement the statute creating the Resource Development Coordinating Committee (RDCC) allow for the execution of agreements between RDCC and state agencies to exempt certain items from review (Subsection R361-1-4(E)(1)(b)). A recently-negotiated agreement between the

Trust Lands Administration and RDCC provides for the exemption of certain nonsignificant items from review. Agency rules are being modified to recognize the exemptions provided for in the agreement.

**SUMMARY OF THE RULE OR CHANGE:** The agency is amending this rule to remove the current requirement to submit all actions to RDCC for review, and replace it with language that requires us to submit only those actions not exempted by our agreement with RDCC.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsections 53C-1-302(1)(a)(ii), 53C-2-201(1)(a), and 53C-4-101(1)

**ANTICIPATED COST OR SAVINGS TO:**

- ❖ **THE STATE BUDGET:** This action clarifies the rule so that it reflects current practice. Consequently, there is no anticipated impact to either costs or income.
- ❖ **LOCAL GOVERNMENTS:** This action clarifies the rule so that it reflects current practice. Consequently, there is no anticipated impact to either costs or income.
- ❖ **OTHER PERSONS:** This action clarifies the rule so that it reflects current practice. Consequently, there is no anticipated impact to either costs or income.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Since this proposed action only clarifies the rule so that it accurately reflects current practice, there should be no greater or lesser compliance costs.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This proposed amendment is expected to be transparent to businesses. The change clarifies the rule so that it reflects the agency's interpretation and practice. It is possible that without the change, an individual could challenge an action taken by the agency because an item was not submitted to RDCC, even though the agreement between the agency and RDCC exempted the item from review. In that case, the time delay could impose a financial burden upon the business, but the cost is unquantifiable.

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

SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION  
Room 500  
675 E 500 S  
SALT LAKE CITY UT 84102-2818, or  
at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

Kevin S. Carter at the above address, by phone at 801-538-5160, by FAX at 801-355-0922, or by Internet E-mail at kevincarter@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 10/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/01/2002

AUTHORIZED BY: Kevin S. Carter, Deputy Director

**R850. School and Institutional Trust Lands, Administration.**

**R850-130. Materials Permits.**

**R850-130-150. Planning.**

Pursuant to Section 53C-2-201(1)(a), this category of activity carries the following planning obligations beyond existing rule-based analysis and approval processes:

1. ~~[Submission of]~~ To the extent required by the Memorandum of Understanding between the State Planning Coordinator and the School and Institutional Trust Lands Administration, submit the proposal for review by the Resource Development Coordinating Committee (RDCC) if the proposed action may have a significant impact upon natural or cultural resources of the state;

2. Evaluation of and response to comments received through the RDCC process; and

3. Evaluation of and response to any comments received through the solicitation process conducted pursuant to R850-130-400(4)(a) or R850-130-400(4)(b).

**KEY: administrative procedures, materials handling, permits**  
~~[July 2, 1996]~~ **November 1, 2002**

**Notice of Continuation October 3, 1997**

**53C-1-302(1)(a)(ii)**

**53C-2-201(1)(a)**

**53C-4-101(1)**



**Tax Commission, Administration**

**R861-1A-36**

**Signatures Defined Pursuant to Utah  
Code Ann. Sections 41-1a-209, 59-10-  
512,  
59-12-107, 59-13-206, and 59-13-307**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 25297

FILED: 09/16/2002, 11:25

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Section 59-10-512 requires that an income tax return be signed in accordance with rules prescribed by the commission.

**SUMMARY OF THE RULE OR CHANGE:** Proposed amendment indicates that an individual who has met the signature requirements of the Internal Revenue Service will be deemed to meet the signature requirements of the state; and updates the telefile system to reflect its name change to Tax.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 41-1a-209, 59-10-512, 59-12-107, 59-13-206, and 59-13-307

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The amendment will simply indicate what satisfies the state requirement that an income tax return be signed.
- ❖ LOCAL GOVERNMENTS: None--Income tax revenues are deposited into the Uniform School Fund.
- ❖ OTHER PERSONS: None--Same as "State budget" above.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The amendment will allow many taxpayers who file electronically to no longer file a paper signature document.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impact on businesses will be positive since many taxpayers will no longer be required to file paper signature documents when filing returns electronically.

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

TAX COMMISSION  
ADMINISTRATION  
210 N 1950 W  
SALT LAKE CITY UT 84134-0002, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@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 10/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/01/2002

AUTHORIZED BY: Pam Hendrickson, Commissioner

**R861. Tax Commission, Administration.**

**R861-1A. Administrative Procedures.**

**R861-1A-36. Signatures Defined Pursuant to Utah Code Ann. Sections 41-1a-209, 59-10-512, 59-12-107, 59-13-206, and 59-13-307.**

A. ["Telefile"] "TaxExpress" means the filing of tax returns and tax payment information by telephone and Internet web site.

B. Taxpayers who file tax return information, other than electronic funds transfers, through the Tax Commission's [telefile]TaxExpress system shall use the Tax Commission assigned personal identification number as their signature for all tax return information filed through that system.

C. Individuals who submit an application to renew their vehicle registration on the Internet web site authorized by the Tax Commission shall use the Tax Commission assigned personal identification number included with their registration renewal information as their signature for the renewal application submitted over the Internet.

D. Taxpayers who use the Tax Commission authorized Internet web site to file tax return information for tax types that may be filed on that web site shall use the personal identification number provided by the Tax Commission as their signature for the tax return information filed on that web site.

E. Taxpayers who file an individual income tax return electronically and who met the signature requirement of the Internal Revenue Service shall be deemed to meet the signature requirement of Section 59-10-512.

**KEY: developmentally disabled, grievance procedures, taxation, disclosure requirements**

~~May 17,~~ 2002

Notice of Continuation April 22, 2002

41-1a-209

59-10-512

59-12-107

59-13-206



**Tax Commission, Auditing**

**R865-91-34**

**Property Tax Relief for Individuals  
Pursuant to Utah Code Ann. Sections  
59-2-1201 through 59-2-1220 and 59-2-  
1104 through 59-2-1109**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 25332

FILED: 09/16/2002, 16:40

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 59-2-1202 defines "household income" and "nontaxable income." Section 59-2-1204 indicates that an individual may qualify for both a homeowners' and renters' credit against property tax.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment provides guidance on when "household" is determined for purposes of calculating household income for the homeowners' and renters' credits against property tax; provides guidance on what items are and are not included in "nontaxable income" for purposes of the homeowners' and renters' credits against property tax; clarifies that an individual may qualify for both the homeowners' and renters' credit; and deletes language already in statute.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-2-1201 through 59-2-1220

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: Unknown, but anticipated to be immaterial. The year for which household income is determined may impact not only the amount of the credit an individual qualifies for, but whether the individual is even eligible for a credit; the additional guidance on what is and is

not included in nontaxable income may increase or decrease the amount of credit an individual qualifies for; the clarification that an individual may qualify for both the homeowners' and renters' credits may increase the amount of credit claimed if the qualifying individual had not understood that to be the case previously.

❖ LOCAL GOVERNMENTS: None--These credits are funded from the General Fund.

❖ OTHER PERSONS: An individual may claim a greater or lesser credit, or no credit at all, depending on whether the individual was calculating the credit using the appropriate year income and whether the individual correctly identified amounts received as nontaxable income. In addition, an individual may claim an increased amount of credit if the individual qualifies for both the homeowners' and renters' credits and had not previously understood that he may claim both credits.

COMPLIANCE COSTS FOR AFFECTED PERSONS: An individual may claim a greater or lesser credit, or no credit at all, depending on whether the individual was calculating the credit using the appropriate year income and whether the individual correctly identified amounts received as nontaxable income. In addition, an individual may claim an increased amount of credit if the individual qualifies for both the homeowners' and renters' credits and had not previously understood that he may claim both credits.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There may be a very minimal impact on individuals qualifying for the residential property tax relief but the rule will have no impact on businesses.

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

TAX COMMISSION  
AUDITING  
210 N 1950 W  
SALT LAKE CITY UT 84134, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@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 10/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/01/2002

AUTHORIZED BY: Pam Hendrickson, Commissioner

#### **R865. Tax Commission, Auditing.**

##### **R865-91. Income Tax.**

**R865-91-34. Property Tax Relief For Individuals Pursuant to Utah Code Ann. Sections 59-2-1201 through 59-2-1220** ~~and 59-2-1104 through 59-2-1109~~.

A. "Household" is determined as follows:

1. For purposes of the homeowner's credit under Section 59-2-1208, household shall be determined as of January 1 of the year in which the claim under that section is filed.

2. For purposes of the renter's credit under Section 59-2-1209, household shall be determined as of January 1 of the year for which the claim is filed under that section.

B. "Nontaxable income" includes:

1. the amount of a federal child tax credit received under Section 24 of the Internal Revenue Code that exceeded the taxpayer's federal tax liability; and

2. the amount of a federal earned income credit received under Section 32 of the Internal Revenue Code that exceeded the taxpayer's federal tax liability.

C. "Nontaxable income" does not include:

1. federal tax refunds;

2. the amount of a federal child tax credit received under Internal Revenue Code Section 24 that did not exceed the taxpayer's federal tax liability;

3. the amount of a federal earned income credit received under Internal Revenue Code Section 32 that did not exceed the taxpayer's federal tax liability;

4. payments received under a reverse mortgage;

5. payments or reimbursements to senior program volunteers under United States Code Title 42, Section 5058; and

6. gifts and bequests.

~~[B.]D.~~ "Property taxes accrued" does not mean that taxes can be accumulated for two or more years and then claimed in one year.

~~[A.]E.~~ ~~[Where the]A~~ claimant who pays property taxes on a mobile home and pays rent on the land on which the mobile home is situated, ~~two computations must be made and the results combined. One computation is made for taxes paid on the mobile home, and the other is made for the rental of the land. The rental may not include charges for any utilities, services, furniture, furnishings or personal appliances furnished by the landlord as a part of the rental agreement~~ shall be eligible for a homeowner's credit for the property tax paid on the mobile home and a renter's credit for the rent paid on the land.

~~[C.]~~ Claims for rent paid for taxes will not be allowed in any year in which a claim is made for taxes, except in the case of mobile homes where both taxes and rent are paid.

~~— D.~~ Every claimant shall supply the Tax Commission a statement that the property taxes accrued and used have been or will be paid by him and that there are no delinquent property taxes on the homestead.

~~— E.]E.~~ State welfare assistance is not considered as public funds for the payment of rent, and will not preclude a rebate. However, assistance payments must be included in income.

~~[F.]G.~~ Where housing assistance payments are involved under the Housing and Community Development Act, Title II, Section 8:

1. only that portion of the rent paid by the tenant may be claimed under the terms of the Circuit Breaker Act; and

2. that portion of the rent paid by the federal government to the landlord will not be considered as part of the household income since it is not subject to a claim for rebate.

~~[G.]H.~~ Persons claiming a property tax exemption under ~~[the provision of the laws for indigents, veterans or blind persons]~~ Title 59, Chapter 2, Part 11 are not precluded from claiming a homeowner's or renter's credit. ~~[refund or rebate under Utah Code Ann. Sections 59-2-1204, 59-2-1205 and 59-2-1208. Exemption refunds and rebates are subject to the limitations imposed by Utah Code Ann. Title 59, Chapter 2.]~~

**KEY: historic preservation, income tax, tax returns, enterprise 2002**  
**59-7-03**

▼ ————— ▼

**Tax Commission, Property Tax**  
**R884-24P-33**  
**2002 Personal Property Valuation**  
**Guides and Schedules Pursuant to**  
**Utah Code Ann. Section 59-2-301**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 25320

FILED: 09/16/2002, 15:52

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Section 59-1-210 authorizes the State Tax Commission to promulgate rules that aid county officials in the performance of any duties relating to the assessment and equalization of property within the county.

**SUMMARY OF THE RULE OR CHANGE:** This is an annual update to the personal property guides and schedules for local assessment of business personal property and motor vehicles.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 59-2-301

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** The amount of savings or cost to state government is undetermined. Tax revenue is distributed to local governments for assessing and collecting and for the uniform school fund based on increased or decreased personal property value. Increase or decrease in 2003 tax revenue cannot be determined, even if there were no changes in the percent good tables because taxpayer acquisitions and deletion of property during 2002 is unknown. The proposed personal property schedules in this rule are raised, lowered, or remain the same for 2003 based on the type and age of the property assessed. Schedules for Class 1, Class 15, Class 23, Class 24, and Class 27 are proposed with no changes for 2003 from 2002. Schedules used to value business personal property increase as much as four percentage points and decrease as much as seven percentage points between the proposed rule and the previous rule. Schedules used to value motor vehicles increase as much as 12 percentage points and decrease as much as 13 percentage points between the proposed rule and the previous rule. Proposed schedules used to value registered recreational vehicles increase up to six percentage points in an assessment year compared to the previous rule. In aggregate for all personal property schedules, it is anticipated that the change in the annual tax rate will have a larger impact on revenue than will the proposed schedule changes due to amendments to this rule.

❖ **LOCAL GOVERNMENTS:** The amount of saving or cost to local

government is undetermined. Local governmental entities receive tax revenue based on increased or decreased personal property value. Increase or decrease in 2003 tax revenue cannot be determined, even if there were no changes in the percent good tables because taxpayer acquisitions and deletions of property during 2002 is unknown. The proposed personal property schedules in this rule are raised, lowered or remain the same for 2003 based on the type and age of the property. Schedules for Class 1, Class 15, Class 23, and Class 24 are proposed with no changes for 2003 from 2002. Schedules used to value business personal property increase as much as four percentage points and decrease as much as seven percentage points between the proposed rule and the previous rule. Schedules used to value motor vehicles increase as much as 12 percentage points and decrease as much as 13 percentage points between the proposed rule and the previous rule. Proposed schedules used to value registered recreational vehicles increase up to six percentage points in an assessment year compared to the previous rule. In aggregate for all personal property schedules, it is anticipated that the change in the annual tax rate will have a larger impact on revenue than will the proposed schedule changes due to amendments to this rule.

❖ **OTHER PERSONS:** In the aggregate, the amount of savings or cost to individuals and business is undetermined. Affected persons pay taxes based on increased or decreased personal property value. The proposed personal property schedules in this rule are raised, lowered or remain the same for 2003 based on the type and age of the property. Since some schedules are increased and some decreased, it is not possible to determine the change to affected persons without knowing the 2003 property mix compared to the 2002 historical totals.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Local business owners and property tax practitioners will once again be required to be aware of new percent good figures. However, this is no different than previous years and therefore the compliance cost in completing the assessment process will not change. The change in taxes charged for these businesses depends entirely on the mix of property since some percent good schedules are increasing and others decreasing. For example, the owner of a commercial trailer may see an increase in taxes since the 2003 proposed percent good schedule for this class increases by as much as 12 percentage points but the owner of a medium or heavy duty truck may see a decrease in taxes due to a decrease by as much as 13 percentage points, compared to the previous rule, depending on the model year of the vehicle.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** As indicated above, the fiscal impact to businesses from changes in the proposed personal property schedules due to changes in this rule will not be as significant as changes in the annual tax rate.

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

TAX COMMISSION  
 PROPERTY TAX  
 210 N 1950 W

SALT LAKE CITY UT 84134, or  
at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clec@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 10/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/01/2002

AUTHORIZED BY: Pam Hendrickson, Commissioner

**R884. Tax Commission, Property Tax.**

**R884-24P. Property Tax.**

**R884-24P-33. [2002]2003 Personal Property Valuation Guides and Schedules Pursuant to Utah Code Ann. Section 59-2-301.**

**A. Definitions.**

1. "Acquisition cost" means all costs required to put an item into service, including purchase price, freight and shipping costs; installation, engineering, erection or assembly costs; and excise and sales taxes.

a) Indirect costs such as debugging, licensing fees and permits, insurance or security are not included in the acquisition cost.

b) Acquisition cost may correspond to the cost new for new property, or cost used for used property.

2. "Actual cost" includes the value of components necessary to complete the vehicle, such as tanks, mixers, special containers, passenger compartments, special axles, installation, engineering, erection, or assembly costs.

a) Actual cost does not include sales or excise taxes, maintenance contracts, registration and license fees, dealer charges, tire tax, freight, or shipping costs.

3. "Cost new" means the actual cost of the property when purchased new.

a) Except as otherwise provided in this rule, the Tax Commission and assessors shall rely on the following sources to determine cost new:

- (1) documented actual cost of the new or used vehicle; or
- (2) recognized publications that provide a method for approximating cost new for new or used vehicles.

b) For the following property purchased used, the taxing authority may determine cost new by dividing the property's actual cost by the percent good factor for that class:

- (1) class 6 heavy and medium duty trucks;
- (2) class 9 off-highway vehicles;
- (3) class 11 street motorcycles;
- (4) class 13 heavy equipment;
- (5) class 14 motor homes;
- (6) class 17 boats;
- (7) class 18 travel trailers/truck campers;
- (8) class 21 commercial and utility trailers;
- (9) class 23 aircraft subject to the aircraft uniform fee and not listed in the aircraft bluebook price digest; and
- (10) class 26 personal watercraft.

4. "Percent good" means an estimate of value, expressed as a percentage, based on a property's acquisition cost or cost new, adjusted for depreciation and appreciation of all kinds.

a) The percent good factor is applied against the acquisition cost or the cost new to derive taxable value for the property.

b) Percent good schedules are derived from an analysis of the Internal Revenue Service Class Life, the Marshall and Swift Cost index, other data sources or research, and vehicle valuation guides such as NADA.

B. Each year the Property Tax Division shall update and publish percent good schedules for use in computing personal property valuation.

1. Proposed schedules shall be transmitted to county assessors and interested parties for comment before adoption.

2. A public comment period will be scheduled each year and a public hearing will be scheduled if requested by ten or more interested parties or at the discretion of the Commission.

3. County assessors may deviate from the schedules when warranted by specific conditions affecting an item of personal property. When a deviation will affect an entire class or type of personal property, a written report, substantiating the changes with verifiable data, must be presented to the Commission. Alternative schedules may not be used without prior written approval of the Commission.

4. A party may request a deviation from the value established by the schedule for a specific item of property if the use of the schedule does not result in the fair market value for the property at the retail level of trade on the lien date, including any relevant installation and assemblage value.

C. Other taxable personal property that is not included in the listed classes includes:

1. Supplies on hand as of January 1 at 12:00 noon, including office supplies, shipping supplies, maintenance supplies, replacement parts, lubricating oils, fuel and consumable items not held for sale in the ordinary course of business. Supplies are assessed at total cost, including freight-in.

2. Equipment leased or rented from inventory is subject to ad valorem tax. Refer to the appropriate property class schedule to determine taxable value.

3. Property held for rent or lease is taxable, and is not exempt as inventory. For entities primarily engaged in rent-to-own, inventory on hand at January 1 is exempt and property out on rent-to-own contracts is taxable.

D. Personal property valuation schedules may not be appealed to, or amended by, county boards of equalization.

E. All taxable personal property is classified by expected economic life as follows:

1. Class 1 - Short Life Property. Property in this class has a typical life of more than one year and less than four years. It is fungible in that it is difficult to determine the age of an item retired from service.

a) Examples of property in the class include:

- (1) barricades/warning signs;
- (2) library materials;
- (3) patterns, jigs and dies;
- (4) pots, pans, and utensils;
- (5) canned computer software;
- (6) hotel linen;
- (7) wood and pallets;
- (8) video tapes, compact discs, and DVDs; and
- (9) uniforms.

b) With the exception of video tapes, compact discs, and DVDs, taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

c) A licensee of canned computer software shall use one of the following substitutes for acquisition cost of canned computer software if no acquisition cost for the canned computer software is stated:

- (1) retail price of the canned computer software;
- (2) if a retail price is unavailable, and the license is a nonrenewable single year license agreement, the total sum of expected payments during that 12-month period; or
- (3) if the licensing agreement is a renewable agreement or is a multiple year agreement, the present value of all expected licensing fees paid pursuant to the agreement.

d) Video tapes, compact discs, and DVDs are valued at \$15.00 per tape or disc for the first year and \$3.00 per tape or disc thereafter.

TABLE 1

Year of Acquisition	Percent Good of Acquisition Cost
[01]02	70%
[00]01	40%
[99]00 and prior	10%

2. Class 2 - Computer Integrated Machinery.

a) Machinery shall be classified as computer integrated machinery if all of the following conditions are met:

- (1) The equipment is sold as a single unit. If the invoice breaks out the computer separately from the machine, the computer must be valued as Class 12 property and the machine as Class 8 property.
- (2) The machine cannot operate without the computer and the computer cannot perform functions outside the machine.
- (3) The machine can perform multiple functions and is controlled by a programmable central processing unit.
- (4) The total cost of the machine and computer combined is depreciated as a unit for income tax purposes.
- (5) The capabilities of the machine cannot be expanded by substituting a more complex computer for the original.

b) Examples of property in this class include:

- (1) CNC mills;
- (2) CNC lathes;
- (3) MRI equipment;
- (4) CAT scanners; and
- (5) mammography units.

~~b)~~c) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 2

Year of Acquisition	Percent Good of Acquisition Cost
[01]02	87%
[00]01	[72%]71%
[99]00	60%
[98]99	51%
[97]98	[44%]43%
[96]97	35%
[95]96	[26%]25%
[94]95 and prior	[17%]16%

3. Class 3 - Short Life Trade Fixtures. Property in this class generally consists of electronic types of equipment and includes property subject to rapid functional and economic obsolescence or severe wear and tear.

a) Examples of property in this class include:

- (1) office machines;
- (2) alarm systems;

- (3) shopping carts;
- (4) ATM machines;
- (5) small equipment rentals;
- (6) rent-to-own merchandise;
- (7) telephone equipment and systems;
- (8) music systems;
- (9) vending machines;
- (10) video game machines; and
- (11) cash registers and point of sale equipment.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 3

Year of Acquisition	Percent Good of Acquisition Cost
[01]02	83%
[00]01	67%
[99]00	51%
[98]99	34%
[97]98 and prior	17%

4. Class 5 - Long Life Trade Fixtures. Class 5 property is subject to functional obsolescence in the form of style changes.

a) Examples of property in this class include:

- (1) furniture;
- (2) bars and sinks;
- (3) booths, tables and chairs;
- (4) beauty and barber shop fixtures;
- (5) cabinets and shelves;
- (6) displays, cases and racks;
- (7) office furniture;
- (8) theater seats;
- (9) water slides; and
- (10) signs, mechanical and electrical.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 5

Year of Acquisition	Percent Good of Acquisition Cost
[01]02	90%
[00]01	[81%]80%
[99]00	[72%]71%
[98]99	62%
[97]98	52%
[96]97	42%
[95]96	[33%]32%
[94]95	22%
[93]94 and prior	[12%]11%

5. Class 6 - Heavy and Medium Duty Trucks.

a) Examples of property in this class include:

- (1) heavy duty trucks; and
- (2) medium duty trucks.

b) Taxable value is calculated by applying the percent good factor against the cost new.

c) Cost new of vehicles in this class is defined as follows:

- (1) the documented actual cost of the vehicle for new vehicles; or
- (2) 75 percent of the manufacturer's suggested retail price.

d) For state assessed vehicles, cost new shall include the value of attached equipment.

e) The [2002]2003 percent good applies to [2002]2003 models purchased in [2001]2002.

f) Trucks weighing two tons or more have a residual taxable value of \$1,750.

TABLE 6

Model Year	Percent Good of Cost New
[02]03	90%
[01]02	[68%] 55%
[00]01	[63%] 52%
[99]00	[58%] 48%
[98]99	[53%] 44%
[97]98	[48%] 40%
[96]97	[44%] 37%
[95]96	[39%] 33%
[94]95	[34%] 29%
[93]94	[29%] 25%
[92]93	[24%] 22%
[91]92	[19%] 18%
[90]91	14%
[89]90 and prior	10%

6. Class 7 - Medical and Dental Equipment. Class 7 property is subject to a high degree of technological development by the health industry.

- a) Examples of property in this class include:
  - (1) medical and dental equipment and instruments;
  - (2) exam tables and chairs;
  - (3) high-tech hospital equipment;
  - (4) microscopes; and
  - (5) optical equipment.
- b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 7

Year of Acquisition	Percent Good of Acquisition Cost
[01]02	91%
[00]01	[84%] 83%
[99]00	[77%] 76%
[98]99	[68%] 69%
[97]98	[61%] 60%
[96]97	[53%] 52%
[95]96	[45%] 44%
[94]95	[37%] 36%
[93]94	[29%] 28%
[92]93	19%
[91]92 and prior	10%

7. Class 8 - Machinery and Equipment. Property in this class is subject to considerable functional and economic obsolescence created by competition as technologically advanced and more efficient equipment becomes available.

- a) Examples of property in this class include:
  - (1) manufacturing machinery;
  - (2) amusement rides;
  - (3) bakery equipment;
  - (4) distillery equipment;
  - (5) refrigeration equipment;
  - (6) laundry and dry cleaning equipment;
  - (7) machine shop equipment;
  - (8) processing equipment;
  - (9) auto service and repair equipment;
  - (10) mining equipment;
  - (11) ski lift machinery;
  - (12) printing equipment;
  - (13) bottling or cannery equipment; and
  - (14) packaging equipment.
- b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 8

Year of Acquisition	Percent Good of Acquisition Cost
[01]02	91%
[00]01	[84%] 83%
[99]00	[77%] 76%
[98]99	[68%] 69%
[97]98	[61%] 60%
[96]97	[53%] 52%
[95]96	[45%] 44%
[94]95	[37%] 36%
[93]94	[29%] 28%
[92]93	19%
[91]92 and prior	10%

- 8. Class 9 - Off-Highway Vehicles.
  - a) Examples of property in this class include:
    - (1) dirt and trail motorcycles;
    - (2) all terrain vehicles;
    - (3) golf carts; and
    - (4) snowmobiles.
  - b) Taxable value is calculated by applying the percent good factor against the cost new.
  - c) The [2002]2003 percent good applies to [2002]2003 models purchased in [2001]2002.
  - d) Off-Highway Vehicles have a residual taxable value of \$500.

TABLE 9

Model Year	Percent Good of Cost New
[02]03	90%
[01]02	[59%] 64%
[00]01	[56%] 61%
[99]00	[53%] 57%
[98]99	[49%] 53%
[97]98	[46%] 49%
[96]97	[42%] 45%
[95]96	[39%] 41%
[94]95	[36%] 37%
[93]94	[32%] 33%
[92]93	[29%] 30%
[91]92	[25%] 26%
[90]91	22%
[89]90 and prior	[19%] 18%

9. Class 10 - Railroad Cars. The Class 10 schedule was developed to value the property of railroad car companies. Functional and economic obsolescence is recognized in the developing technology of the shipping industry. Heavy wear and tear is also a factor in valuing this class of property.

- a) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 10

Year of Acquisition	Percent Good of Acquisition Cost
[01]02	93%
[00]01	[88%] 87%
[99]00	[82%] 81%
[98]99	[75%] 76%
[97]98	69%
[96]97	63%
[95]96	[58%] 56%
[94]95	[52%] 51%
[93]94	[46%] 45%
[92]93	39%
[91]92	31%
[90]91	24%
[89]90	16%
[88]89 and prior	[9%] 8%



10. Class 11 - Street Motorcycles.

a) Examples of property in this class include:

- (1) street motorcycles;
- (2) scooters; ~~and~~
- (3) mopeds; ~~and~~
- (4) low-speed electric vehicles.

b) Taxable value is calculated by applying the percent good factor against the cost new.

c) The ~~2002~~2003 percent good applies to ~~2002~~2003 models purchased in ~~2001~~2002.

d) Street motorcycles have a residual taxable value of \$500.

TABLE 11

Model Year	Percent Good of Cost New
[02]03	90%
[01]02	[63%]68%
[00]01	[61%]65%
[99]00	[59%]63%
[98]99	[57%]60%
[97]98	[54%]58%
[96]97	[52%]55%
[95]96	[50%]53%
[94]95	[48%]50%
[93]94	[46%]48%
[92]93	[44%]45%
[91]92	[42%]43%
[90]91	40%
[89]90	[37%]38%
[88]89	35%
[87]88	33%
[86]87	[31%]30%
[85]86 and prior	[29%]28%

11. Class 12 - Computer Hardware.

a) Examples of property in this class include:

- (1) data processing equipment;
- (2) personal computers;
- (3) main frame computers;
- (4) computer equipment peripherals; ~~and~~
- (5) cad/cam systems; ~~and~~
- (6) copiers.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 12

Year of Acquisition	Percent Good of Acquisition Cost
[01]02	85%
[00]01	[58%]57%
[99]00	37%
[98]99	24%
[97]98	[15%]14%
[96]97 and prior	9%

12. Class 13 - Heavy Equipment.

a) Examples of property in this class include:

- (1) construction equipment;
- (2) excavation equipment;
- (3) loaders;
- (4) batch plants;
- (5) snow cats; and
- (6) pavement sweepers.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

c) ~~2002~~2003 model equipment purchased in ~~2001~~2002 is valued at 100 percent of acquisition cost.

TABLE 13

Year of Acquisition	Percent Good of Acquisition Cost
[01]02	[64%]59%
[00]01	[61%]55%
[99]00	[57%]52%
[98]99	[54%]49%
[97]98	[50%]45%
[96]97	[47%]42%
[95]96	[43%]39%
[94]95	[40%]36%
[93]94	[36%]32%
[92]93	[33%]29%
[91]92	[30%]26%
[90]91	[26%]22%
[89]90	[23%]19%
[88]89 and prior	[19%]16%

13. Class 14 - Motor Homes.

a) Taxable value is calculated by applying the percent good against the cost new.

b) The ~~2002~~2003 percent good applies to ~~2002~~2003 models purchased in ~~2001~~2002.

c) Motor homes have a residual taxable value of \$1,000.

TABLE 14

Model Year	Percent Good of Cost New
[02]03	90%
[01]02	[67%]69%
[00]01	[64%]66%
[99]00	[61%]63%
[98]99	[58%]59%
[97]98	[55%]56%
[96]97	[52%]53%
[95]96	[49%]50%
[94]95	[46%]47%
[93]94	[43%]44%
[92]93	40%
[91]92	37%
[90]91	34%
[89]90	31%
[88]89	[27%]28%
[87]88	[24%]25%
[86]87 and prior	21%

14. Class 15 - Semiconductor Manufacturing Equipment. Class 15 applies only to equipment used in the production of semiconductor products.

a) Examples of property in this class include:

- (1) crystal growing equipment;
- (2) die assembly equipment;
- (3) wire bonding equipment;
- (4) encapsulation equipment;
- (5) semiconductor test equipment;
- (6) clean room equipment;
- (7) chemical and gas systems related to semiconductor manufacturing;
- (8) deionized water systems;
- (9) electrical systems; and
- (10) photo mask and wafer manufacturing dedicated to semiconductor production.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 15

Year of Acquisition	Percent Good of Acquisition Cost
[01]02	74%
[00]01	54%
[99]00	38%
[98]99	24%
[97]98 and prior	10%

15. Class 16 - Long-Life Property. Class 16 property has a long physical life with little obsolescence.

a) Examples of property in this class include:

- (1) billboards;
- (2) sign towers;
- (3) radio towers;
- (4) ski lift and tram towers;
- (5) non-farm grain elevators; and
- (6) bulk storage tanks.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 16

Year of Acquisition	Percent Good of Acquisition Cost
[01]02	95%
[00]01	[91%]90%
[99]00	[87%]86%
[98]99	82%
[97]98	[78%]77%
[96]97	[74%]73%
[95]96	[70%]69%
[94]95	[67%]65%
[93]94	[63%]62%
[92]93	58%
[91]92	53%
[90]91	[48%]47%
[89]90	[43%]42%
[88]89	[39%]37%
[87]88	[34%]33%
[86]87	27%
[85]86	21%
[84]85	14%
[83]84 and prior	7%

16. Class 17 - Boats.

a) Examples of property in this class include:

- (1) boats; and
- (2) outboard boat motors.

b) Taxable value is calculated by applying the percent good factor against the cost new of the property.

c) The Tax Commission and assessors shall rely on the following sources to determine cost new for property in this class:

(1) the following publications or valuation methods:

(a) the manufacturer's suggested retail price listed in the ABOS Marine Blue Book;

(b) for property not listed in the ABOS Marine Blue Book but listed in the NADA Marine Appraisal Guide, the NADA average value for the property divided by the percent good factor; or

(c) for property not listed in the ABOS Marine Blue Book or the NADA Appraisal Guide:

- i) the manufacturer's suggested retail price for comparable property; or
- ii) the cost new established for that property by a documented valuation source; or

(2) the documented actual cost of new or used property in this class.

d) The [2002]2003 percent good applies to [2002]2003 models purchased in [2001]2002.

e) Boats have a residual taxable value of \$500.

TABLE 17

Model Year	Percent Good of Cost New
[02]03	90%
[01]02	[69%]68%
[00]01	[67%]65%

[99]00	[65%]63%
[98]99	[63%]61%
[97]98	[60%]59%
[96]97	[58%]57%
[95]96	[56%]55%
[94]95	[54%]53%
[93]94	[51%]50%
[92]93	[49%]48%
[91]92	[47%]46%
[90]91	[45%]44%
[89]90	42%
[88]89	40%
[87]88	38%
[86]87	36%
[85]86	33%
[84]85	31%
[83]84	29%
[82]83 and prior	27%

17. Class 18 - Travel Trailers/Truck Campers.

a) Examples of property in this class include:

- (1) travel trailers;
- (2) truck campers; and
- (3) tent trailers.

b) Taxable value is calculated by applying the percent good factor against the cost new.

c) The [2002]2003 percent good applies to [2002]2003 models purchased in [2001]2002.

d) Trailers and truck campers have a residual taxable value of \$500.

TABLE 18

Model Year	Percent Good of Cost New
[02]03	90%
[01]02	[66%]68%
[00]01	[63%]65%
[99]00	[60%]62%
[98]99	[57%]59%
[97]98	[54%]56%
[96]97	[51%]53%
[95]96	[48%]50%
[94]95	[46%]47%
[93]94	[43%]44%
[92]93	[40%]41%
[91]92	[37%]38%
[90]91	[34%]35%
[89]90	[31%]32%
[88]89	[28%]29%
[87]88	[25%]26%
[86]87 and prior	[22%]23%

18. Class 20 - Petroleum and Natural Gas Exploration and Production Equipment. Class 20 property is subject to significant functional and economic obsolescence due to the volatile nature of the petroleum industry.

a) Examples of property in this class include:

- (1) oil and gas exploration equipment;
- (2) distillation equipment;
- (3) wellhead assemblies;
- (4) holding and storage facilities;
- (5) drill rigs;
- (6) reinjection equipment;
- (7) metering devices;
- (8) cracking equipment;
- (9) well-site generators, transformers, and power lines;
- (10) equipment sheds;
- (11) pumps;
- (12) radio telemetry units; and
- (13) support and control equipment.

b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 20

Year of Acquisition	Percent Good of Acquisition Cost
[01]02	92%
[00]01	[87%] 86%
[99]00	80%
[98]99	[73%] 74%
[97]98	67%
[96]97	[61%] 60%
[95]96	[55%] 53%
[94]95	[48%] 47%
[93]94	41%
[92]93	33%
[91]92	25%
[90]91	17%
[89]90 and prior	9%

19. Class 21 - Commercial and Utility Trailers.

a) Examples of property in this class include:

- (1) commercial trailers;
- (2) utility trailers;
- (3) cargo utility trailers;
- (4) boat trailers;
- (5) converter gears;
- (6) horse and stock trailers; and
- (7) all trailers not included in Class 18.

b) Taxable value is calculated by applying the percent good factor against the cost new of the property. For state assessed vehicles, cost new shall include the value of attached equipment.

c) The [2002]2003 percent good applies to [2002]2003 models purchased in [2004]2002.

d) Commercial and utility trailers have a residual taxable value of \$500.

TABLE 21

Model Year	Percent Good of Cost New
[02]03	95%
[01]02	[53%] 65%
[00]01	[51%] 61%
[99]00	[49%] 58%
[98]99	[46%] 55%
[97]98	[44%] 51%
[96]97	[42%] 48%
[95]96	[39%] 45%
[94]95	[37%] 42%
[93]94	[35%] 38%
[92]93	[33%] 35%
[91]92	[30%] 32%
[90]91	28%
[89]90	[26%] 25%
[88]89	[23%] 22%
[87]88	[21%] 18%
[86]87 and prior	[19%] 15%

20. Class 22 - Passenger Cars, Light Trucks/Utility Vehicles, and Vans.

a) Class 22 vehicles fall within four subcategories: domestic passenger cars, foreign passenger cars, light trucks, including utility vehicles, and vans.

b) Because Section 59-2-405.1 subjects Class 22 property to an age-based uniform fee, a percent good schedule is not necessary for this class.

21. Class 23 - Aircraft Subject to the Aircraft Uniform Fee and Not Listed in the Aircraft Bluebook Price Digest.

a) Examples of property in this class include:

- (1) kit-built aircraft;
- (2) experimental aircraft;
- (3) gliders;
- (4) hot air balloons; and
- (5) any other aircraft requiring FAA registration.

b) Aircraft subject to the aircraft uniform fee, but not listed in the Aircraft Bluebook Price Digest, are valued by applying the percent good factor against the acquisition cost of the aircraft.

c) Aircraft requiring Federal Aviation Agency registration and kept in Utah must be registered with the Motor Vehicle Division of the Tax Commission.

TABLE 23

Year of Acquisition	Percent Good of Acquisition Cost
[01]02	75%
[00]01	71%
[99]00	67%
[98]99	63%
[97]98	59%
[96]97	55%
[95]96	51%
[94]95	47%
[93]94	43%
[92]93	39%
[91]92	35%
[90]91 and prior	31%

22. Class 24 - Leasehold Improvements.

a) This class includes leasehold improvements to real property installed by a tenant. The Class 24 schedule is to be used only with leasehold improvements that are assessed to the lessee of the real property pursuant to Tax Commission rule R884-24P-32. Leasehold improvements include:

- (1) walls and partitions;
- (2) plumbing and roughed-in fixtures;
- (3) floor coverings other than carpet;
- (4) store fronts;
- (5) decoration;
- (6) wiring;
- (7) suspended or acoustical ceilings;
- (8) heating and cooling systems; and
- (9) iron or millwork trim.

b) Taxable value is calculated by applying the percent good factor against the cost of acquisition, including installation.

c) The Class 3 schedule is used to value short life leasehold improvements.

TABLE 24

Year of Installation	Percent of Installation Cost
[01]02	94%
[00]01	88%
[99]00	82%
[98]99	77%
[97]98	71%
[96]97	65%
[95]96	59%
[94]95	54%
[93]94	48%
[92]93	42%
[91]92	36%
[90]91 and prior	30%

23. Class 25 - Aircraft Parts Manufacturing Tools and Dies. Property in this class is generally subject to rapid physical, functional, and economic obsolescence due to rapid technological and economic shifts in the airline parts manufacturing industry. Heavy wear and tear is also a factor in valuing this class of property.

a) Examples of property in this class include:

- (1) aircraft parts manufacturing jigs and dies;
- (2) aircraft parts manufacturing molds;
- (3) aircraft parts manufacturing patterns;
- (4) aircraft parts manufacturing taps and gauges;

- (5) aircraft parts manufacturing test equipment; and
- (6) aircraft parts manufacturing fixtures.
- b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 25

Year of Acquisition	Percent Good of Acquisition Cost
[01]02	83%
[00]01	[68%]67%
[99]00	52%
[98]99	35%
[97]98	[19%]18%
[96]97 and prior	4%

24. Class 26 - Personal Watercraft.

- a) Examples of property in this class include:
  - (1) motorized personal watercraft; and
  - (2) jet skis.
- b) Taxable value is calculated by applying the percent good factor against the cost new.
- c) The [2002]2003 percent good applies to [2002]2003 models purchased in [2001]2002.
- d) Personal watercraft have a residual taxable value of \$500.

TABLE 26

Model Year	Percent Good of Cost New
[02]03	90%
[01]02	[63%]62%
[00]01	59%
[99]00	55%
[98]99	[51%]52%
[97]98	48%
[96]97	44%
[95]96	[40%]41%
[94]95	[36%]37%
[93]94	[32%]34%
[92]93	[28%]30%
[91]92	[24%]26%
[90]91	[20%]23%
[89]90 and prior	[17%]19%

25. Class 27 - Electrical Power Generating Equipment and Fixtures

- a) Examples of property in this class include:
  - (1) electrical power generators; and
  - (2) control equipment.
- b) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 27

Year of Acquisition	Percent Good of Acquisition Cost
[01]02	97%
[00]01	95%
[99]00	92%
[98]99	90%
[97]98	87%
[96]97	84%
[95]96	82%
[94]95	79%
[93]94	77%
[92]93	74%
[91]92	71%
[90]91	69%
[89]90	66%
[88]89	64%
[87]88	61%
[86]87	58%
[85]86	56%
[84]85	53%
[83]84	51%
[82]83	48%
[81]82	45%

[80]81	43%
[79]80	40%
[78]79	38%
[77]78	35%
[76]77	32%
[75]76	30%
[74]75	27%
[73]74	25%
[72]73	22%
[71]72	19%
[70]71	17%
[69]70	14%
[68]69	12%
[67]68 and prior	9%

F. The provisions of this rule shall be implemented and become binding on taxpayers beginning January 1, [2002]2003.

**KEY: taxation, personal property, property tax, appraisals**  
**December 11, 2001**  
**Notice of Continuation April 5, 2002**  
**59-2-301**

▼ ————— ▼

## Workforce Services, Administration **R982-301-103** Regional Councils on Workforce Services

**NOTICE OF PROPOSED RULE**  
 (Amendment)  
 DAR FILE NO.: 25299  
 FILED: 09/16/2002, 12:03

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule went beyond the authority granted to the Department under Subsection 35A-2-103(5)(e).

**SUMMARY OF THE RULE OR CHANGE:** Subsections R982-301-103(5) and (6) are being deleted. These subsections have to do with committees and the removal of regional council members.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsections 35A-1-104(1), 35A-1-206(2)(a)(iv)(A), 35A-1-206(2)(a)(iv)(B), 35A-2-103(2)(a)(i), 35A-2-103(2)(a)(ii), and 35A-2-103(5)(e)

**ANTICIPATED COST OR SAVINGS TO:**

- ❖ **THE STATE BUDGET:** There will be no cost or savings as these changes do not alter the program in any way which would change what we already have in our budget.
- ❖ **LOCAL GOVERNMENTS:** This rule does not apply to local government and therefore there are no costs or savings to local governments.
- ❖ **OTHER PERSONS:** There are no costs or savings to any other persons, as the amendment merely brings the scope of the rule into line with the statute.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs associated with this change. There are no

fees associated with this change. It will no cost anyone any sum to comply with these changes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change will have no impact on business.

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

WORKFORCE SERVICES  
ADMINISTRATION  
140 E BROADWAY  
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 10/31/2002.

THIS RULE MAY BECOME EFFECTIVE ON: 11/01/2002

AUTHORIZED BY: Raylene G. Ireland, Executive Director

**R982. Workforce Services, Administration.**

**R982-301. Councils.**

**R982-301-103. Regional Councils on Workforce Services.**

1. Authority. As required by Sections 35A-2-103(2)(a)(i) and 35A-2-103(2)(a)(ii) this rule defines small employers and large employers for membership on the Regional Councils on Workforce Services.

2. Definitions.

a. "Small employer" means an employer who employs fewer employees than the median sized employer in the region.

b. "Large employer" means an employer who employs a number of employees that is greater than or equal to the median sized employer in the region.

c. "Median Sized Employer" as used in R982-301-103(2)(a) and R982-301-103(2)(b) is based solely on the number of employees an employer has in his/her employ in the region during the calendar year.

3. Voting. A voting member of a regional council must either be present at a council meeting to vote or, if unable to attend a council meeting, may submit to a regional director in writing 24 hours in advance of a council meeting the member's vote on a specific matter or proposal before the council.

4. Council Leadership. A chair of a regional council may, in consultation with the regional director, appoint members of the council to be the vice chair or second vice chair to serve in leadership positions at the direction of the chair. The vice chair and second vice chair shall be representatives of private sector employers.

~~5. Committees. The regional council may establish one or more committees. The chair of a regional council may appoint members of the council to committees.~~

~~6. Removal. The consortium of counties may remove a regional council member in accordance with Subsection 35A-2-103(5)(e) or this rule.~~

~~a. Removal of a council member shall be initiated by the filing of a Petition for Removal by a resident of the region in which the council member serves. The petitioner(s) shall file the Petition for Removal with the consortium of counties and the consortium shall mail a copy of the petition to the regional director.~~

~~b. A Petition for Removal shall be in writing and shall set forth the name of the council member the petition seeks to remove, the name(s) of the petitioner(s), a clear and concise statement of the reasons for removal, and a request that the consortium of counties act to remove the member. Each petitioner shall sign the Petition for Removal.~~

~~c. Upon receipt of the Petition for Removal, the consortium of counties shall notify the council member who is the subject of the petition. The notice shall be in writing, include a copy of the petition, and mailed to the council member by certified mail, return receipt requested.~~

~~d. As soon as practicable after receiving the Petition for Removal, the consortium of counties shall meet to consider and vote on the Petition for Removal.~~

~~e. Action by the consortium of counties to remove the council member who is the subject of the petition shall require the affirmative vote of a majority of the full consortium of counties. The meeting shall be closed to the public in accordance with Subsection 52-4-5(1)(a)(i).~~

~~f. Removal of the council member shall be effective immediately upon announcement by the consortium of counties of an affirmative vote to remove. The decision of the consortium of counties shall be in writing, mailed to the council member by certified mail, return receipt requested, and a copy mailed to the regional director.]~~

**KEY: councils**

~~[April 9], 2002~~

**Notice of Continuation June 27, 2002**

**35A-1-104(1)**

**35A-1-206(2)(a)(iv)(A)**

**35A-1-206(2)(a)(iv)(B)**

**35A-2-103(2)(a)(i)**

**35A-2-103(2)(a)(ii)**



**Workforce Services, Workforce  
Information and Payment Services**

**R994-403-118c**

**Work Search**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 25256

FILED: 09/11/2002, 11:00

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: After a Division review, it was determined that the requirement to make at least two in-person employer contacts each week to

maintain eligibility for unemployment insurance benefits was no longer necessary.

**SUMMARY OF THE RULE OR CHANGE:** Eliminate the general requirement to make at least two in-person employer contacts each week in order to maintain eligibility for unemployment insurance. The rapid changes in technology are having a significant impact on the methodology by which individuals seek work. While there is no intent to relieve a claimant of the obligation to actively seek work each week, the requirement to make a specific number of in-person contacts each week has become obsolete.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsections 35A-1-104(1) and 35A-4-502(1)(b); and Section 35A-4-403

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** Unemployment Insurance (UI) contributions (taxes) are collected from employers and are deposited in a trust fund administered under the authority of the Treasury of the United States. UI benefits are paid from this trust fund and, as a result, there are no anticipated costs or savings to state or local government connected with this proposed amendment. However, state and local governments are also employers. The State of Utah, as well as most local governments, has elected "reimbursable coverage" with respect to its participation in the UI system. This means that rather than paying UI taxes on a percentage of payroll, a reimbursable employer pays the fund back directly, on a dollar per dollar basis, for UI benefits that are disbursed to its former employees. Therefore, if some of the audited claimants referenced below happen to have employment with the State or a local government, there could be some costs that these entities would not have otherwise incurred--see response under "Other persons" below.

❖ **LOCAL GOVERNMENTS:** See response under "State budget".

❖ **OTHER PERSONS:** The requirement to be available for work and to actively seek work each week is not changing. The proposal only deletes the reference to in-person contacts. Claimants are presently questioned, as part of the weekly certification process, whether they conducted a work search as instructed by the Department. If they respond affirmatively, no issue is raised. However, if they respond "no" the matter is investigated and the claimant is subject to possible disqualification.

The Department is presently required by the United States Department of Labor (USDOL) to conduct a thorough audit of at least 360 unemployment insurance claims on an annual basis. The audits are conducted by the Department's Benefit Accuracy Measurement (BAM) unit. A computer is programmed to download a random sample of UI claimants on a weekly basis and a KEY WEEK is identified with respect to the claim as part of the sample. It is the KEY WEEK in the claims series that is the focus of the audit. One of the audit functions is to verify work search activities during the KEY WEEK. With the adoption of this proposed amendment, it is possible that it will be more difficult to verify certain work search activities in the absence of an in-person requirement. The BAM unit supervisor has indicated that if the proposed amendment is adopted, BAM staff would be more likely to

accept the word of the claimant in cases where a work search contact could not be directly verified. Actual studies have shown that the number of KEY WEEK payment errors attributed to work search decreased from about 34% of the total payment errors to about 25% when in-person contacts were not required. KEY WEEK overpayments average around 83 per year. Using this data, the number of KEY WEEK payment errors attributed to work search is 28 when the in-person requirement is in effect, and 21 when the in-person requirement is not in effect. If each claimant received the current maximum weekly benefit amount of \$365, the total overpayments the Department would assess for work search KEY WEEK payment errors for 28 claimants would be \$10,220, and \$7,665 for 21 claimants. For calendar year 2001, approximately \$174,500,000 in UI benefits were paid to about 100,000 individuals filing against the State of Utah. Although the potential to impact some claimants and employers certainly exists, when viewed in the aggregate, the financial impact of the proposed change would be negligible.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The Department does not anticipate any compliance costs associated with this proposed amendment. If anything, transportation costs for claimants would be reduced by relieving them of the requirement to make a specific number of in-person employer contacts each week.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** See responses under "State budget", "Local government", and "Other persons".

**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 10/31/2002.**

**THIS RULE MAY BECOME EFFECTIVE ON: 11/01/2002**

**AUTHORIZED BY: Raylene G. Ireland, Executive Director**

**R994. Workforce Services, Workforce Information and Payment Services.**

**R994-403. Claim for Benefits.**

**R994-403-118c. Work Search.**

(1) General Requirements.

The Employment Security Act requires, by direct statutory language, that a claimant must act in good faith in an active effort to secure employment each and every week for which benefits are claimed. Efforts to find work must be judged by the standards of the occupation and the community. ~~[What constitutes an active good faith search for work for a professional person, may be different from the active good faith search for a non-professional person.]~~ As an example, it~~[it]~~ may not be appropriate for professionals to call in person upon prospective employers without first submitting resumes and making an appointment by phone. However, in the case of a non-professional, unannounced personal contacts ~~[are] may be appropriate~~~~[and acceptable]~~.

(2) Active.

An active effort to look for work is generally interpreted to mean that a claimant should contact~~[in person]~~ a minimum of two employers not previously contacted each week who would hire people in the occupation which the claimant has work experience or would otherwise be qualified and willing to accept employment. Although the minimum number of contacts required by the Department without specific instructions is two, individuals genuinely desirous of obtaining employment will generally make a work search in excess of the minimum requirement. Because the primary obligation of the claimant is to become re-employed, not merely to comply with the requirements of the Department, claimants are encouraged to develop a realistic plan for becoming re-employed which may mean making more than the minimum number of contacts. However, Department representatives, after taking into consideration the type of work the claimant is seeking and the opportunities available for contacting employers who could reasonably be expected to hire in those occupations, may individually advise claimants of a specific number of~~[in person]~~ contacts the claimant is expected to make each week. The Department may not assign varying number or types of contacts for claimants in the same occupation or locality, as work search requirements should be consistent for all claimants in similar occupations unless unique circumstances warrant a reduction in the requirement. Failure of a claimant to make at least the minimum number of~~[in person]~~ contacts as instructed by a Department representative shall create a rebuttable presumption that the claimant is not making an active work search. The claimant may overcome this presumption by showing that he has pursued a job development action that would be at least as likely to result in employment as the specific minimum number of employer contacts given him by the Department representative.~~[Reading the classified section of the newspaper, canvassing employers indiscriminately by telephone, writing resumes, contacting friends or church representatives, or looking at the bulletin board in the Employment Center, do not replace the need for in person contacts because they do not allow the~~

~~claimant to complete a work application or to be immediately considered for hire.]~~

(3) Good Faith.

Good faith efforts are defined as those methods which a reasonable person, anxious to return to work, would make if sincerely desirous of obtaining employment. A good faith effort is not established simply by making a specific number of contacts to satisfy the Department requirement. A good faith effort requires that the claimant, when contacting employers, emphasize his interest in the job and conduct himself in such a way as to provide the maximum possibility of his being considered for hire. He should contact employers at the designated time, place and in the manner specified. He should be dressed and groomed appropriate for type of work he is seeking and present no unreasonable restriction on acceptance of the work. Answers on employment applications should be reasonable, honest, show a genuine interest in obtaining employment, and emphasize those skills, experience or aptitudes which the claimant has that are consistent with the job requirements. Contacts should be made directly with persons having the authority to hire.

(4) Union Attachment.

(a) Union attachment is sufficient to meet the requirements of an active work search if the claimant is eligible for a deferral as established under Subsection 35A-4-403(1)(b). When a claimant is deferred, it is because he has reasonable prospects of employment through the union and his union attachment puts him in contact with the majority of the employers he normally would be expected to contact. Therefore, for those claimants who meet the qualification for deferral, the union attachment is an acceptable substitute for a personal work search.

(b) If the claimant is not in a deferred status because he did not earn substantially all his wage credits in employment as a union member or the deferral has ended, he must meet the requirements of an active, good faith search for work by ~~[personally]~~ contacting employers in addition to contacts with the union. This work search is required even though unions may have regulations and rules which penalize members for making independent contacts to try to find work or for accepting non-union employment.

**KEY: filing deadlines[±], registration[±], student eligibility, unemployment compensation**  
**[August 9, 2001]2002**  
**Notice of Continuation June 27, 2002**  
**35A-4-403(1)**



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

## NOTICES OF 120-DAY (EMERGENCY) RULES

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An agency may file a 120-DAY (EMERGENCY) RULE when it finds that the regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (*Utah Code* Subsection 63-46a-7(1) (2001)).

As with a PROPOSED RULE, a 120-DAY RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the 120-DAY RULE including the name of a contact person, justification for filing a 120-DAY RULE, anticipated cost impact of the rule, and legal cross-references. A row of dots in the text (· · · · ·) indicates that unaffected text was removed to conserve space.

A 120-DAY RULE is effective at the moment the Division of Administrative Rules receives the filing, or on a later date designated by the agency. A 120-DAY RULE is effective for 120 days or until it is superseded by a permanent rule.

Because 120-DAY RULES are effective immediately, the law does not require a public comment period. However, when an agency files a 120-DAY RULE, it usually files a PROPOSED RULE at the same time, to make the requirements permanent. Comment may be made on the proposed rule. Emergency or 120-DAY RULES are governed by *Utah Code* Section 63-46a-7 (2001); and *Utah Administrative Code* Section R15-4-8.

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### Natural Resources, Wildlife Resources **R657-5-71** Carcass Importation

#### NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE No.: 25268  
FILED: 09/11/2002, 18:09

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The Wildlife Board adopted this change at their meeting on September 10, 2002, to restrict the importation of dead elk, mule deer, or white-tailed deer, or their parts from areas of any state or province that have deer or elk diagnosed with Chronic Wasting Disease (CWD).

**SUMMARY OF THE RULE OR CHANGE:** Hunters who take elk, mule deer, or white-tailed deer in areas outside of Utah where CWD has been found may not import certain parts of these animals into the state of Utah. Hunters will be allowed to import the following animal parts into Utah: a) meat that is cut and wrapped either commercially or privately; b) quarters or other portions of meat with no part of the spinal cord or head attached; c) meat that is boned out; d) hides with no heads attached; e) skull plates with antlers attached that have been cleaned of all meat and tissue; f) antlers with no meat or tissue attached; g) upper canine teeth, also known as buglers, whistlers, or ivories; or h) finished taxidermy heads. Nonresidents of Utah transporting harvested elk, mule deer, or white-tailed deer from CWD areas are exempt if they: a) do not leave any part of the harvested animal in Utah and do not stay more than 24 hours in the state of Utah; b) do not have their deer or elk processed in Utah; or c) do not leave any parts of the carcass in Utah. This rule provides restrictions for importing deer and elk carcasses into or through Utah.

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

#### ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** This rule restricts the importation of elk, mule deer, or white-tailed deer carcasses from areas outside of Utah where CWD has been found, to reduce the probability of CWD-infected animals entering Utah. The Division determines that there is not a cost or savings impact associated with this rule.

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

❖ **OTHER PERSONS:** This rule restricts the importation of elk, mule deer, or white-tailed deer carcasses from areas outside of Utah where CWD has been found to reduce the probability of CWD-infected animals entering Utah. The Division determines that there may be a minimal cost impact associated with this rule for processing the animal prior to importing the animal into Utah.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** This rule restricts the importation of elk, mule deer, or white-tailed deer carcasses from areas outside of Utah where CWD has been found to reduce the probability of CWD-infected animals entering Utah. The Division determines that there may be a minimal cost impact associated with this rule for processing the animal prior to importing the animal into Utah.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule does not create an impact on businesses.



EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD cause an imminent peril to the public health, safety, or welfare.

CWD is a neurological disease affecting deer and elk. It is a class of disease called a transmissible spongiform encephalopathy (TSE). There are several TSE's known around the world that effect mammals. The human form, Cruetzfeld-Jakob Disease (CJD) is a spontaneous disease that typically occurs later in life. It is a rare disease and is typically observed in about 1 in 1,000,000 individuals. For deer and elk, CWD was first described in 1978 at research facility in Colorado. To date, the disease has been found in the wild in Colorado, New Mexico, Saskatchewan, South Dakota, Wyoming, Wisconsin, and Nebraska. Within the affected areas, CWD occurs in 1% of elk and 5 - 15% of deer populations. Currently, the mode of transmission between animals is largely unknown but may be partly environmental. The CWD prion is extremely resistant to destruction by fire, chemicals, and the environment. Within the body, the prion accumulates in the brain, lymph tissue, tonsils, and spleen. The intent of this carcass regulation is to restrict portions of the carcass that may contain the CWD prion to enter the state of Utah. While there is unknown risks that CWD is transmissible to humans, the Wildlife Board and Division of Wildlife Resources is exercising extreme caution relative to the importation of carcasses from CWD areas. Limiting importation of carcasses from infected areas will reduce the probability that CWD-infected animals will enter Utah, thereby minimizing the potential for human exposure.

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

THIS RULE IS EFFECTIVE ON: 09/11/2002

AUTHORIZED BY: Kevin Conway, Director

## **R657. Natural Resources, Wildlife Resources.**

### **R657-5. Taking Big Game.**

#### **R657-5-71. Carcass Importation.**

(1) It is unlawful to import dead elk, mule deer, or white-tailed deer or their parts from the areas of any state or province listed in Subsection (2), except the following portions of the carcass:

(a) meat that is cut and wrapped either commercially or privately;

(b) quarters or other portion of meat with no part of the spinal column or head attached;

(c) meat that is boned out;

(d) hides with no heads attached;

(e) skull plates with antlers attached that have been cleaned of all meat and tissue;

(f) antlers with no meat or tissue attached;

(g) upper canine teeth, also known as buglers, whistlers, or ivories; or

(h) finished taxidermy heads.

(2) The game management units, equivalent wildlife management units, or counties as provided in Subsections (a) through (g) have deer or elk diagnosed with Chronic Wasting Disease, and importation of harvested elk, mule deer or white-tailed deer or their parts are hereby restricted pursuant to Subsection (1):

(a) Colorado - Game Management Units 7, 8, 9, 12, 19, 20, 29, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 191, 951;

(b) Nebraska - Counties of Cheyenne, Kimball, Sioux, Scotts Bluff;

(c) New Mexico - White Sands Missile Base;

(d) Saskatchewan - Wildlife Management Zone 46;

(e) South Dakota - Fall River County;

(f) Wisconsin - Deer Management Zones 54, 70, 71, 73, 75, 76, 77; or

(g) Wyoming - Deer Hunt Areas 10, 14, 15, 16, 22, 55, 57, 59, 60, 61, 62, 63, 64, 65, 66, 67, 73, 88, 158 or Elk Hunt Areas 5, 6, 7.

(3) Nonresidents of Utah transporting harvested elk, mule deer, or white-tailed deer from those areas listed in Subsection (2) are exempt if they:

(a) do not leave any part of the harvested animal in Utah and do not stay more than 24 hours in the state of Utah;

(b) do not have their deer or elk processed in Utah; or

(c) do not leave any parts of the carcass in Utah.

**KEY: wildlife, game laws, big game seasons\***

**September 11, 2002**

**Notice of Continuation November 30, 2000**

**23-14-18**

**23-14-19**

**23-16-5**

**23-16-6**



# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1998).

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## Community and Economic Development, Community Development, History

### **R212-12**

## Computerized Record of Cemeteries, Burial Locations and Plots, and Granting Matching Funds

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

DAR FILE No.: 25242  
FILED: 09/10/2002, 08:03

### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: To provide grants to assist cemeteries in computerizing their records and to develop a centralized database of names, dates of deaths, burial locations, and other information in accordance with Subsection 9-8-203(3)(c).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The law is active so the rule should be continued. Dozens of cemeteries annually apply for matching grants to computerize their records.

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

COMMUNITY AND ECONOMIC DEVELOPMENT  
COMMUNITY DEVELOPMENT, HISTORY  
300 RIO GRANDE  
SALT LAKE CITY UT 84101-1182, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Alycia Aldrich at the above address, by phone at 801-533-3556, by FAX at 801-533-3503, or by Internet E-mail at AALDRICH@utah.gov

AUTHORIZED BY: Wilson Martin, Acting Director

EFFECTIVE: 09/10/2002



## Corrections, Administration

### **R251-401**

## Supervision Fees

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

DAR FILE No.: 25267  
FILED: 09/11/2002, 14:06

### **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 64-13-21 requires the department to make rules specifying the criteria for suspension or waiver of the supervision fee and circumstances under which an offender may request a hearing.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is needed to clarify the terms of collecting supervision fees from offenders on probation and parole and should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 CORRECTIONS  
 ADMINISTRATION  
 14717 S MINUTEMAN DR  
 DRAPER UT 84020-9549, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 Ginny L Duncan at the above address, by phone at 801-545-5722, by FAX at 801-545-5523, or by Internet E-mail at [glduncan@utah.gov](mailto:glduncan@utah.gov)

AUTHORIZED BY: Michael P. Chabries, Executive Director

EFFECTIVE: 09/11/2002



Education, Administration  
**R277-101**  
 Public Participation in Utah State Board  
 of Education Decisions

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

DAR FILE NO.: 25269  
 FILED: 09/12/2002, 09:25

**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 53A-1-401(3) allows the State Board of Education to adopt rules in accordance with its responsibilities.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The State Board of Education feels strongly about the public's participation in its meetings and the rule provides procedures for public participation and should be continued.

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](mailto:clear@usoe.k12.ut.us)

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 09/12/2002



Education, Administration  
**R277-103**  
 USOE Government Records and  
 Management Act

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

DAR FILE NO.: 25245  
 FILED: 09/10/2002, 17:28

**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 63-2-204 allows a governmental entity to make rules regarding the entity's records.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Because Utah law requires governmental entities to provide requested information, it is necessary to have procedures in place for staff to follow when providing information required by law so this rule should be continued.

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](mailto:clear@usoe.k12.ut.us)

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 09/10/2002



Education, Administration  
**R277-112**

Prohibiting Discrimination in the Public Schools

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

DAR FILE No.: 25270  
FILED: 09/12/2002, 09:25

**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 53A-1-401(3) allows the State Board of Education to adopt rules in accordance with its responsibilities.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Federal law requires the state agency to have a rule specifically prohibiting discrimination in public schools. This rule meets that requirement and should be continued.

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

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 09/12/2002



Education, Administration  
**R277-115**

Copyrighting Material Developed with Funds that Flow Through the Board

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

DAR FILE No.: 25271  
FILED: 09/12/2002, 09:26

**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: Subsection 53A-1-401(3) allows the State Board of Education to adopt rules in accordance with its responsibilities.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Utah State Board of Education continues to develop materials, both on paper and outline, that may be shared but with designated restrictions. This rule guards that process and should be continued.

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

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 09/12/2002



Education, Administration  
**R277-116**

USOE Internal Audit Procedure

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

DAR FILE No.: 25272  
FILED: 09/12/2002, 09:27

**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 53A-1-401(3) allows the State Board of Education to adopt rules in accordance with its responsibilities.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Increased focus on Utah State Office of Education efficiency and accountability necessitates the Utah State Board of Education's ability to review and audit its programs and responsibilities. This rule outlines that process and should be continued.

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

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 09/12/2002

Education, Administration

**R277-400**

School Emergency Response Plans

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

DAR FILE No.: 25273  
FILED: 09/12/2002, 09:27

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

directs the Board to adopt rules for student health and safety, and Subsection 53A-1-401(3) allows the State Board of Education to adopt rules in accordance with its responsibilities.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The law requires district emergency plans in several areas. This rule requires district plans and provides for accountability to the Board consistent with the law and should be continued.

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

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 09/12/2002

Education, Administration

**R277-401**

Child Abuse-Neglect Reporting by  
Education Personnel

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

DAR FILE No.: 25274  
FILED: 09/12/2002, 09:28

**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 53A-1-401(3) allows the State Board of Education to adopt rules in accordance with its responsibilities.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The law requires child abuse reporting by all adults. This rule clarifies and emphasizes the responsibilities of public school employees and should be continued.

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

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 09/12/2002

Education, Administration  
**R277-407**  
School Fees

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

DAR FILE NO.: 25275  
FILED: 09/12/2002, 09:28

**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 53A-12-102(1) authorizes the State Board of Education to adopt rules regarding student fees.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary because school fees are authorized by the state Constitution at the secondary level within the public school system and the law still requires the State Board of Education to have a rule regarding school fees charged consistent with the law.

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

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 09/12/2002



Education, Administration  
**R277-408**  
Expenditures for Instructional Supplies  
Required in Utah Public Schools

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

DAR FILE NO.: 25276  
FILED: 09/12/2002, 09:28

**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 53A-1-401(3) allows the State Board of Education to adopt rules in accordance with its responsibilities.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The law requires a rule to provide information, criteria, and a formula for distributing funds appropriated for teachers to purchase instructional materials. This rule meets that requirement and should be continued.

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

AUTHORIZED BY: Carol Lear, Coordinator School Law and  
Legislation

EFFECTIVE: 09/12/2002

Education, Administration  
**R277-410**  
Accreditation of Schools

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

DAR FILE No.: 25277  
FILED: 09/12/2002, 09:29

**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 53A-1-402(1)(c)  
directs the State Board of Education to adopt rules for school  
accreditation, and Subsection 53A-1-401(3) allows the State  
Board of Education to adopt rules in accordance with its  
responsibilities.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE,  
INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS  
IN OPPOSITION TO THE RULE, IF ANY: The Utah State Board of  
Education continues to be responsible for accrediting schools.  
This rule outlines the process and should be continued.

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

AUTHORIZED BY: Carol Lear, Coordinator School Law and  
Legislation

EFFECTIVE: 09/12/2002

Education, Administration  
**R277-411**  
Elementary School Accreditation

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

DAR FILE No.: 25278  
FILED: 09/12/2002, 09:29

**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 53A-1-402(1)(c)  
directs the State Board of Education to adopt rules for school  
accreditation, and Subsection 53A-1-401(3) allows the State  
Board of Education to adopt rules in accordance with its  
responsibilities.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE,  
INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS  
IN OPPOSITION TO THE RULE, IF ANY: The Utah State Board of  
Education continues to have the responsibility for accrediting  
schools. This rule outlines the process and should be  
continued.

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

AUTHORIZED BY: Carol Lear, Coordinator School Law and  
Legislation

EFFECTIVE: 09/12/2002

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

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

DAR FILE NO.: 25279  
 FILED: 09/12/2002, 09:29

**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 53A-1-401(1)(c) directs the State Board of Education to adopt rules for school accreditation, and Subsection 53A-1-401(3) allows the State Board of Education to adopt rules in accordance with its responsibilities.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Utah State Board of Education continues to have the responsibility for accrediting schools. This rule outlines that process and should be continued.

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

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 09/12/2002

Education, Administration  
**R277-433**  
 Disposal of Textbooks in the Public  
 Schools

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

DAR FILE NO.: 25280  
 FILED: 09/12/2002, 09:30

**NOTICE OF REVIEW AND  
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 53A-12-207 requires the State Office of Education to make rules providing for the disposal or reuse of textbooks in the public schools.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The law continues to require that the Utah State Board of Education have a rule to provide for the disposal or reuse of textbooks in the public schools. This rule meets that requirement and should be continued.

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

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 09/12/2002

Education, Administration  
**R277-445**  
 Classifying Small Schools as  
 Necessarily Existent

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

DAR FILE NO.: 25281  
 FILED: 09/12/2002, 09:30

**NOTICE OF REVIEW AND  
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS



UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-401(3) allows the State Board of education to adopt rules in accordance with its responsibilities, and Subsection 53A-17a-109(2) directs the State Board of Education to adopt standards to classify schools as necessarily existent small rural schools.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Utah State Board of Education has the continuing responsibility to define, by rule, necessarily existent small rural schools. This rule defines the criteria and should be continued.

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

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 09/12/2002



Education, Administration  
**R277-502**  
Educator Licensing and Data Retention

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

DAR FILE No.: 25282  
FILED: 09/12/2002, 09:30

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-401(3) allows the State Board of Education to adopt rules in accordance with its responsibilities, and Subsection 53A-6-104 authorizes the State Board of Education to issue licenses to educators.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Utah State Board of Education has the continuing responsibility to license Utah public school educators. This rule explains that process and should be continued.

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

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 09/12/2002



Education, Administration  
**R277-505**  
Administrative/Supervisory Certificates  
and Programs

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

DAR FILE No.: 25283  
FILED: 09/12/2002, 09:31

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-401(3) allows the State Board of Education to adopt rules in accordance with its responsibilities, and Section 53A-6-104 authorizes the State Board of Education to issue licenses to educators.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Utah State Board of Education has the continuing responsibility to license Utah public school educators. This rule outlines that process and should be continued.

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

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 09/12/2002

Education, Administration  
**R277-506**

School Counselors, School  
Psychologists, and School Social  
Workers Certificates and Programs

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

DAR FILE No.: 25285  
FILED: 09/12/2002, 09:31

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-402(1)(a) requires the State Board of Education to make rules regarding the qualification and certification of educators and ancillary personnel who provide direct student services.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Utah State Board of Education has the continuing responsibility to license public school educators. This rule outlines that process and should be continued.

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

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 09/12/2002

Education, Administration  
**R277-514**

Board Procedures: Sanctions for  
Educator Misconduct

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

DAR FILE No.: 25287  
FILED: 09/12/2002, 09:32

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-401(3) allows the State Board of Education to adopt rules in accordance with its responsibilities, and Section 53A-6-307 allows the State Board of Education to issue or revoke licenses, hold hearings or take other disciplinary action as warranted.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Utah State Board of Education has continuing statutory authority to take disciplinary action against licensed educators for misconduct that affects the public school system. This rule outlines that process and should be continued.

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

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 09/12/2002



**Education, Administration**  
**R277-608**

**Prohibition of Corporal Punishment in  
 Utah's Public Schools**

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

DAR FILE NO.: 25246  
 FILED: 09/10/2002, 17:32

**NOTICE OF REVIEW AND  
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-401(3) allows the State Board of Education to adopt rules in accordance with its responsibilities.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Utah State Board of Education has the responsibility for the well-being of students in the public schools and has continuing statutory authority to adopt rules protecting children in public schools so this rule should be continued.

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

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 09/10/2002



**Education, Administration**  
**R277-703**  
**Centennial Scholarship for Early  
 Graduation**

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

DAR FILE NO.: 25291  
 FILED: 09/12/2002, 10:32

**NOTICE OF REVIEW AND  
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-402(1) authorizes the State Board of Education to make rules regarding competency levels, graduation requirements, curriculum, and instruction requirements, and Subsections 53A-15-101(5) and (6) direct the State Board of Education to provide an early graduation option to students and to develop, implement, and evaluate the early graduation program.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The law continues to provide an early graduation option for high school students. It also provides a financial incentive for school districts and students and requires a Utah State Board of Education rule. This rule outlines that process and should be continued.

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

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 09/12/2002

Education, Administration  
**R277-713**

Concurrent Enrollment of High School  
Students in College Courses

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

DAR FILE No.: 25292  
FILED: 09/12/2002, 10:42

**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 53A-17a-120 directs the State Board of Education to adopt rules for accelerated learning programs.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The law directs the Utah State Board of Education to adopt rules for accelerated learning programs. Concurrent enrollment is one of the most popular of the accelerated learning programs in secondary schools. This rule outlines that process and should be continued.

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

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 09/12/2002

Education, Administration  
**R277-720**  
Child Nutrition Programs

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

DAR FILE No.: 25293  
FILED: 09/12/2002, 10:44

**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 53A-1-402(1)(f) directs the State Board of Education to establish minimum standards for the school lunch programs, and Subsection 53A-1-401(3) allows the State Board of Education to adopt rules in accordance with its responsibilities.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Utah State Board of Education continues to provide funding, support, and state-level management for child nutrition programs in the public schools and in other day care programs that receive federal food and nutrition subsidies. This rule outlines that process and should be continued.

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

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 09/12/2002

Education, Administration  
**R277-750**  
Education Programs for Students with  
Disabilities

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

DAR FILE No.: 25294  
FILED: 09/12/2002, 10:45

**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 53A-1-402(1) directs the State Board of Education to adopt rules regarding programs for students with disabilities.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Utah State Board of Education continues to provide and supervise free public education for students with disabilities consistent with state and federal law. This rule outlines that process and should be continued.

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

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 09/12/2002



Education, Administration  
**R277-911**  
Secondary Applied Technology  
Education

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

DAR FILE No.: 25295  
FILED: 09/12/2002, 10:47

**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 53A-15-202 allows the State Board of Education to establish minimum standards for applied technology education programs in the public education system.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Noting the recent change of governance of Applied Technology Colleges, still school districts, with assistance and direction from the Utah State Board of Education, continue to provide applied technology education courses and programs for students, some of which receive additional and specific state and federal funds. This rule outlines that process and should be continued.

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

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 09/12/2002



Environmental Quality, Drinking Water

**R309-110**

Administration: Definitions

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

DAR FILE No.: 25314  
FILED: 09/16/2002, 14:39

**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: Section 19-4-104 authorizes the Board to make rules in accordance with Title 63, Chapter 46a, as necessary to administer the Safe Drinking Water 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: No comments have been received during the last five years 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: This rule defines terms used in other rules promulgated by the Drinking Water Board governing design, construction, operation, and maintenance of public water systems throughout the State, and since the Board has not received comments opposing this rule the Board feels it is prudent to continue this rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 Bill Birkes at the above address, by phone at 801-536-4201, by FAX at 801-536-4211, or by Internet E-mail at bbirkes@utah.gov

AUTHORIZED BY: Kevin Brown, Director

EFFECTIVE: 09/16/2002



Environmental Quality, Drinking Water  
**R309-204**  
 Facility Design and Operation: Source  
 Development

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

DAR FILE No.: 25315  
 FILED: 09/16/2002, 15:09

**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 19-4-104 authorizes the Board to make rules in accordance with Title 63, Chapter 46a, as necessary to administer the Safe Drinking Water 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: No comments have been received during the last five years 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: This rule establishes minimum construction requirements for developing sources of water for public drinking water systems throughout the State,

and since the Board has not received comments opposing this rule the Board feels it is prudent to continue this rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 Bill Birkes at the above address, by phone at 801-536-4201, by FAX at 801-536-4211, or by Internet E-mail at bbirkes@utah.gov

AUTHORIZED BY: Kevin Brown, Director

EFFECTIVE: 09/16/2002



Environmental Quality, Drinking Water  
**R309-500**  
 Facility Design and Operation: Plan  
 Review, Operation and Maintenance  
 Requirements

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

DAR FILE No.: 25316  
 FILED: 09/16/2002, 15:16

**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 19-4-104 authorizes the Board to make rules in accordance with Title 63, Chapter 46a, as necessary to administer the Safe Drinking Water 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: No comments have been received during the last five years 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: This rule establishes what projects require the submittal of plans and specifications for review and approval prior to construction of facilities for public drinking water systems throughout the State, and since the Board has not received comments opposing this rule the Board feels it is prudent to continue this rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Bill Birkes at the above address, by phone at 801-536-4201, by FAX at 801-536-4211, or by Internet E-mail at bbirkes@utah.gov

AUTHORIZED BY: Kevin Brown, Director

EFFECTIVE: 09/16/2002

## Environmental Quality, Drinking Water

### **R309-505**

#### Facility Design and Operation: Minimum Treatment Requirements

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

DAR FILE No.: 25317  
FILED: 09/16/2002, 15:25

##### **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 19-4-104 authorizes the Board to make rules in accordance with Title 63, Chapter 46a, as necessary to administer the Safe Drinking Water 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: No comments have been received during the last five years 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: This rule establishes the minimum treatment requirements for various types of water sources for public drinking water systems throughout the State, and since the Board has not received comments opposing this rule the Board feels it is prudent to continue this rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Bill Birkes at the above address, by phone at 801-536-4201, by FAX at 801-536-4211, or by Internet E-mail at bbirkes@utah.gov

AUTHORIZED BY: Kevin Brown, Director

EFFECTIVE: 09/16/2002

## Environmental Quality, Drinking Water

### **R309-510**

#### Facility Design and Operation: Minimum Sizing Requirements

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

DAR FILE No.: 25318  
FILED: 09/16/2002, 15:35

##### **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 19-4-104 authorizes the Board to make rules in accordance with Title 63, Chapter 46a, as necessary to administer the Safe Drinking Water 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: No comments have been received during the last five years 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: This rule establishes the minimum recommended size for drinking water facilities such as sources, storage tanks, and pipelines for public drinking water systems throughout the State, and since the Board has not received comments opposing this rule the Board feels it is prudent to continue this rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Bill Birkes at the above address, by phone at 801-536-4201, by FAX at 801-536-4211, or by Internet E-mail at bbirkes@utah.gov

AUTHORIZED BY: Kevin Brown, Director

EFFECTIVE: 09/16/2002



Environmental Quality, Drinking Water  
**R309-520**  
 Facility Design and Operation:  
 Disinfection

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE No.: 25319  
 FILED: 09/16/2002, 15:47

**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 19-4-104 authorizes the Board to make rules in accordance with Title 63, Chapter 46a, as necessary to administer the Safe Drinking Water 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: No comments have been received during the last five years 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: This rule establishes requirements for facilities which disinfect public drinking water throughout the State, and since the Board has not received comments opposing this rule the Board feels it is prudent to continue this rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 ENVIRONMENTAL QUALITY  
 DRINKING WATER  
 150 N 1950 W  
 SALT LAKE CITY UT 84116-3085, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 Bill Birkes at the above address, by phone at 801-536-4201, by FAX at 801-536-4211, or by Internet E-mail at bbirkes@utah.gov

AUTHORIZED BY: Kevin Brown, Director

EFFECTIVE: 09/16/2002



Environmental Quality, Drinking Water  
**R309-525**  
 Facility Design and Operation:  
 Conventional Surface Water Treatment

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE No.: 25329  
 FILED: 09/16/2002, 16:06

**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 19-4-104 authorizes the Board to make rules in accordance with Title 63, Chapter 46a, as necessary to administer the Safe Drinking Water 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: No comments have been received during the last five years opposing this rule.

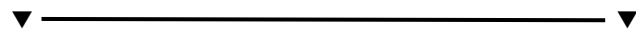
REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule specifies requirements for conventional surface water treatment plants used in public drinking water systems throughout the State, and since the Board has not received comments opposing this rule the Board feels it is prudent to continue this rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 ENVIRONMENTAL QUALITY  
 DRINKING WATER  
 150 N 1950 W  
 SALT LAKE CITY UT 84116-3085, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 Bill Birkes at the above address, by phone at 801-536-4201, by FAX at 801-536-4211, or by Internet E-mail at bbirkes@utah.gov

AUTHORIZED BY: Kevin Brown, Director

EFFECTIVE: 09/16/2002



Environmental Quality, Drinking Water  
**R309-530**  
 Facility Design and Operation:  
 Alternative Surface Water Treatment  
 Methods



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

DAR FILE No.: 25322  
 FILED: 09/16/2002, 15:56

**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 19-4-104 authorizes the Board to make rules in accordance with Title 63, Chapter 46a, as necessary to administer the Safe Drinking Water 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: No comments have been received during the last five years 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: This rule specifies requirements for alternative surface water treatment methods used by public drinking water systems throughout the State, and since the Board has not received comments opposing this rule the Board feels it is prudent to continue this rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 Bill Birkes at the above address, by phone at 801-536-4201, by FAX at 801-536-4211, or by Internet E-mail at [bbirkes@utah.gov](mailto:bbirkes@utah.gov)

AUTHORIZED BY: Kevin Brown, Director

EFFECTIVE: 09/16/2002



**Environmental Quality, Drinking Water  
 R309-535  
 Facility Design and Operation:  
 Miscellaneous Treatment Methods**

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

DAR FILE No.: 25330  
 FILED: 09/16/2002, 16:33

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS

AUTHORIZE OR REQUIRE THE RULE: Section 19-4-104 authorizes the Board to make rules in accordance with Title 63, Chapter 46a, as necessary to administer the Safe Drinking Water 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: No comments have been received during the last five years 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: This rule provides specific requirements for miscellaneous water treatment methods which are primarily intended to remove chemical contaminants from drinking water; or adjust the chemical composition of drinking water used by public drinking water systems throughout the State, and since the Board has not received comments opposing this rule the Board feels it is prudent to continue this rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 Bill Birkes at the above address, by phone at 801-536-4201, by FAX at 801-536-4211, or by Internet E-mail at [bbirkes@utah.gov](mailto:bbirkes@utah.gov)

AUTHORIZED BY: Kevin Brown, Director

EFFECTIVE: 09/16/2002



**Environmental Quality, Drinking Water  
 R309-540  
 Facility Design and Operation: Pump  
 Stations**

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

DAR FILE No.: 25331  
 FILED: 09/16/2002, 16:38

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 19-4-104 authorizes the Board to make rules in accordance with Title 63, Chapter 46a, as necessary to administer the Safe Drinking Water 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: No comments have been received during the last five years 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: This rule provides specific requirements for pump stations utilized to deliver drinking water to facilities of public drinking water systems throughout the State, and since the Board has not received comments opposing this rule the Board feels it is prudent to continue this rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Bill Birkes at the above address, by phone at 801-536-4201, by FAX at 801-536-4211, or by Internet E-mail at bbirkes@utah.gov

AUTHORIZED BY: Kevin Brown, Director

EFFECTIVE: 09/16/2002



Environmental Quality, Drinking Water  
**R309-545**  
Facility Design and Operation: Drinking  
Water Storage Tanks

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

DAR FILE No.: 25333  
FILED: 09/16/2002, 16:43

**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 19-4-104 authorizes the Board to make rules in accordance with Title 63, Chapter 46a, as necessary to administer the Safe Drinking Water 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: No comments have been received during the last five years 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: This rule provides specific

requirements for water storage tanks utilized by public drinking water systems throughout the State, and since the Board has not received comments opposing this rule the Board feels it is prudent to continue this rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Bill Birkes at the above address, by phone at 801-536-4201, by FAX at 801-536-4211, or by Internet E-mail at bbirkes@utah.gov

AUTHORIZED BY: Kevin Brown, Director

EFFECTIVE: 09/16/2002



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

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

DAR FILE No.: 25334  
FILED: 09/16/2002, 16:48

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 19-4-104 authorizes the Board to make rules in accordance with Title 63, Chapter 46a, as necessary to administer the Safe Drinking Water 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: No comments have been received during the last five years 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: This rule provides specific requirements for the design and installation of transmission and distribution pipelines utilized by public drinking water systems throughout the State, and since the Board has not received comments opposing this rule the Board feels it is prudent to continue this rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Bill Birkes at the above address, by phone at 801-536-4201, by FAX at 801-536-4211, or by Internet E-mail at [bbirkes@utah.gov](mailto:bbirkes@utah.gov)

AUTHORIZED BY: Kevin Brown, Director

EFFECTIVE: 09/16/2002



## Environmental Quality, Drinking Water **R309-700**

Utah Drinking Water Project Loan,  
Credit Enhancement, Interest Buy-  
Down, and Hardship Grant Program:  
Policies and Guidelines

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

DAR File No.: 25311  
FILED: 09/16/2002, 14:08

### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 73-10c-8 authorizes the Board to make rules in accordance with Title 63, Chapter 46a, as necessary to administer Title 73, Chapter 10c, and applicants for financial assistance under its provisions.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received during the last five years 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: This rule is necessary to continue funding assistance to public drinking water systems and since the Board has received comments expressing the continued need for such a program from public water systems throughout the State, the Board feels it is prudent to continue this rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Bill Birkes at the above address, by phone at 801-536-4201, by FAX at 801-536-4211, or by Internet E-mail at [bbirkes@utah.gov](mailto:bbirkes@utah.gov)

AUTHORIZED BY: Kevin Brown, Director

EFFECTIVE: 09/16/2002



## Environmental Quality, Drinking Water **R309-705**

Financial Assistance: Federal Drinking  
Water Project Revolving Loan Program

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

DAR File No.: 25310  
FILED: 09/16/2002, 14:00

### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 73-10c-8 authorizes the Board to make rules in accordance with Title 63, Chapter 46a, as necessary to administer Title 73, Chapter 10c, and applicants for financial assistance under its provisions.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received during the last five years 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: This rule is necessary to continue receiving funding from the federal government under the financial assistance provisions of the federal safe drinking water act and since the Board has received comments expressing the continued need for such a program from the public water systems throughout the State, the Board feels it is prudent to continue this rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Bill Birkes at the above address, by phone at 801-536-4201, by FAX at 801-536-4211, or by Internet E-mail at [bbirkes@utah.gov](mailto:bbirkes@utah.gov)

AUTHORIZED BY: Kevin Brown, Director

EFFECTIVE: 09/16/2002

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

FINANCIAL INSTITUTIONS  
BANKS  
Room 201  
324 S STATE ST  
SALT LAKE CITY UT 84111-2393, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sonja Long at the above address, by phone at 801-538-8761, by FAX at 801-538-8894, or by Internet E-mail at [slong@utah.gov](mailto:slong@utah.gov)

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 09/11/2002

## Financial Institutions, Banks

### **R333-7**

#### Investment by a State-Chartered Bank in Shares of Open-End Investment Companies

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

DAR FILE No.: 25249  
FILED: 09/11/2002, 09:24

##### **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 7-1-301(8)(b)(i) authorizes the Commissioner to establish eligible classes and types of investments for the deposits and funds for financial institutions if the restrictions or requirements are not more stringent than those applicable under federal law or regulation to federally chartered institutions of the same class.

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 supporting or opposing written comments have been received by the agency concerning 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 rule permits a state-chartered bank to purchase for its own account shares of open-end investment companies subject to certain restrictions. The rule expands eligible classes and types of investments for state-chartered banks and gives them rights, privileges, and powers granted to national banks and should be continued.

## Financial Institutions, Credit Unions

### **R337-2**

#### Conversion from a Federal to a State- Chartered Credit Union

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

DAR FILE No.: 25241  
FILED: 09/09/2002, 11:47

##### **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 7-1-301 authorizes rulemaking authority to the Commissioner; Section 7-1-706 grants the Commissioner to exercise procedural power; and Subsection 7-1-713(4) authorizes the conversion of financial institutions from federal to state-chartered.

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 supporting or opposing written comments have been received by the agency concerning 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 rule establishes the requirements and procedures for converting from a federally chartered credit union to a state chartered credit union and should be continued.

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

FINANCIAL INSTITUTIONS  
CREDIT UNIONS  
Room 201  
324 S STATE ST  
SALT LAKE CITY UT 84111-2393, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sonja Long at the above address, by phone at 801-538-8761, by FAX at 801-538-8894, or by Internet E-mail at slong@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 09/09/2002

Financial Institutions, Credit Unions  
**R337-5**  
Allowance for Loan Losses - Credit  
Unions

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

DAR FILE No.: 25240  
FILED: 09/09/2002, 11:46

**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 7-9-29 states that credit unions shall establish an allowance account for loan losses subject to regulation as the Commissioner may prescribe.

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 supporting or opposing written comments have been received by the agency concerning 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 rule is necessary because it requires an allowance account for loan losses and prescribes the optional methods of determining the required amount.

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

FINANCIAL INSTITUTIONS  
CREDIT UNIONS  
Room 201

324 S STATE ST  
SALT LAKE CITY UT 84111-2393, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sonja Long at the above address, by phone at 801-538-8761, by FAX at 801-538-8894, or by Internet E-mail at slong@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 09/09/2002

Human Resource Management,  
Administration

**R477-100**

Americans With Disabilities Act (ADA)  
Complaint Procedure

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

DAR FILE No.: 25229  
FILED: 09/04/2002, 15:43

**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: Federal regulations (28 CFR 35.107, 2002 edition) require public entities that employ 50 or more persons to designate and publish an ADA coordinator and a complaint procedure. The Department of Human Resource Management (DHRM) has chosen to do this with rule. However, at present, DHRM does not employ 50 or more persons.

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 DHRM in the previous five years concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Since DHRM does not employ 50 or more persons, it does not appear that we are obligated to abide by the federal mandate. However, DHRM is committed to comply with the ADA in principle and practice. We therefore wish to continue this rule until such time as we can determine the most appropriate method to deal with this issue.

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

HUMAN RESOURCE MANAGEMENT  
ADMINISTRATION  
Room 2120 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:

Conroy Whipple at the above address, by phone at 801-538-3067, by FAX at 801-538-3081, or by Internet E-mail at [cwhipple@utah.gov](mailto:cwhipple@utah.gov)

AUTHORIZED BY: Karen Suzuki-Okabe, Executive Director

EFFECTIVE: 09/04/2002

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## Human Services, Recovery Services **R527-37** Closure Criteria for Support Cases

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

DAR FILE No.: 25260  
FILED: 09/11/2002, 13:23

### 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: Federal regulations at 45 CFR 303.11 provide detailed case closure criteria for IV-D agencies. These required criteria have been adopted by the Office of Recovery Services and incorporated by reference into rule. This rule is enacted under Section 62A-11-107 as amended July 1, 1997, which authorizes the Office of Recover Services to adopt, amend, and enforce rules necessary to carry out its necessary duties including closure of cases under appropriate circumstances.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The federally mandated closure criteria are still in effect and do not appear in state statute so the rule should be continued.

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](mailto:lwilber@utah.gov)

AUTHORIZED BY: Emma Chacon, Director

EFFECTIVE: 09/11/2002

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## Human Services, Recovery Services **R527-253** Collection of Child Support Judgments

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

DAR FILE No.: 25261  
FILED: 09/11/2002, 13:26

### 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: Under Section 62A-11-320, the Office of Recovery Services is given the authority to demand payment in full or to set or reset payment schedules to collect past-due support. This rule makes it clear that the interests of the state determine whether immediate payment in full should be required, and specifies the payment amount limit for collecting a judgment using a schedule of payments. It also provides a listing of some of the legal remedies available to collect a judgment.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The state laws and federal regulations cited in this rule are still in effect. This rule also makes it clear that the office is not limited to taking only one legal remedy at a time and should be continued.

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](mailto:lwilber@utah.gov)

AUTHORIZED BY: Emma Chacon, Director

EFFECTIVE: 09/11/2002

## Human Services, Recovery Services

### **R527-255**

#### Change in Circumstances

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

DAR FILE NO.: 25262  
FILED: 09/11/2002, 13:29

##### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 78-45-7 through 78-45-7.21 constitute the rebuttable guidelines for determination of prospective support. These guidelines apply to situations where there has been a substantial change of circumstances or an adjustment is made upon petition of a parent, legal guardian, or the Office of Recovery Services when the support order has not been issued or modified within the previous three years. Under either situation, the law specifies the minimum percentage of change required between the ordered amount and amount that would be required under the guidelines and that the change cannot be temporary in nature.

Sections 62A-11-320.5 and 62A-11-320.6 deal specifically with review and adjustment of child support orders in and outside of the three-year cycle and also state that the change cannot be of a temporary nature. This rule provides the definition of what "temporary" means and makes it clear that the current support order may not be modified if the change in circumstances is temporary. It also provides direction on how to deal with more extended, but not permanent, changes and specifies that changes over 12 months are to be considered long term or permanent and therefore warrant adjustment under the guideline statutes.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule should be continued so that it remains clear what is meant by a temporary change in circumstances, what options are available when the change is more extended but not permanent, and when proceedings for adjustment of a support award must be initiated.

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](mailto:lwilber@utah.gov)

AUTHORIZED BY: Emma Chacon, Director

EFFECTIVE: 09/11/2002

## Human Services, Recovery Services

### **R527-257**

#### Enforcing Child Support When the Obligor is Incarcerated

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

DAR FILE NO.: 25264  
FILED: 09/11/2002, 13:34

##### **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 62A-11-320 allows the Office of Recovery Services to set or reset a schedule of payments at any time consistent with the income earning capacity, and resources of the obligor and refers to rules adopted by the Office to establish payment schedules. Section 78-57-7 deals with determination of the amount of prospective support, use of guidelines in making that determination, and the effect of a substantial change in circumstances. This rule establishes the criteria for setting a support payment amount when the obligor is incarcerated and no order exists, and specifies that when a support award exists it is not subject to adjustment (due to change of circumstances created by incarceration) and shall accrue as ordered. This rule helps define "substantial change" by excluding the situation where the obligor's income is reduced due to incarceration.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule needs to continue because state statute references rules, which establish payment schedules, and this rule addresses setting and collecting support payments when the obligor is incarcerated. It also clarifies that incarceration, even for an extended period of time, is not to be considered a substantial change in circumstances requiring downward adjustment of a support award. In addition, this rule clarifies that the Office of Recovery Services may set or reset a noncustodial parent's schedule of payments, when the obligor is incarcerated it is necessary to first review the obligor's circumstances with a Department of Corrections caseworker before proceeding with collection actions.

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](mailto:lwilber@utah.gov)

AUTHORIZED BY: Emma Chacon, Director

EFFECTIVE: 09/11/2002



**Human Services, Recovery Services**  
**R527-258**  
**Enforcing Child Support When the**  
**Obligor is an Ex-Prisoner**

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

DAR FILE NO.: 25263  
 FILED: 09/11/2002, 13:31

**NOTICE OF REVIEW AND**  
**STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 78-45-7 affirms that the current support amount granted by court order is the obligor's prospective obligation unless there has been a substantial change of circumstances or an adjustment of the obligation has been made by the court or under a self-

executing provision in the order. It also provides for the use of the child support guidelines when establishing or modifying a prospective support award unless the court finds reason to rebut the guidelines. Section 62A-11-320 addresses establishment of support payment schedules by the Office of Recovery Services and the conditions under which an obligor may contest a schedule of payments established by the Office. These statutes which govern the amount of an obligor's current obligation and payments that may be required on past-due support, are the basis for this rule which deals with IV-A child support debts which may accrue during a period of incarceration and the nature of the payments required 12 months following incarceration. The rule also clarifies that the statutory provision allowing the Office to reassess the payment amount is in effect during the entire 12 month period including the first 6 months of that period in which no enforcement action is allowed. Section 62A-11-320 also allows the Office to demand payment in full but does not prohibit forgiving a debt owed to the state. Therefore, the rule allows the Office to forgive the IV-A portion of the obligor's past-due support which may accrue during a period of incarceration if the obligor makes payments as required, including any reassessed amounts, during the entire 12 month period following incarceration.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The underlying statutes are still in effect and the program providing for the discharge of the IV-A debt when support payments are made as required the year following incarceration is still beneficial from a child support enforcement perspective as well as a corrections perspective so this rule should be continued.

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

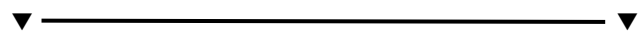
HUMAN SERVICES  
 RECOVERY SERVICES  
 515 E 100 S  
 SALT LAKE CITY UT 84102-4211, or  
 at the Division of Administrative Rules.

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](mailto:lwilber@utah.gov)

AUTHORIZED BY: Emma Chacon, Director

EFFECTIVE: 09/11/2002





Human Services, Recovery Services  
**R527-300**  
 Income Withholding

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

DAR FILE No.: 25265  
 FILED: 09/11/2002, 13:36

**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: IV-D income withholding is mandated under Part 4 of Title 62A, Chapter 11, of the Utah Code. This rule clarifies the definition of delinquency in Section 62A-11-401 and provides examples for making a delinquency determination. It clarifies Section 62A-11-405 by explaining how an obligee can request income withholding in cases where the obligor is not delinquent on a pre-October 13, 1990, order, or where a finding of good cause or a written agreement that income withholding is not required has been entered in the order. The rule also explains the verified statement of affidavit referred to in that section. The opportunity for a review and the requirements that the Office notify the obligor of the results of the review which are addressed in that section are given needed detail in Section R527-300-4. Section 62A-11-406 which refers to a limitation on the amount of income that may be withheld under the Consumer Credit Protection Act, is explained more fully in Section R527-300-5 where it is shown how withholding percentage higher than 50% is appropriate under certain circumstances. Under Section 62A-11-406, the Office is required to notify the payor of income and the obligor of the amount of child support to be withheld. Section R527-300-6 provides instruction on how this notification is to be done when the payor of income has not changed and when there is a new payor of income. Section 62A-11-413 makes reference to multiple notices to withhold income. Termination of income withholding is addressed in Section 62A-11-408. Specific circumstances under which income withholding should be terminated are provided in Section R527-300-7. Section 62A-11-414 which is referenced in the rule allows an obligor to request income withholding even when it is not legally required.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The statutory provisions under which the rule was enacted are still in effect and the rule continues to provide necessary clarification and detail for carrying out income withholding in IV-D cases and should be continued.

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](mailto:lwilber@utah.gov)

AUTHORIZED BY: Emma Chacon, Director

EFFECTIVE: 09/11/2002



Human Services, Recovery Services  
**R527-330**  
 Posting Priority of Payments Received

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

DAR FILE No.: 25248  
 FILED: 09/11/2002, 09:07

**NOTICE OF REVIEW AND  
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is enacted under Section 62A-11-107 which authorizes the Office of Recovery Services to adopt, amend, and enforce rules necessary to carry out its statutory responsibilities, particularly that of distribution of collected amounts specified in Subsection 62A-11-104(c) and described in 42 USC Sec. 657. The rule addresses the disposition of payments intended for specified debts, and payments for which intent has not been expressed. It also explains how arrears payments are to be applied on a case and that arrears owed to the family are to be paid before arrears owed to the state.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The statutes and regulations upon which this rule is based are still in effect and the rule is reflected in current policy, practices, and procedures of the Office of Recovery Services and should be continued.

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

AUTHORIZED BY: Emma Chacon, Director

EFFECTIVE: 09/11/2002

## Human Services, Recovery Services

### **R527-378**

## Withholding of Social Security Benefits

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

DAR FILE NO.: 25255  
FILED: 09/11/2002, 10:30

#### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is enacted under Section 62A-11-107 which authorizes the Office of Recovery Services to adopt, amend, and enforce rules necessary to carry out its statutory responsibilities, particularly that of income withholding for collection of child support as specified in Subsection 62A-11-104(7). This rule clarifies that an income withholding notice to the Social Security Administration must be limited to 25 percent of the benefit amount if Social Security is the obligor's sole means of support.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The statutes under which this rule is enacted are still in effect and the rule is reflected in the current policy, practices, and procedures of the Office of Recovery Services and should be continued.

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

AUTHORIZED BY: Emma Chacon, Director

EFFECTIVE: 09/11/2002

## Human Services, Recovery Services

### **R527-412**

## Intercept of Unemployment Compensation

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

DAR FILE NO.: 25257  
FILED: 09/11/2002, 11:36

#### **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 35A-4-103(5) which authorizes the Department of Workforce Services to deduct and withhold from any unemployment compensation payable to an individual that owes child support obligations. Section 62A-11-401 defines "immediate income withholding" and references Section 62A-11-103 which includes unemployment compensation benefits in the definition of "income". The rule references the income withholding criteria in Rule R527-300 which unemployment compensation is subject to, and Section 303(b) of the Consumer Credit Protection Act (15 USC Sec. 1673), which provides the exceptions to withholding 25% of the obligor's income and specifies the maximum percentage of income that may be withheld.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The statutes under which this rule is enacted are still in effect. In addition, Rule R527-300, Income Withholding, and Section 303(b) of the Consumer Credit Protection Act (15 USC Sec. 1673), which are referenced in the text of the rule remain effective. The rule clarifies that unemployment compensation may be subject to garnishment if income withholding criteria do not apply, and explains the conditions under which an obligor may volunteer to pay more than the required amount. These provisions are

reflected in current Office of Recovery Services policy, procedures, and practices so the rule should be continued.

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

AUTHORIZED BY: Emma Chacon, Director

EFFECTIVE: 09/11/2002



Human Services, Recovery Services  
**R527-601**  
Establishing or Modifying an  
Administrative Award for Child Support

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

DAR FILE NO.: 25259  
FILED: 09/11/2002, 12:18

**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 Section 78-45-7.5 which requires each parent to provide verification of current income for the purpose of calculating the amount of a child support award under Utah's child support guidelines, and Section 78-45-7.3 which permits the moving party in a child support action to submit the best evidence available concerning the other party's income if the financial verification required under Section 78-45-7.5 is not available. It also requires that the evidence be provided in affidavit form and that a copy of the affidavit be provided to the other party before the evidence is submitted. This rule defines "best evidence available" and describes the method of providing the affidavit to the other party.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because the statutes under which it is enacted are

still in effect and it describes what is meant by "best evidence available" and specifies the method for providing the nonmoving party with an affidavit describing the evidence before the evidence is used in determining the amount of a child support award.

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

AUTHORIZED BY: Emma Chacon, Director

EFFECTIVE: 09/11/2002



Human Services, Services for People  
with Disabilities

**R539-3**  
Service Coordination

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

DAR FILE NO.: 25237  
FILED: 09/06/2002, 10:29

**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 establishes procedures and standards for entry to the division service system, including planning, developing, and managing an array of services and supports for persons with disabilities and their families throughout the state as required by Subsection 62A-5-103(1).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Division staff are planning to repeal and reenact this rule based upon changes made to policy by the Board. These changes include implementation of a new planning methodology and a revised needs assessment process. In general, the comments that have been received concerning the existing rule have supported moving away from Individual Planning to Person Centered Planning (currently the standard planning methodology in use throughout the U.S. among people with disabilities). Most comments have asked for clarification of roles in the planning process, identification of the types of documents that need to

be sent from the state to providers upon entry to services and responsibilities of provider agencies concerning discharge. Opposition to the rule has been primarily over Section R539-3-2, The Individual Plan, and Section R539-3-3, Referral to Services, as mentioned above.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Division wants to continue the existing rule as it finalizes rule changes that will respond to opposition that has been expressed and formalized already in policies passed by the Division of Services to People with Disabilities Policy Board.

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

HUMAN SERVICES  
SERVICES FOR PEOPLE WITH DISABILITIES  
Room 411  
120 N 200 W  
SALT LAKE CITY UT 84103-1500, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Paul Day at the above address, by phone at 801-538-4118, by FAX at 801-538-4279, or by Internet E-mail at pday@utah.gov

AUTHORIZED BY: Robin Arnold-Williams, Executive Director

EFFECTIVE: 09/06/2002

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**Labor Commission, Administration**  
**R600-2**  
**Operations**

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

DAR FILE NO.: 25233  
FILED: 09/05/2002, 14:50

**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 34A-1-104 authorizes the Labor Commission to adopt rules necessary to administer the Workers' Compensation Act, Occupational Disease Act, Antidiscrimination Act, and Occupational Safety and Health Act. Pursuant to that authority, and in order to provide for the orderly conduct of Commission business, the Commission has adopted Rule R600-2, which establishes the Commission's regular business hours.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: During the last five-year period, the Commission has received no written comments supporting or opposing the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: As part of its duty to administer the various statutes identified above, the Commission is required to establish standards for conduct of Commission business, including rules for hours of business and filing of business documents which is why this rule should be continued.

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

LABOR COMMISSION  
ADMINISTRATION  
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:

Alan Hennebold or Sara Danielson at the above address, by phone at 801-530-6937 or 801-530-6953, by FAX at 801-530-6390 or 801-530-6390, or by Internet E-mail at ahennebold@utah.gov or sdanielson@utah.gov

AUTHORIZED BY: R Lee Ellertson, Commissioner

EFFECTIVE: 09/05/2002

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**Labor Commission, Adjudication**  
**R602-1**  
**General Provisions**

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

DAR FILE NO.: 25234  
FILED: 09/05/2002, 14:54

**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 34A-1-104 authorizes the Labor Commission to adopt rules and conduct adjudicative proceedings. In order to administer an orderly system of adjudication, it is necessary for the Commission to use its rulemaking authority to set standards for computing filing deadlines and other time limits involved in the adjudicative process, and to set witness fees.

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 during the last five years either supporting or opposing the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes

standards for computing time limits for the Commission's adjudicative process. Because the Commission continues to conduct such adjudicative proceedings, Rule R602-1 remains necessary to govern those proceedings.

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

LABOR COMMISSION  
ADJUDICATION  
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:

Joyce Sewell or Alan Hennebold at the above address, by phone at 801-530-6988 or 801-530-6937, by FAX at 801-530-6804 or 801-530-6390, or by Internet E-mail at [jsewell@utah.gov](mailto:jsewell@utah.gov) or [ahennebold@utah.gov](mailto:ahennebold@utah.gov)

AUTHORIZED BY: R Lee Ellertson, Commissioner

EFFECTIVE: 09/05/2002



**Labor Commission, Adjudication**  
**R602-2**  
**Adjudication of Workers' Compensation**  
**and Occupational Disease Claims**

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

DAR File No.: 25235  
FILED: 09/05/2002, 14:59

**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 34A-1-104 authorizes the Labor Commission to conduct adjudicative proceedings to resolve workers' compensation and occupational disease claims. Section 34A-1-104 also authorizes the Commission to adopt rules to carry out its adjudicative functions.

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 Commission has received written comments suggesting modifications to the standards for Rule R602-2 for pleadings and discovery. The Commission has also received suggestions for modification of the provisions in Section R602-2-4 for setting attorneys' fees in workers' compensation cases. In particular, some commentators have suggested the Commission should authorize increased fees for attorneys representing injured workers. Others have suggested that the Commission begin regulating fees charged by attorneys representing employers

and insurance companies. On the other hand, the Commission has received comments suggesting changes in the structure of its existing fee schedule for claimants' attorneys.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: As part of the Commission's continuing responsibility to administer a system for adjudication of workers' compensation and occupational disease claims, it is necessary for the Commission to establish procedures for pleadings and discovery, standards for use and compensation of medical panels, as well as standards for awarding attorneys fees and evaluating settlement agreements, thus this rule should be continued.

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

LABOR COMMISSION  
ADJUDICATION  
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:

Joyce Sewell or Alan Hennebold at the above address, by phone at 801-530-6988 or 801-530-6937, by FAX at 801-530-6804 or 801-530-6390, or by Internet E-mail at [jsewell@utah.gov](mailto:jsewell@utah.gov) or [ahennebold@utah.gov](mailto:ahennebold@utah.gov)

AUTHORIZED BY: R Lee Ellertson, Commissioner

EFFECTIVE: 09/05/2002



**Labor Commission, Industrial Accidents**  
**R612-1**  
**Workers' Compensation Rules -**  
**Procedures**

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

DAR File No.: 25236  
FILED: 09/05/2002, 15:31

**NOTICE OF REVIEW AND**  
**STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 34A-1-104 gives the Labor Commission authority to establish rules to administer the Workers' Compensation Act and the Occupational Disease 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 Commission has

received written comments suggesting changes to its standards for adjudicating claims for permanent total disability, particularly with respect to claims based on accidents occurring after May 1, 1995. The Commission has also received comments suggesting an increase in entitlement to burial benefits set by Section R612-1-11.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: In light of the Commission's continuing responsibility to administer Utah's workers' compensation system, it remains necessary for the Commission to address a wide variety of administrative issues, such as definition of terms, designation of official forms, payment standards, and processing of claims. It is also necessary for the Commission to address methods for proof of claims and to establish the amount of certain benefits, such as burial expenses, and thus the rule should be continued. The Commission has accepted suggestions for increases in burial benefits and has amended Section R612-1-11 accordingly. With respect to changes to Section R612-1-10, pertaining to permanent total disability claims, the Commission has amended the rule so as to adopt recommendations of its ad hoc advisory committee. The Commission is also in the

process of considering other recommendations made by a second advisory committee.

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

LABOR COMMISSION  
INDUSTRIAL ACCIDENTS  
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:

Alan Hennebold or Joyce Sewell at the above address, by phone at 801-530-6937 or 801-530-6988, by FAX at 801-530-6390 or 801-530-6804, or by Internet E-mail at [ahennebold@utah.gov](mailto:ahennebold@utah.gov) or [jsewell@utah.gov](mailto:jsewell@utah.gov)

AUTHORIZED BY: R Lee Ellertson, Commissioner

EFFECTIVE: 09/05/2002



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

## NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

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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).

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### Financial Institutions

#### Credit Unions

No. 25244 (filed 09/10/2002 at 8:16 a.m.): R337-4. Establishment of "Credit Union Service Organizations".

Enacted or Last Five-Year Review: 09/10/97 (No. 19862, 5YR, filed 09/10/97 at 4:35 p.m., published 10/01/97)

Extended Due Date: 01/08/2003

**End of the Notices of Five-Year Review Extensions Section**

## NOTICES OF RULE EFFECTIVE DATES

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These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

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### Abbreviations

AMD = Amendment  
CPR = Change in Proposed Rule  
NEW = New Rule  
R&R = Repeal and Reenact  
REP = Repeal

### Administrative Services

#### Fleet Operations

No. 25079 (AMD): R27-4. Vehicle Replacement and Expansion of State Fleet.  
Published: August 1, 2002  
Effective: September 9, 2002

### Commerce

#### Occupational and Professional Licensing

No. 24828 (CPR): R156-73. Chiropractic Physician Practice Act Rules.  
Published: August 1, 2002  
Effective: September 5, 2002

No. 25092 (NEW): R156-77. Professional Geologist Licensing Act Rules.  
Published: August 1, 2002  
Effective: September 5, 2002

### Education

#### Administration

No. 25098 (REP): R277-402. Incentives for Excellence in Public Schools.  
Published: August 1, 2002  
Effective: September 4, 2002

No. 25099 (REP): R277-403. Productivity Project Studies: Classified Employee Program.  
Published: August 1, 2002  
Effective: September 4, 2002

No. 25108 (REP): R277-441. Alternative Experimental Pilot Programs.  
Published: August 1, 2002  
Effective: September 4, 2002

No. 25100 (REP): R277-452. Procedures for Filing Comprehensive Capital Outlay Plan.  
Published: August 1, 2002  
Effective: September 4, 2002

No. 25107 (REP): R277-455. Standards and Procedures for Building Plan Review.  
Published: August 1, 2002  
Effective: September 4, 2002

No. 25095 (AMD): R277-459. Teachers' Supplies and Materials Appropriation.  
Published: August 1, 2002  
Effective: September 4, 2002

No. 25106 (REP): R277-465. Character Education Funding.  
Published: August 1, 2002  
Effective: September 4, 2002

No. 25110 (REP): R277-467. Modernizing School Library Media Center Collections.  
Published: August 1, 2002  
Effective: September 4, 2002

No. 25101 (REP): R277-472. Reading Performance Improvement Awards Program.  
Published: August 1, 2002  
Effective: September 4, 2002

No. 25096 (R&R): R277-478. Block Grant Funding.  
Published: August 1, 2002  
Effective: September 4, 2002

No. 25097 (AMD): R277-521. Professional Specialist Licensing.  
Published: August 1, 2002  
Effective: September 4, 2002

No. 25102 (REP): R277-526. Career Ladders in Education.  
Published: August 1, 2002  
Effective: September 4, 2002

No. 25111 (REP): R277-701. Values Education.  
Published: August 1, 2002  
Effective: September 4, 2002

No. 25103 (REP): R277-716. Alternative Language Services (ALS).  
Published: August 1, 2002  
Effective: September 4, 2002

No. 25109 (REP): R277-732. Community Education.  
Published: August 1, 2002  
Effective: September 4, 2002

No. 25104 (REP): R277-740. Subchapter One of the Education Improvement and Consolidation Act of 1981.  
Published: August 1, 2002  
Effective: September 4, 2002



No. 25105 (REP): R277-742. Truancy Prevention Support Centers.  
 Published: August 1, 2002  
 Effective: September 4, 2002

No. 25073 (REP): R434-50. Nurse Education Financial Assistance.  
 Published: August 1, 2002  
 Effective: September 10, 2002

Environmental Quality

Air Quality

No. 24593 (CPR): R307-110-10. Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter.  
 Published: August 1, 2002  
 Effective: September 5, 2002

No. 24592 (CPR): R307-110-17. Section IX, Control Measures for Area and Point Sources, Part H, Emission Limits.  
 Published: August 1, 2002  
 Effective: September 5, 2002

Radiation Control

No. 24715 (CPR): R313-17-2. Public Notice and Public Comment Period.  
 Published: July 1, 2002  
 Effective: September 12, 2002

No. 24969 (AMD): R313-70-7. License Categories and Types of Fees for Radioactive Materials Licenses.  
 Published: July 1, 2002  
 Effective: September 12, 2002

Health

Epidemiology and Laboratory Services, Epidemiology

No. 25074 (REP): R386-710. Early Warning Reporting.  
 Published: August 1, 2002  
 Effective: September 10, 2002

Health Systems Improvement, Primary Care and Rural Health

No. 25071 (REP): R434-10. Physicians and Physician Assistants Grant and Scholarship Program.  
 Published: August 1, 2002  
 Effective: September 10, 2002

No. 25072 (REP): R434-20. Special Population Health Care Provider Financial Assistance Program.  
 Published: August 1, 2002  
 Effective: September 10, 2002

Human Services

Recovery Services

No. 25088 (AMD): R527-200. Administrative Procedures.  
 Published: August 1, 2002  
 Effective: September 4, 2002

No. 25089 (AMD): R527-201. Medical Support Services.  
 Published: August 1, 2002  
 Effective: September 4, 2002

Labor Commission

Occupational Safety and Health

No. 24916 (CPR): R614-1-5. Adoption and Extension of Established Federal Safety Standards and State of Utah General Safety Orders.  
 Published: August 1, 2002  
 Effective: September 5, 2002

Natural Resources

Wildlife Resources

No. 25091 (AMD): R657-14. Commercial Harvesting of Protected Aquatic Wildlife.  
 Published: August 1, 2002  
 Effective: September 4, 2002

No. 25090 (NEW): R657-52. Commercial Harvesting of Brine Shrimp and Brine Shrimp Eggs.  
 Published: August 1, 2002  
 Effective: September 4, 2002

Tax Commission

Auditing

No. 24883 (AMD): R865-20T-10. Procedures for the Renewal and Reinstatement of Licenses Issued Pursuant to Utah Code Ann. Section 59-14-202.  
 Published: June 15, 2002  
 Effective: September 4, 2002

Workforce Services

Workforce Information and Payment Services

No. 25085 (AMD): R994-406-402. Fraud.  
 Published: August 1, 2002  
 Effective: September 12, 2002

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

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The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2002, including notices of effective date received through September 16, 2002, the effective dates of which are no later than October 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: Because of publication constraints neither index is printed 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/>).

DAR DISCLAIMER: The indexes that appear on the web may contain inaccurate page number references. Also the indexes are incomplete in the sense that index entries for changes in proposed rules (CPRs) are not preceded by entries for their parent proposed rules. These difficulties with the indexes are related to a new software package used by the Division to create the Bulletin and related publications; we hope to have them resolved as soon as possible. Bulletin issue information and effective date information presented in the indexes are, to the best of our knowledge, complete and accurate. If you have any questions regarding the indexes and the information they contain, please contact Nancy Lancaster (801 538-3218), Mike Broschinsky (801 538-3003), or Kenneth A. Hansen (801 538-3777).

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