

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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Inquiries concerning administrative rules or other contents of the *Bulletin* may be addressed to the responsible agency or to: Division of Administrative Rules, 4120 State Office Building, Salt Lake City, Utah 84114, telephone (801) 538-3218, FAX (801) 538-1773. To view rules information, and on-line versions of the division's publications, visit: <http://www.rules.utah.gov/>

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

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TABLE OF CONTENTS

1. EDITOR'S NOTES

Legislation Which Affects Rulemaking	1
--	---

2. NOTICES OF PROPOSED RULES

Agriculture and Food

Animal Industry

No. 26989 (Amendment): R58-20-5. Facilities.....	3
--	---

Commerce

Occupational and Professional Licensing

No. 26998 (Amendment): R156-71-202. Naturopathic Physician Formulary	3
--	---

Education

Administration

No. 26999 (Amendment): R277-469. Instructional Materials Commission Operating Procedures	5
--	---

No. 27000 (Amendment): R277-518. Vocational-Technical Certificates.....	8
---	---

No. 27001 (Repeal): R277-734. Standards and Procedures for Adult Education Section 353 Funds	11
--	----

Health

Health Systems Improvement, Licensing

No. 26993 (Amendment): R432-150-6. Reserved	13
---	----

No. 26992 (Amendment): R432-270-29b. Adult Day Care Services.....	14
---	----

Natural Resources

Water Rights

No. 26984 (Amendment): R655-13. Stream Alteration	16
---	----

Public Safety

Fire Marshal

No. 27003 (Amendment): R710-4. Buildings Under the Jurisdiction of the State Fire Prevention Board.....	19
---	----

No. 27002 (Amendment): R710-9. Rules Pursuant to the Utah Fire Prevention Law	23
---	----

3. NOTICES OF CHANGES IN PROPOSED RULES

Insurance

Administration

No. 26791: R590-153. Unfair Inducements and Marketing Practices in Obtaining Title Insurance Business	31
---	----

4. FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Administrative Services

Facilities Construction and Management

No. 26991: R23-29. Across the Board Delegation.....	35
---	----

TABLE OF CONTENTS

Agriculture and Food

Animal Industry

No. 26990: R58-20. Domesticated Elk Hunting Parks35

Regents (Board Of)

Salt Lake Community College

No. 26994: R784-1. Government Records Access and Management Act Rules.....36

5. NOTICES OF RULE EFFECTIVE DATES.....37

6. RULES INDEX.....38

EDITOR'S NOTES

LEGISLATION WHICH AFFECTS RULEMAKING

The 55th Legislature's 2004 General Session ended on March 3, 2004. During the session, one bill passed that affects administrative rules in general.

S.B. 22 "Reauthorization of Administrative Rules" by Sen. Howard Stephenson (R)

This is the Administrative Rules Review Committee's annual bill that is required by Section 63-46a-11.5. The long title of S.B. 22 indicates that the bill ". . . reauthorizes all state agency administrative rules."

Governor Walker signed S.B. 22 on March 16, 2004. The bill provides for an effective date of May 1, 2004.

Additional Information

Additional information about the 2004 General Session and specific legislation is available from the Legislature's Office of Legislative Research and General Counsel at: <http://www.le.state.ut.us/~2004/2004.htm> . The Legislature's home page can be found at: <http://le.utah.gov/> .

Questions about this legislation may be directed to Ken Hansen, Director, Division of Administrative Rules, 4120 State Office Building, Salt Lake City, UT 84114-1201, phone: 801-538-3777, FAX: 801-538-1773, or Internet E-mail: khansen@utah.gov

End of the Editor's Notes Section

NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between March 2, 2004, 12:00 a.m., and March 15, 2004, 11:59 p.m. are included in this, the April 1, 2004, 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 May 3, 2004. 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 July 30, 2004, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than 31 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

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

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

The Proposed Rules Begin on the Following Page.

Agriculture and Food, Animal Industry
R58-20-5
Facilities

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE No.: 26989
 FILED: 03/05/2004, 14:06

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes in this section are made at the request of the Elk Industry.

SUMMARY OF THE RULE OR CHANGE: This amendment changes the distance for the posting of notices on outside fences, to notify the public that the land area is a private hunting park; and increases the mileage distance for a licensed farm owned by the same individual for identification and disease control purposes.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-39-106

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There is no cost or savings to state budget. The changes in this section are for clarification purposes for the posting of notices and the acceptable distance for a handling and isolation facility for identification and disease control purposes.
- ❖ LOCAL GOVERNMENTS: There is no cost or savings to local government. The changes in this section are for clarification purposes for the posting of notices and the acceptable distance for a handling and isolation facility for identification and disease control purposes.
- ❖ OTHER PERSONS: There is no cost or savings to other persons. The changes in this section are for clarification purposes for the posting of notices and the acceptable distance for a handling and isolation facility for identification and disease control purposes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with the changes in this section. The changes affect distances for the posting of notices, and handling and isolation facilities.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes in this section affect distances for the posting of notices and handling and isolation facilities.

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

AGRICULTURE AND FOOD
 ANIMAL INDUSTRY
 350 N REDWOOD RD
 SALT LAKE CITY UT 84116-3087, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Marolyn Leetham or Terry Menlove at the above address, by phone at 801-538-7114 or 801-538-7166, by FAX at 801-538-7126 or 801-538-7169, or by Internet E-mail at mleetham@utah.gov or tmenlove@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 05/03/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 05/04/2004

AUTHORIZED BY: Cary G. Peterson, Commissioner

R58. Agriculture and Food, Animal Industry.

R58-20. Domesticated Elk Hunting Parks.

R58-20-5. Facilities.

(1) Fencing requirements established by Section 4-39-201 of the Utah Code are applicable to both domestic elk farms and hunting parks.

(2) A hunting park for domesticated elk may be no smaller than 300 acres, with sufficient trees, rocks, hills and natural habitat, etc. to provide cover for the animals. Hunting park owners intending to operate facilities larger than 5,000 acres must obtain prior written approval of the Elk Advisory Council, following studies, reviews or assessments, etc., which the Council may deem necessary to undertake, in order to make an informed decision.

(3) There shall be notices posted on the outside fence and spaced a minimum of every 100[300] yards, to notify the public that the land area is a private hunting park.

(4) Each location of a licensed facility with separate perimeter fences must have its own separate loading facility.

(5) To be licensed, the park must include a handling and isolation facility which can be accessed and operated with reasonable ease for identification and disease control purposes. An exception to this rule may be granted in cases where there is a licensed farm owned by the same individual within 50[40] miles of the hunting park which can be accessed in a reasonably short period of time.

KEY: inspections

[August 2, 2000]2004
4-39-106



Commerce, Occupational and
Professional Licensing
R156-71-202
Naturopathic Physician Formulary

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE No.: 26998
 FILED: 03/15/2004, 14:40

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division needs to add some noncontrolled substance medications to

the naturopathic physician formulary so that a naturopathic physician can prescribe these medications.

SUMMARY OF THE RULE OR CHANGE: The following noncontrolled substance medications are being added to the naturopathic physician formulary: Ace Inhibitors; Calcium Channel Blockers (2nd generation diphhydramine); Leukotrine modulators; and Oxygen.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-71-101, and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The Division will incur minimal costs, less than \$50, to reprint the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.

❖ **LOCAL GOVERNMENTS:** Proposed amendments do not apply to local governments.

❖ **OTHER PERSONS:** These proposed amendments will result in savings for the public and insurance carriers. Patients who presently see a naturopathic physician needing these types of medications cannot receive the required prescription. The patient needs to schedule another visit with a prescribing practitioner for the necessary prescription. If the naturopathic physician can prescribe the medication needed, it would reduce the duplication of services thus resulting in a lower cost for the patient. The Division is unable to determine an exact savings amount due to the wide varying charges among practitioners and the Division cannot determine how many persons would no longer need a second medical visit to a prescribing practitioner.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These proposed amendments will result in savings for the public and insurance carriers. Patients who presently see a naturopathic physician needing these types of medications cannot receive the required prescription. The patient needs to schedule another visit with a prescribing practitioner for the necessary prescription. If the naturopathic physician can prescribe the medication needed, it would reduce the duplication of services thus resulting in a lower cost for the patient. The Division is unable to determine an exact savings amount due to the wide varying charges among practitioners and the Division cannot determine how many persons would no longer need a second medical visit to a prescribing practitioner.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to businesses is anticipated as a result of this rule filing, which adds various medications that are not controlled substances to the list of medications that can be prescribed by naturopathic physicians. Klarice A. Bachman, Executive Director

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

COMMERCE
OCCUPATIONAL AND PROFESSIONAL LICENSING
HEBER M WELLS BLDG
160 E 300 S

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Daniel T. Jones at the above address, by phone at 801-530-6767, by FAX at 801-530-6511, or by Internet E-mail at dantjones@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/03/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 05/04/2004

AUTHORIZED BY: J. Craig Jackson, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-71. Naturopathic Physician Practice Act Rules.
R156-71-202. Naturopathic Physician Formulary.**

(1) In accordance with Subsections 58-71-102(8) and 58-71-202, the naturopathic physician formulary which consists of noncontrolled substance legend medications deemed appropriate for the scope of practice of naturopathic physicians, the prescription of which is approved by the Division in collaboration with the Naturopathic Formulary Advisory Peer Committee, consists of the following legend drugs, listed by category:

Adrenergic Stimulators, limited to: Albuterol, Epinephrine, and Metaproteranol;

Ace Inhibitors:

Amino Acids;

Anesthetics (local);

Antiemetics;

Antifungals, limited to: Nystatin and Fluconazole;

Antigout;

Antihistamines;

Anti-inflammatories, except DMARDS;

Antimicrobials (oral), limited to: Pencillins, 1st and 2nd generation Cephalosporins, Tetracyclines, Macrolides, Azalides, Lincosamines, Metronidazole, Hydantoins, and Sulfas;

Antimicrobials (ophthamologic), limited to: Sulfas and Macrolides;

Antimicrobials (topical);

Antivirals, limited to Acyclovir;

Biologics, limited to: Skin Testing, CDC recommended Immunizations, Toxoids, and Immunoglobulin;

Calcium Channel Blockers (2nd Generation Diphhydramine):

Contraceptives, except implants and injections;

Corticosteroids (oral or topical), except Ophthamologic Preparations;

Diabetic Agents, limited to: Insulin, and oral Hypoglycemics, except Thiazolidinediones;

Diuretics, limited to: Thiazide or Loop;

Electrolyte and Fluid Replacements;

Enzymes, limited to: Digestive and Proteolytic;

H2 Blockers;

Hormones (oral or topical), limited to: Estrogen, Progestins, and Thyroid;

Leukotrine modulators:

Migraine Preparations, limited to: Ergotamines and Sumatriptin;

Minerals: Macro and Micro;

Oxygen;

Osteoporosis agents, limited to: Calcitonin and Raloxifene;

Proton-Pump Inhibitors;

Urinary Antispasmodics;

Vitamins;

Other: Methergine and Pitocin, limited to use only after the uterus has been emptied;

Silver Nitrate.

(2) New categories or classes of drugs will need to be approved as part of the formulary prior to prescribing/administering.

(3) The licensed naturopathic physician has the responsibility to be knowledgeable about the medication being prescribed or administered.

KEY: licensing, naturopaths, naturopathic physician[≠]

[~~July 5, 2001~~2004

Notice of Continuation February 7, 2002

58-71-101

58-1-106(1)(a)

58-1-202(1)(a)



Education, Administration
R277-469
 Instructional Materials Commission
 Operating Procedures

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 26999

FILED: 03/15/2004, 15:04

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to align review criteria and requirements more closely with state U-PASS, federal legislation, S.B. 154 from the 2003 Legislative Session, and updated terminology. (DAR NOTE: S.B. 154 is found at UT L 2003 Ch 315, and was effective May 5, 2003.)

SUMMARY OF THE RULE OR CHANGE: The changes include increased emphasis on the selection of high quality, research-based and effective instructional materials; and a focus narrowed to the review of materials related to Core requirements, basic skills, and state-required assessments.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3) and Sections 53A-14-101 through 53A-14-106

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There may be some savings to state budgets as review(s) of materials are streamlined to materials specific to assessment requirements.

❖ LOCAL GOVERNMENTS: There are no anticipated cost or savings to local government. Instructional Materials Commission expenses are borne by the state so there are no costs to local school boards.

❖ OTHER PERSONS: There are no anticipated cost or savings to other persons. Instructional Materials Commission expenses are borne by the state so there are no costs to local school boards.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons; all costs for the Instructional Materials Commission are state expenses for state accountability for curriculum materials.

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 05/03/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 05/04/2004

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.

R277-469. Instructional Materials Commission Operating Procedures.

R277-469-1. Definitions.

A. "Advanced placement materials" means materials used for the College Board Advanced Placement Program and classes. The program policies are determined by representatives of member institutions. Operational services are provided by the Educational Testing Service. The program provides practical descriptions of college-level courses to interested schools and student test results based on these courses to colleges of the student's choice. Participating colleges grant credit or appropriate placement, or both, to students whose test results meet standards prescribed by the college.

B. "ASCII" means American Standard Code for Information Interchange from which Braille versions of all or part of the instructional materials can be produced.

C. "Basic skills course" means a subject which requires mastery of specific functions to include reading, language arts,

mathematics through geometry, science, in grades 4 through 12, and effectiveness of written expression.

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

[D]E. "Commission" means the Instructional Materials Commission.

[E]F. "Instructional materials" means systematically arranged text materials, in harmony with the Core framework and required courses of study or U-PASS requirements or both, which may be used by students or teachers or both as principal sources of study and which cover any portion of the course. These materials:

(1) shall be designed for student use; and

(2) may be accompanied by or contain teaching guides and study helps[-]; and

(3) shall be high quality, research-based and proven to be effective in supporting student learning.

[F]G. "Integrated instructional program" means any combination of textbooks, workbooks, software, videos, transparencies, or similar resources used for classroom instruction of students.

[G]H. "International Baccalaureate" means college level work, limited in subject areas, which balances humanities and sciences in an interdisciplinary, global academic program that is both philosophical and practical. This multi-cultural experience emphasizes analytical and conceptual skills and aesthetic understanding for advanced students.

[H]I. "Not recommended materials" means instructional materials which have been reviewed by the Commission but not recommended.

[I]J. "State Core Curriculum (Core)" means minimum academic standards provided through courses as established by the Board which shall be completed by all students K-12 as a requisite for graduation from Utah's secondary schools.

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

L. "Utah Performance Assessment System for Students (U-PASS)" means:

(1) systematic norm-referenced achievement testing of all students in grades 3, 5, 8, and 11 required by this part in all schools within each school district by means of tests designated by the Board;

(2) criterion-referenced achievement testing of students in all grade levels in basic skills courses, to include reading, language arts, mathematics through geometry, science, in grades 4 through 12, and effectiveness of written expression, as defined in Section 53A-1-602;

(3) a direct writing assessment in grades 6 and 9; and

(4) a tenth grade basic skills competency test as detailed in Section 53A-1-611.

R277-469-2. Authority and Purpose.

A. This rule is authorized under Utah Constitutional Article X, Section 3 which vests general control and supervision over public education in the Board, by Section 53A-14-101 through 53A-14-106 which directs the Board to appoint an Instructional Materials Commission and directs the Commission to evaluate instructional materials for recommendation by the Board, and by Subsection 53A-1-401(3) which allows the Board to make rules in accordance with its responsibilities.

B. The purpose of this rule is to provide definitions, operating procedures and ~~provisions~~ criteria for recommending instructional materials for use in Utah public schools.

R277-469-3. Use of State Funds for Instructional Materials.

A. Districts may use funds ~~designated for state instructional materials only~~:

(1) for ~~materials on the recommended instructional materials list~~ any instructional materials that support Core or U-PASS requirements;

(2) for advanced placement, International Baccalaureate, concurrent enrollment, and college-level course materials. Use of these materials may require parental permission consistent with R277-474.

(3) for instructional materials selected and approved by a school or district consistent with the standards of this rule:

(a) consistent with established local board procedures and timelines; and

(b) consistent with Section 53A-13-101(1)(c)(iii) ~~and~~

~~(e) that support U-PASS requirements~~.

B. Schools or school districts that use any funding source to purchase materials that have not been recommended or selected consistent with law ~~or this rule~~, may have funds withheld to the extent of the actual costs of those materials pursuant to Subsection 53A-1-401(3).

C. Free instructional materials:

(1) may be used as student instructional materials only consistent with the law and this rule; and

(2) shall be reviewed and recommended by the Commission or the school district prior to use.

R277-469-4. Instructional Materials Commission Members Terms of Service.

A. Members shall be appointed from categories designated in Subsection 53A-14-102(1).

B. Members shall serve four year staggered terms with the option, jointly expressed by the Commission member and the Commission, for reappointment for one additional term.

C. The Commission may establish subcommittees as needed.

R277-469-5. Commission Review of Materials.

~~[A. The Commission may review materials in the following subject areas on timelines as determined by the Commission based upon district needs and requests and using forms and procedures provided by the USOE:~~

~~(1) Bilingual education/English as a second language (elementary and secondary);~~

~~(2) Character education (elementary and secondary);~~

~~(3) Driver education (secondary);~~

~~(4) Early childhood education;~~

~~(5) Fine arts (elementary and secondary);~~

~~(6) Foreign language (elementary and secondary);~~

~~(7) Health education and fitness (elementary and secondary);~~

~~(8) Information technology (elementary and secondary);~~

~~(9) Language arts (elementary and secondary);~~

~~(10) Mathematics (elementary and secondary);~~

~~(11) Science (elementary and secondary);~~

~~(12) Social studies (elementary and secondary);~~

~~(13) Applied technology/vocational subjects;~~

~~(14) Technology education;~~

~~(15) Technology and industrial arts; and~~

~~(16) Special education/resource materials.]~~ A. The primary focus of instructional materials review shall be materials used in subjects assessed under U-PASS to include reading, language arts, mathematics through geometry, science, in grades 4 through 12, and

effectiveness of written expression, and other Core subject areas as assigned by the Board. Subject areas and timelines for review shall be determined by the Commission based on district needs and requests, and using forms and procedures provided by the USOE.

~~[B. The Commission's designation of a subject area category for review purposes is final.~~

~~—C]B. Commission review of material takes place [in April and October of each year]at least annually.~~

R277-469-6. Review and Adoption Categories.

A. Materials may be considered for review by the Commission and designated under the following categories. They may be purchased with state funds and used [as follows]consistent with this rule:

(1) Recommended Primary: Instructional materials that:

(a) are in alignment with content, philosophy and instructional strategies of the Core;

(b) ~~[may be used]~~are appropriate for use by students as principal sources of study;

(c) provide comprehensive coverage of course content; and

(d) support Core or U-PASS requirements or both.

(2) Recommended Limited: Instructional materials that ~~[may be used or purchased and]~~are in limited alignment with the Core or U-PASS requirements or are narrow or restricted in their scope and sequence. If school districts or schools select and purchase materials designated under this category, it is recommended that they have a plan for using appropriate supplementary materials assuring coverage of Core requirements.

(3) Recommended Teacher Resource: Instructional materials that ~~[may be used or purchased for or]~~are appropriate as resource materials for use by teachers~~[for use as resource material only].~~

(4) Recommended Student Resource: Instructional materials aligned to the Core or that support U-PASS that are developmentally appropriate, but not intended to be the primary instructional resource. These materials may provide valuable content information for students.

(5) Reviewed, but not Recommended: Instructional materials that may not be aligned with the Core, may be inaccurate in content, include misleading connotations, contain undesirable presentation, or are in conflict with existing law and rules~~[or are unsuitable for use by students].~~ School districts are strongly cautioned against using these materials.

(6) Not Sampled: Instructional materials that were included in the publisher bid but were not sampled to the USOE or the Commission.

R277-469-7. Criteria for Recommendation of Instructional Materials.

A. Instructional materials shall:

(1) be consistent with Core ~~[and]~~or U-PASS requirements or both.

~~(2) be high quality, research-based and proven to be effective in supporting student learning.~~

~~([2]3) provide an objective and balanced viewpoint on issues.~~

~~([3]4) include enrichment and extension possibilities.~~

~~([4]5) be appropriate to varying levels of learning.~~

~~([5]6) be accurate[-]and factual[-and research-based].~~

~~([6]7) be arranged chronologically or systematically, or both.~~

~~([7]8) reflect the pluralistic character and culture of the American people and provide accurate representation of diverse ethnic groups.~~

~~([8]9) be free from sexual, ethnic, age, gender or disability bias and stereotyping.~~

~~([9]10) be of acceptable technical quality.~~

B. Upon request by the district, a publisher of instructional materials shall furnish computer diskettes of materials for literary subjects in the American Standard Code for Information Interchange (ASCII).

C. USOE ~~[monitoring]~~review:

(1) The USOE may require a district to provide a report of instructional materials purchased by the district or a school in the previous five years.

(2) The USOE may initiate a formal or informal audit of instructional materials purchased.

R277-469-8. Agreements and Procedures for School Districts and Publishing Companies.

A. A local board shall establish a policy for district and school selection and purchase of instructional materials. The policy shall include:

(1) procedures for schools to purchase instructional materials consistent with Section 53A-12-204(1);

(2) assurances signed by the district superintendent and school principal(s) that instructional materials not recommended by the Commission have been ~~[reviewed by the local board]~~purchased consistent with state law. The assurances shall be available for review by the Board upon request.

B. Publishers desiring to sell ~~[adopted]~~recommended materials to Utah schools or districts shall have adopted materials on deposit at an instructional materials depository in the business of selling instructional materials to schools or districts in Utah.

C. Depository agreements may be made between publishers of materials and one or more depository.

D. The provisions of R277-469-8 shall not preclude publishers from selling instructional materials to schools or districts in Utah directly or through means other than the designated depository.

E. ~~[Revised-r]~~Recommended materials with revisions:

(1) If a revised edition of recommended materials retains the original title and authorship, the publisher may request its substitution for the edition currently recommended providing that:

(a) the original contract price and contract date do not change and the original contract price applies for the substituted materials;

(b) the revised edition is compatible with the earlier edition, permitting use of either or both in the same classroom;

(c) a sample copy of the revised edition is provided to the USOE Instructional Materials Specialist for examination purposes.

(2) If Subsection R277-469-8~~[D]~~E is not satisfied, a new edition shall be submitted for recommendation as new materials.

(3) The Commission shall make the final determination about the substitution of a new edition for a previously recommended edition with assistance from the state subject area specialist.

F. A publisher's contract price for materials recommended by the Commission shall apply for five years from the contract date.

R277-469-9. Request for Reconsideration of Recommendation.

A. A request for reconsideration is an additional opportunity provided to a school district, school or publisher for review of instructional materials when the school district, school or the publisher disagrees with the initial Commission recommendation.

B. The request for reconsideration procedure is as follows:

- (1) A school district, school or publisher shall receive the evaluations and recommendations from the USOE of the initial review.
- (2) A school district, school or publisher shall have 30 days to respond to the evaluation and request to have materials reviewed again during the next review cycle.
- (3) During the period of the reconsideration request, materials shall be marked as tentative and shall not be given official status. These materials shall not be posted to the Internet site until recommended through the official Commission process.
- (4) A school district, school or publisher may be asked to send a second set of sample materials to the USOE.
- (5) Any written information provided by a school district, school or publisher shall be available to the advisory committees during the second review.
- (6) After the second review by the subject area advisory committee, the advisory committee's recommendation shall be voted on by the Commission at the next scheduled meeting.
- (7) If the Commission votes to change the recommendation, the Board shall consider the Commission's revised recommendation at the next scheduled Board meeting and make a final decision.
- (8) A school district, school or publisher shall receive written notification that a recommendation is final and shall receive a copy of the new evaluation. Evaluations may now appear on the Internet if materials are recommended.

KEY: instructional materials
~~[October 16, 2002]~~2004
 Notice of Continuation April 4, 2003
 Art X, Sec 3
 53A-14-101 through 53A-14-106
 53A-1-401(3)



Education, Administration
R277-518
Vocational-Technical Certificates

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 27000
 FILED: 03/15/2004, 15:06

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to make the rule consistent with current law and other administrative rules.

SUMMARY OF THE RULE OR CHANGE: The changes include changing Vocational-Technical Certificates to Applied Technology Education (ATE) Licenses consistent with current licensing terminology, clarifying and updating definitions, and providing for alternative routes to licensing secondary ATE teachers.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3) and Section 53A-6-104

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There may be increased costs to the Utah State Office of Education if the number of alternative licensing candidates increases significantly. Numbers for potential increase are very speculative.
- ❖ LOCAL GOVERNMENTS: There are no anticipated cost or savings to local government. All costs of licensing and tracking licenses are borne by the state or individual; no costs for local school boards.
- ❖ OTHER PERSONS: There may be costs for individuals seeking ATE licensing through alternative routes. Generally this process allows individuals to earn licenses for reduced costs; individual costs are speculative and may vary.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be compliance costs for affected persons, especially those seeking licenses through alternative routes. At this point, because individual alternative licensing requirements may be so individual, costs are speculative.

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 05/03/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 05/04/2004

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.
R277-518. ~~Vocational-Technical Certificates~~ Applied Technology Education Licenses.

R277-518-1. Definitions.

A. "Applied technology education (ATE)" means organized educational programs or competencies which directly or indirectly prepare students for employment, or for additional preparation leading to employment, in occupations where entry requirements generally do not require a baccalaureate or advanced degree. The programs provide all students a continuous 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; technology and engineering education; and work-based learning, consistent with R277-916.

B. "ATE Alternative Preparation Program (APP) license area of concentration (license area)" means the provisional license area of concentration issued by the Board for a three year period which enables the holder to teach only in a specific ATE or technical field in the public school system and may require educational coursework.

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

[B. "Provisional Certificate" means a certificate issued by the Board for a two year period which enables the holder to teach only in a specific vocational or technical field in the public school system.

C. "Basic Certificate" means the initial certificate issued by the Board which permits the holder to be employed in the public school system as an educator.

D. "Standard Certificate" means a certificate issued by the Board after a holder has demonstrated competence under the Basic Certificate.]D. "Level 1 license" means the initial provisional license issued by the Board to an individual who is recommended by a Board-approved educator preparation program or approved alternative preparation program. A complete Utah educator license requires both a level and a specified license area.

E. "Level 2 license" means a license issued by the Board to a Level 1 license holder upon completion of the Entry Years Enhancement (EYE) Program consistent with R277-522. A complete Utah educator license requires both a level and a specified license area.

F. "Level 3 license" means a license issued by the Board to a Level 2 license holder who has achieved National Board Professional Teaching Standards Certification or who holds a doctorate in the educator's field of practice. A complete Utah educator license requires both a level and a specified license area.

G. "A license area of concentration (license area)" is obtained by completing an approved preparation program or an alternative preparation program in a specific area of educational studies such as Early Childhood (K-3), Elementary 1-8, Middle (5-9), Secondary (6-12), Administrative/Supervisory, Applied Technology Education, School Counselor, School Psychologist, School Social Worker, Special Education (K-12), Preschool Special Education (Birth-Age 5), Communication Disorders.

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

R277-518-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution, Article X, Section 3 [~~of the Utah Constitution~~] which vests general control and supervision of public education in the Board, Section 53A-6-10[~~1(1)~~]4 [~~and (2), U.C.A. 1953,~~] which permits the Board to issue [~~teaching certificates~~]licenses for educators, and Section 53A-1-401(3)[~~, U.C.A. 1953,~~] which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to specify standards for [~~Vocational Technical Certificates~~]an ATE license area and endorsements. An appropriate ATE or secondary license area and appropriate endorsement(s) are required for all persons teaching ATE programs at the secondary and adult level where high school credit is earned.

R277-518-3. [~~Vocational Technical Certificate~~]Applied Technology Education License Required.

An [~~Vocational Technical Certificate~~]ATE or secondary license area with appropriate endorsements is required for all persons teaching [~~vocational technical~~]ATE programs at the secondary and adult level where high school credit is earned.

R277-518-4. [~~Provisional Certificates~~]Level 1 ATE (APP) License.

A. A [~~Provisional Vocational Technical Education Certificate~~]Level 1 ATE (APP) license area may be issued to an applicant who:

(1) has six years of related occupational experience or documented evidence of a bachelor's degree in a related area and two years of full-time related work experience or documented evidence of an associate's degree in a related area and four years of full-time related work experience with an appropriate endorsement in [one]any of the following [endorsement]program areas:

(a) agriculture;

(b) business;

(c) marketing;

(d) trade and technical;[

~~(e) industry;]~~

(~~f~~)e) technology and engineering;

(~~g~~)f) [~~home economics~~]family and consumer sciences;[~~or~~]

(~~h~~)g) health [~~occupations~~]science and technology;[~~and~~]

(h) information technology; and

(i) work-based learning.

(2) has been [~~given~~]offered a teaching assignment directly related to the applicant's occupational experience and which is in an approved area of endorsement.

B. A [~~Provisional Vocational Technical Certificate~~]Level 1 ATE (APP) license area for the [~~Handicapped~~]Disabled, which is restricted to teaching in workshop centers for the handicapped, may be issued to an applicant who has 18 months of related occupational experience in business or industry related to the teaching assignment [given]offered the applicant.

C. Verification of related occupational experience [must]shall accompany an application for a [~~provisional certificate~~]Level 1 ATE (APP) license area.

(1) Periods of employment lasting less than one month and periods of employment prior to [~~46~~]18 years of age are not accepted for purposes of calculating the occupational experience requirement.

(2) All work experience shall be within 10 years of application.[~~D. (1) A maximum of four years of post-secondary education and training in the same area as the teaching field may be accepted in lieu of required occupational experience.~~]

[~~2~~]D. State-approved testing:

The [~~trade, industrial, or technical~~]occupational experience requirement may be waived by the appropriate USOE ATE Program Specialist if the applicant has passed a state-approved competency examination in the respective field at or above the USOE established cut-off scores.[~~The cut off scores are one half standard deviation below the national mean.~~] Individual applicant scores may be used for [~~certification~~]licensing purposes up to five years after completion of the respective examination(s).

E. Besides meeting the requirements of Subsection 4(A)(1), an applicant for a [~~Provisional Certificate~~]Level 1 ATE (APP) license area to instruct in:

(1) barbering, cosmetology, or [~~plumbing~~]building trades [~~must]shall~~ also hold a valid license in the respective area issued by

the Utah State Department of ~~Business Regulation~~ Commerce, Division of Occupational and Professional Licensing;

(2) a nurse~~[s-aide]~~ assistant course ~~[must]~~shall also be a licensed practical nurse or a registered nurse;

(3) a licensed practical nurse course ~~[must]~~shall also be a registered nurse;

(4) a health ~~[occupations overview course must]~~science medical anatomy and physiology course shall also have a minimum of an associate's degree in a ~~[n-allied]~~ health care related area.

F. An ATE (APP) license area applicant shall complete pedagogical coursework or satisfy pedagogical standards consistent with R277-503-4. A Level 1 ATE (APP) license area applicant shall provide evidence of mastery of the following areas:~~(1) A Provisional Certificate may be renewed for subsequent two-year periods by successfully completing a minimum of nine quarter hours, of which 4.5 quarter hours may be in-service approved by the Office, in any of the following areas:]~~

~~(a)1~~ concepts, principles, and methods of teaching;

~~(b)2~~ human relations or educational psychology;

~~(e)3~~ curriculum development related to the program area;

~~(d)4~~ development and use of instructional materials and aids;

~~(e)5~~ facility management and safety;

~~(f)6~~ measurement and evaluation;

~~(g)7~~ ~~[vocational youth organizations]~~Applied Technology Education Leadership Organizations (ATELO), equity education, ~~[cooperative education, and vocational]~~work-based learning, and comprehensive guidance~~];~~.

~~(h) any modules taken from the Performance Based Teacher Education Program;~~

~~(i) other special courses and workshops preapproved by state specialists.]G. In addition to satisfaction of the pedagogical areas of R277-518-4F, an ATE (APP) license area applicant is strongly encouraged to and may be required by an employing school district to complete a USOE-approved program or assessment that demonstrates mastery of beginning teaching skills and competency.~~

H. A person shall be employed under an ATE (APP) license area for one three year period. It is expected that an ATE (APP) license area holder shall complete requirements for a Level 1 ATE license area within three years or satisfy the employing district's/charter school's requirement for a district-specific license under Section 53A-6-104.5 in subsequent years.

~~(2)]L. A person teaching an ~~[vocational]~~ATE program up to one-half day in relation to the respective school schedule, whose regular employment is or has been in ~~[agriculture, trade, industry, technology, marketing, or health occupations]~~any ATE program area, may, in lieu of the requirements of ~~[Subsection]~~R277-518-4(F)~~(4)~~, have the ~~[Provisional Certificate]~~Level 1 ATE (APP) license area renewed for subsequent ~~[two]~~three-year periods upon the recommendation of the employing agency ~~[with written assurance of appropriate in-service teacher education or supervision]~~ and with the approval of the ~~[state vocational technical]~~ appropriate USOE ATE ~~[education]~~Program ~~[s]~~Specialist~~[concerned]~~.~~

J. Secondary License: A Level 1 ATE (APP) license area holder with a bachelor's degree may obtain a Level 2 ATE license area and secondary license area by successfully completing the following requirements within a three-year period:

(1) if the applicant's bachelor's degree is not related to the subject area he would like to teach, he shall document at least six years of work experience in the desired teaching area;

(2) has satisfied the requirements of R277-518-4F;

(3) is strongly encouraged to and may be required by an employing school district to complete a USOE-approved program or assessment that demonstrates mastery of beginning teaching skills and competency

(4) provide documentation of any additional content area coursework as advised by the appropriate USOE ATE Program Specialist; and

(5) have completed the Entry Years Enhancement (EYE) Program consistent with R277-522.

R277-518-5. ~~[Basic Certificate]~~Level 1 ATE License.

~~[A.—]~~An applicant for a ~~[Basic Vocational Technical Certificate]~~Level 1 ATE license area with endorsement(s) ~~[must]~~shall have:

~~(1)]A. a baccalaureate degree in an approved teacher educational program, including ~~[24 quarter]~~16 semester hours of course work in the endorsement area in which the applicant ~~[intends]~~desires to teach, and at least two years of successful related occupational experience; or,~~

~~(2)]B. ~~[for home economics endorsements, one of the following:~~~~

~~—(a) a baccalaureate degree in an approved home economics teacher education program, including 24 quarter hours of supporting course work in one of the approved home economics endorsement areas, and completion of one of the following work experience options:~~

~~—(i) four hundred clock hours of directed cooperative work experience and six quarter hours of approved course work in the home economics endorsement area; or~~

~~—(ii) two years or 4,000 clock hours unsupervised work experience directly related to the approved endorsement area; or~~

~~—(b)—]a baccalaureate degree with a major in the related occupational field in which the applicant ~~[intends]~~desires to teach, including ~~[18 quarter]~~satisfaction of 15 semester hours or competency ~~[of teacher]~~in USOE-approved education course work and ~~[one]~~two years of related occupational experience.~~

~~[B. The trade, industrial, and technical occupational experience requirement may be waived if the applicant has passed a state approved competency examination at or above the established cut-off score. Cut-off scores are one-half standard deviation below the national mean. Individual applicant scores may be used for certification purposes up to five years after completion of the respective examination.]C. An applicant without public school teaching experience is strongly encouraged to and may be required by an employing school district to complete a USOE-approved program or assessment that enhances or demonstrates mastery of beginning teaching skills and competencies.~~

R277-518-6. ~~[Standard Vocational Technical Certificate]~~Level 2 ATE License.

An applicant for the ~~[Standard Vocational Technical Certificate]~~Level 2 ATE license area with endorsements ~~[must]~~shall have:

A. ~~[C]~~completed at least ~~[two]~~three years of successful teaching experience under a ~~[Provisional or Basic Vocational Technical Certificate]~~Level 1 ATE (APP) license area or Level 1 ATE license area ~~or its equivalent];~~ and

B. ~~[Received the recommendation of the employing school district]~~completed the Entry Years Enhancement (EYE) Program consistent with R277-522.

R277-518-7. Level 3 ATE License.

A. An applicant for the Level 3 ATE license area with endorsements shall have a Level 2 ATE license area and have achieved National Board Professional Teaching Standards Certification or hold a doctorate in the educator's field of practice.

B. The Level 3 ATE license area shall be renewed for successive seven year periods consistent with R277-501, Educator Licensing Renewal.

KEY: ~~teacher certification~~ educator licensing, professional education, [vocational] applied technology education ~~[1987]2004~~

Notice of Continuation January 14, 2003

Art X Sec 3

53A-6-10~~1(1) and (2)~~4

53A-1-401(3)



Education, Administration

R277-734

Standards and Procedures for Adult Education Section 353 Funds

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 27001

FILED: 03/15/2004, 15:08

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being repealed because the federal funding for the Section 353 Adult Education program has been discontinued.

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

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-1-401(3) and Section 53A-15-401

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated cost or savings to state budget. When Adult Education Section 353 funding was discontinued, the state no longer provided applications for school districts and community-based organizations to receive the funds.

❖ LOCAL GOVERNMENTS: There are no anticipated cost or savings to local government. When Adult Education Section 353 funding was discontinued, school districts or community-based organizations could no longer receive funds for projects.

❖ OTHER PERSONS: There are no anticipated cost or savings to other persons. There was never a cost for individuals to participate in programs funded under Adult Education Section 353 funds. Adult Education Section 353 funds no longer exist.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Adult Education Section 353 funds no longer exist.

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 05/03/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 05/04/2004

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

R277. Education, Administration.

~~[R277-734. Standards and Procedures for Adult Education Section 353 Funds.~~

~~R277-734-1. Definitions.~~

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

~~— B. "Section 353 Funds" means funds made available under 20 U.S.C.A. 1201, the federal Adult Education Act, for special curricula projects and for the training of persons engaged, or preparing to engage, in providing adult education.~~

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

~~— D. "Adult education" means instruction and educational services below the college level for adults who do not have:~~

~~— (1) the basic education skills of the eighth grade level or below which enable them to function effectively in society; or~~

~~— (2) a certificate of graduation from a school providing the secondary education of levels nine through twelve.~~

~~R277-734-2. Authority and Purpose.~~

~~— A. This rule is authorized under Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-15-401 which places general supervision and control of adult education in the Board and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.~~

~~— B. The purpose of this rule is to specify the standards and procedures for projects funded with Section 353 funds.~~

~~R277-734-3. Eligible Projects.~~

~~— Utah's allocation of Section 353 Funds shall be used for the following curriculum and staff development priorities:~~

~~— A. Identification and implementation of assessment instruments, curricula, and activities for implementing the Board's approved adult education curriculum;~~

— B. Identification and implementation of specific occupational competencies, including assessment and curricula, leading to employment following adult high school completion;

— C. Identification and implementation of an adult high school community/home/coping/curricula for meeting adult needs by lifestyles and stages;

— D. Identification and implementation of assessment instruments, curricula, and activities for adult high school competencies for entrance to post-secondary vocational and academic education and training;

— E. Identification and implementation of an adult education pre-service and in-service staff development program;

— F. Identification and implementation of an adult education program evaluation process; and

— G. Identification and implementation of an outcome-based adult education curricula which utilizes computer-managed and technology assisted instruction.

R277-734-4. Application and Award.

— A(1) State and local educational agencies, and public or private for-profit agencies, organizations, and institutions meeting the requirements of Subsection 4(c)(2), are eligible to receive Section 353 Funds for special curricula projects. All of these entities and institutions of higher education are eligible to receive Section 353 Funds for staff development projects.

— (2) To be eligible to receive funds authorized under this rule, an agency, organization, or institution organized for profit must demonstrate:

— (a) it can make a significant contribution to attaining the objectives of the Adult Education Act; and

— (b) it can provide substantially equivalent education at a lesser cost than or can provide services and equipment not available in public institutions.

— (3) Individuals and any school or department of divinity are ineligible to receive Section 353 Funds.

— B. Section 353 funds shall be awarded on a request for proposal basis. The USOE's Adult Education Services Unit shall develop uniform deadlines, procedures, and forms to conduct this process.

— C(1) Each local adult education program desiring to receive Section 353 Funds shall submit an application to the USOE's Adult Education Services Unit. An application must be submitted for each proposal. If an applicant wishes to have an application reconsidered for approval for a subsequent fiscal year, the application must be resubmitted.

— (2) A review panel appointed and assembled by the USOE's Adult Education Services Unit shall evaluate each project application and make recommendations to the director of the USOE's Adult Education Services Unit who makes final selections.

— (3) Project applications are evaluated for approval on the basis of the following:

— (a) criteria applicable to both special curricula projects and staff development projects:

— (i) the proposal clearly defines its objectives in measurable terms;

— (ii) the proposed plan of operation is sound;

— (iii) the proposed activities are relevant to the needs and objectives addressed;

— (iv) the proposed activities and objectives are needed in the area or for the personnel to be served;

— (v) project personnel are qualified to carry out project activities and objectives;

— (vi) personnel employed by the project do not engage in other employment that interferes with the quality and quantity of the work required by the project;

— (vii) facilities and other resources are adequate to carry out the objectives and activities of the project;

— (viii) the size, scope, and duration of the project are likely to secure productive results. The estimated cost is reasonable in relation to the results;

— (ix) there is adequate potential for replication and utilization of project results in other adult education programs. There are adequate provisions for disseminating the results;

— (x) the proposed project contains systematic evaluation procedures to measure the project's effectiveness and the extent to which its objectives and activities were accomplished; describes steps to enable the accomplishment of the objectives; and describes steps for including successful aspects of the project into the adult education program with other funds;

— (xi) the proposed project is coordinated with other federally-assisted, state and local adult education programs in a manner that promotes a comprehensive approach to the problems of adults with educational deficiencies;

— (xii) the project is conducted in cooperation and coordination with private and public programs and institutions in order to strengthen the project, prevent duplicative efforts, and encourage continuation; and

— (xiii) the proposal meets all federal and state requirements and is consistent with Board policies and rules.

— (b) criteria applicable to Special Curricula Projects:

— (i) the project uses or develops innovative methods, systems, materials, or programs to improve adult education;

— (ii) the project addresses critical and high priority education needs of adults; and

— (iii) the project is likely to improve the delivery of adult education services at both the state and local levels.

— (c) criteria applicable to Staff Development Projects:

— (i) the project includes training in the organization, utilization, or development, or any combination of these, of innovative methods, systems, materials, and programs;

— (ii) the project addresses training needs identified as criteria by national, state, and local adult education groups; and

— (iii) the project specifies eligibility requirements for project participation.

— D. An applicant is notified by letter as to the acceptance or rejection of its project application for Section 353 Funds by the USOE's Adult Education Services Unit. An approved Section 353 Project is authorized under an agreement signed by the USOE and the applicant.

R277-734-5. Program Standards and Procedures.

— A. Recipients of Section 353 Funds for special curricula and staff development projects are required, whenever feasible, to make non-federal expenditures of at least ten percent of the cost of the project. The percentage required is determined on the basis of the resources of the grantee, the size and scope of the project, the cost of the project, and the ability of the grant recipient to contribute to programs the State Superintendent of Public Instruction determines to be relevant.

— B. The recipient of Section 353 Funds shall establish its own criteria for admission to staff development projects based on the

~~terms and conditions of the grant award agreement and the goals of the adult education program. Selection of participants is the responsibility of the grantee. No person shall be declared ineligible to participate in the program solely for the reason of race, color, sex, national origin, religion, handicap, or the failure to possess an academic degree. Eligible participants must be teaching, preparing to teach, counseling, supervising, or administering in the adult education program.~~

~~C. Allowable costs shall be in accordance with terms and conditions contained in the grant award agreement. Participants in staff development programs may receive support and travel allowances which must be paid in accordance with state law, policies, and procedures.~~

~~D. The following reports shall be required of grant recipients:~~

~~(1) performance reports required under the grant award agreement;~~

~~(2) financial status reports required under the grant award agreement; and~~

~~(3) a final project report which must be submitted within 60 days after the expiration or termination of the grant. It shall include:~~

~~(a) a final financial status report; and~~

~~(b) a final performance report containing:~~

~~(i) a listing of project objectives and accomplishments;~~

~~(ii) sufficient details to enable replication of the project;~~

~~(iii) a summary of findings, recommendations, and conclusions;~~

~~(iv) a brief abstract describing the methodology and operation of the project;~~

~~(v) a description of any instructional materials developed for use in the project; and~~

~~(vi) a description of any salable items developed as a result of the project.~~

~~E. The USOE shall be provided with a copy of any independent evaluations of the project or any studies of a similar nature in accordance with the requirements contained in the grant award agreement.~~

~~F. The USOE shall develop uniform fiscal and accounting procedures, forms, and deadlines for the operation of Section 353 Projects.~~

KEY: adult education

1988

Notice of Continuation February 26, 1999

53A-15-401

53A-1-401(3)]



**Health, Health Systems Improvement,
Licensing
R432-150-6
Reserved**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 26993

FILED: 03/12/2004, 11:49

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change allows nursing care facilities licensed by the Department of Health to offer adult day care services within a licensed health care facility without needing to be licensed by the Department of Human Services as well.

SUMMARY OF THE RULE OR CHANGE: This rulemaking establishes standards for adult day care services offered by licensed nursing care facilities.

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

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There will be some cost to print the modifications of the rule and distribute it to licensed health care facilities.

❖ **LOCAL GOVERNMENTS:** No cost increase or decrease anticipated since this is an optional service for a nursing care facility owned or operated by a local government. There may be an additional income to the government-owned facility that decides to operate adult day care.

❖ **OTHER PERSONS:** No cost increase or decrease anticipated since this is an optional service for a nursing care facility owned or operated privately. There may be an additional income to the privately-owned facility that decides to operate an adult day care.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This is an optional service therefore there should not be a cost unless the organization elects to offer this service.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule requires nursing care facilities that choose to offer adult day services to meet the same standards required of free standing adult day care operations. Fiscal impact should be minimal. Scott D. Williams, M.D.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debra Wynkoop at the above address, by phone at 801-538-6152, by FAX at 801-538-6325, or by Internet E-mail at debwynkoop@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 05/03/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 05/04/2004

AUTHORIZED BY: Scott D. Williams, Executive Director

R432. Health, Health Systems Improvement, Licensing.

R432-150. Nursing Care Facility.

R432-150-6. ~~Reserved.~~Adult Day Care Services.

~~Reserved.~~(1) Nursing Care Facilities may offer adult day care and are not required to obtain a license from Utah Department of Human Services. If a facility provides adult day care, it shall submit policies and procedures for Department approval.

(2) In this section:

(a) "Adult Day Care" means nonresidential care and supervision for at least four but less than 24 hours per day, that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.

(b) "Consumer" means a functionally impaired adult admitted to or being evaluated for admission in a facility offering adult day care.

(3) The governing board shall designate a qualified Director to be responsible for the day-to-day program operation.

(4) The Director shall maintain written records on-site for each consumer and staff person, which shall include the following:

(a) demographic information;

(b) an emergency contact with name, address and telephone number;

(c) consumer health records, including the following:

(i) record of medication including dosage and administration;

(ii) a current health assessment, signed by a licensed practitioner; and

(iii) level of care assessment.

(d) signed consumer agreement and service plan.

(e) employment file for each staff person which includes:

(i) health history;

(ii) background clearance consent and release form;

(iii) orientation completion, and

(iv) in-service requirements.

(5) The facility shall have a written eligibility, admission, and discharge policy that includes the following:

(a) intake process;

(b) notification of responsible party;

(c) reasons for admission refusal, including the Director's written, signed statement;

(d) resident rights notification; and

(e) reason for discharge or dismissal.

(6) Before a facility admits a consumer, it must first assess, in writing, the consumer's current health and medical history, immunizations, legal status, and social psychological factors to determine whether the consumer may be placed in the program.

(7) The Director or designee, the responsible party, and the consumer if competent shall develop a written, signed consumer agreement. The agreement shall include:

(a) rules of the program;

(b) services to be provided and cost of service, including refund policy; and

(c) arrangements regarding absenteeism, visits, vacations, mail, gifts and telephone calls.

(8) Within three days of admission to the program, the Director or designee, shall develop an individual consumer service plan that the facility shall implement for the consumer. The service plan shall include the specification of daily activities and services. The Director or designees shall reevaluate, and modify if necessary, the consumer's service plan at least every six months.

(9) The facility shall make written incident and injury reports to document consumer death, injuries, elopement, fights or physical confrontations, situations which require the use of passive physical restraint, suspected abuse or neglect, and other situations or circumstances affecting the health, safety or well-being of a consumer while in care. The facility shall document the actions taken, including actions taken to avoid future incident or injury, and keep the reports on file. The Director shall notify and review the incident or injury report with the responsible party no later than when the consumer is picked up at the end of the day.

(10) The facility shall post and implement a daily activity schedule.

(11) Consumers shall receive direct supervision at all times and be encouraged to participate in activities.

(12) There shall be a minimum of 50 square feet of indoor floor space, excluding hallways, office, storage, kitchens, and bathrooms, per consumer designated for adult day care during program operational hours.

(13) All indoor and outdoor areas shall be maintained in a clean, secure and safe condition.

(14) There shall be at least one bathroom designated for consumers use during business hours. For facilities serving more than 10 consumers, there shall be separate male and female bathrooms designated for consumer use.

(15) Staff supervision shall be provided continually when consumers are present.

(a) When eight or fewer consumers are present, one staff member shall provide continuous, direct supervision.

(b) For each eight additional consumers, or fraction thereof, the facility shall provide an additional staff member to provide continuous, direct supervision. For example, ten consumers require two staff members.

(c) If one-half or more of the consumers is diagnosed by a physician's assessment with Alzheimer's or other dementia, the ratio shall be one staff for each six consumers, or fraction thereof.

KEY: health facilities

~~December 1, 1999~~2004

Notice of Continuation October 9, 2002

26-21-5

26-21-16



Health, Health Systems Improvement,
Licensing

R432-270-29b

Adult Day Care Services

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 26992

FILED: 03/12/2004, 11:40

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This new section allows assisted living facilities licensed by the Department of Health to offer adult day care services within a licensed health care facility without needing to become licensed by the Utah Department of Human Services as well.

SUMMARY OF THE RULE OR CHANGE: This rulemaking establishes standards for adult day care services offered by a licensed assisted living facilities.

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be some cost to print the modifications to the rule and distribute to licensed health care facilities.

❖ LOCAL GOVERNMENTS: No cost increase or decrease anticipated since local government does not operate any assisted living facilities.

❖ OTHER PERSONS: No cost increase or decrease is anticipated because this is an optional service that the facility may elect to offer to residents. There may be an increase in revenue and marketing if the services is offered.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is not an anticipated cost because this is an optional service that the facility may elect to offer to residents.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule requires assisted living facilities that choose to offer adult day care services to meet the same standards required of free standing adult day care operations. Fiscal impact should be minimal. Scott D. Williams, M.D.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debra Wynkoop at the above address, by phone at 801-538-6152, by FAX at 801-538-6325, or by Internet E-mail at debwynkoop@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 05/03/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 05/04/2004

AUTHORIZED BY: Scott D. Williams, Executive Director

R432. Health, Health Systems Improvement, Licensing.**R432-270. Assisted Living****R432-270-29b. Adult Day Care Services.**

(1) Assisted Living Facilities Type I and II may offer adult day care services and are not required to obtain a license from Utah Department of Human Services. If facilities provide adult day care services, they shall submit policies and procedures for Department approval.

(2) "Adult Day Care" means the care and support to three or more functionally impaired adults through a comprehensive program that provides a variety of social, recreational and related support services in a licensed health care setting.

(3) A qualified Director shall be designated by the governing board to be responsible for the day to day program operation.

(4) The Director shall have written records on-site for each consumer and staff person, to include the following:

(a.) Demographic information;

(b.) An emergency contact with name, address and telephone number;

(c.) Consumer health records, including the following:

(i) record of medication including dosage and administration;

(ii) a current health assessment, signed by a licensed practitioner; and

(iii) level of care assessment.

(d.) Signed consumer agreement and service plan.

(e) Employment file for each staff person which includes:

(i) health history;

(ii) background clearance consent and release form;

(iii) orientation completion, and

(iv) in-service requirements.

(5) The program shall have written eligibility, admission and discharge policy to include the following:

(a) Intake process;

(b) Notification of responsible party;

(c) Reasons for admission refusal which includes a written, signed statement;

(d) Resident rights notification; and

(e) Reason for discharge or dismissal.

(6) Before a program admits a consumer, a written assessment shall be completed to evaluate current health and medical history, immunizations, legal status, and social psychological factors.

(7) A written consumer agreement, developed with the consumer, the responsible party and the Director or designee, shall be completed, signed by all parties include the following:

(a) Rules of the program;

(b) Services to be provided and cost of service, including refund policy; and

(c) Arrangements regarding absenteeism, visits, vacations, mail, gifts and telephone calls.

(8) The Director, or designee, shall develop, implement and review the individual consumer service plan. The plan shall include the specification of daily activities and services. The service plan shall be developed within three working days of admission and evaluated semi-annually.

(9) There shall be written incident and injury reports to document consumer death, injuries, elopement, fights or physical confrontations, situations which require the use of passive physical

restraint, suspected abuse or neglect, and other situations or circumstances affecting the health, safety or well-being of a consumer while in care. Each report will be reviewed by the Director and responsible party. The reports will be kept on file.

(10) There shall be a daily activity schedule posted and implemented as designed. (11) Consumers shall receive direct supervision at all times and be encouraged to participate in activities.

(12) There shall be a minimum of 50 square feet of indoor floor space per consumer designated for adult day care during program operational hours.

(a) Hallways, office, storage, kitchens, and bathrooms shall not be included in computation.

(b) All indoor and outdoor areas shall be maintained in a clean, secure and safe condition.

(c) There shall be at least one bathroom designated for consumers use during business hours. For facilities serving more than 10 consumers, there shall be separate male and female bathrooms designated for consumer use.

(13) Staff supervision shall be provided continually when consumers are present.

(a) When eight or fewer consumers are present, one staff person shall provide direct supervision.

(b) When 9-16 consumers are present, two staff shall provide direct supervision at all time. The ratio of one staff per eight consumers will continue progressively.

(c) In all programs where one-half or more of the consumers are diagnosed by a physician's assessment with Alzheimer, or related dementia, the ratio shall be one staff for each six consumers.

KEY: health facilities

~~December 10, 2002~~ 2004

Notice of Continuation February 9, 2000

26-21-5

26-21-1



Natural Resources, Water Rights R655-13 Stream Alteration

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 26984

FILED: 03/02/2004, 18:24

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment corrects, clarifies, or adds additional meaning and insets more appropriate context based upon the response to comments received after the original proposed rule was published. (DAR NOTE: The original proposed new rule was published in the December 15, 2003, issue of the Utah State Bulletin under DAR No. 26814 and was made effective on March 25, 2004.)

SUMMARY OF THE RULE OR CHANGE: The text was modified by changing statements to provide clarity or meaning. The text was also modified to add more appropriate context. An undefined term was used within the text of the rule which was

defined. Though it is a widely used term by professionals dealing with stream issues, the general population may not understand the meaning. Misspelled words were also corrected.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 73-3-29

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: No cost or savings to state government because this rule provides a clarification of procedures and definitions currently used in the stream alteration program. No new state personnel or equipment will be required to implement this rule.

❖ LOCAL GOVERNMENTS: No cost or savings to local government because this rule provides a clarification of procedures and definitions currently used in the stream alteration program. The stream alteration program operates separately from local government programs and no cost sharing agreement exists between the state and any local government entity.

❖ OTHER PERSONS: No cost or savings to other persons because this rule provides a clarification of procedures and definitions currently used in the stream alteration program. Additionally, there is no application fee associated with this process.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No compliance costs for affected persons because this rule provides a clarification of procedures and definitions currently used in the stream alteration program which has no costs associated with this process.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule does not have fiscal impact on businesses because it only provides a clarification of procedures and definitions.

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

NATURAL RESOURCES
WATER RIGHTS
Room 220
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gail Nelson at the above address, by phone at 801-538-7370, by FAX at 801-538-7442, or by Internet E-mail at gailnelson@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 05/03/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 05/04/2004

AUTHORIZED BY: Jerry Olds, Director

R655. Natural Resources, Water Rights.**R655-13. Stream Alteration.****R655-13-1. Authority.**

(1) The following rule is established under the authority of Section 73-3-29. Additional procedures may be required to comply with other governing state statute, federal law, federal regulation, or local ordinance.

R655-13-2. Purpose.

(1) The purpose of this rule is to clarify the procedures necessary to obtain approval by the state engineer for any project that proposes to alter a natural stream within the state of Utah. Approval does not authorize trespass, easements, rights-of-way, or any other access or land use permits.

R655-13-3. Applicability.

(1) These rules apply to all stream alteration projects with the state of Utah.

R655-13-4. Definitions.

(1) Alteration: To obstruct, diminish, enhance, destroy, alter, modify, relocate, realign, change, or potentially affect the existing condition or shape of a channel, or to change the path or characteristics of water flow within a natural channel. It includes processes and results of removal or placement of material or structures within the jurisdiction delineated in this rule.

(2) Bankfull discharge: The flow corresponding to the elevation of the water surface, in a natural stream, where overflowing onto the floodplain begins.

(3) Bank(s): The confining sides of a natural stream channel, including the adjacent complex that provides stability, erosion resistance, aquatic habitat, or flood capacity.

(4) Bed: The bottom of a natural stream channel.

(5) Canopy: Mature riparian woody vegetation, usually referring to limb and leaf overhang.

(6) Channel: The bed and banks of a natural stream.

(7) Clearance: the vertical distance between a given water surface and the lowest point on any structure crossing a natural channel.

(8) Ecology: A branch of science concerned with the interrelationship of organisms and their environment.

(9) Ecosystem: The assemblage of organisms and their environment functioning as an ecological unit in nature.

(10) Floodplain: The maximum area that will accommodate water when flow exceeds bankfull discharge.

(11) Flowline: The lowest part of a streambed when viewed in cross-section.

(12) Fluvial: 1: Of, relating to, or living in a stream or river. 2: Produced by stream action.

(13) Gradient: Elevation change per unit length.

(14) Natural stream: Any waterway, along with its fluvial system, that receives sufficient water to sustain an ecosystem that distinguishes it from the surrounding upland environment.

(15) Reference reach: A portion or segment of a natural stream channel that shows little or no indication of alteration.

~~(16)~~(16) Revegetation: The planting of salvaged plants, containerized plants, cuttings, seeds, or other methods to produce a desired plant community.

~~(17)~~(17) Riparian corridor: The vegetation zone associated with a natural stream environment.

~~(18)~~(18) Riprap: Preferably hard, well-graded, angular rock, sufficient in size and density to remain stationary during high flows.

~~(19)~~(19) State Engineer: Director of the Division of Water Rights.

~~(20)~~(20) Waterway: A topographic low that collects and conveys water.

R655-13-5. Jurisdiction.

(1) For the purposes of determining the need to obtain an approved stream alteration application, it is necessary to review the criteria outlined in Section 73-3-29(4)(a). The items, and thus the adopted jurisdictional limits, must be investigated by the state engineer before making a determination on a proposed stream alteration. The state engineer shall conduct investigations that may be reasonably necessary to determine whether the proposed alteration will:

(a) impair vested water rights. In order to determine if vested water rights could be impaired, it is necessary to determine if: stream flows are being modified; the geometry of the bankfull channel will change; or the proposal will have any effect on the diversion, collection, or distribution appurtenances associated with the water right within the jurisdictional limits presented in sections R655-13-5(1)(b) below. In evaluating a proposed stream alteration, the state engineer must consider the proposal's impact on any diversion, collection or distribution structure associated with the water right. By necessity, the jurisdictional limit must be evaluated on a case-by-case basis and must assess those appurtenances to the actual diversion structure which could be affected even though they are located outside of the channel.

(b) unreasonably or unnecessarily affect any recreational use or the natural stream environment. The natural stream environment consists of the stream, the conveyed water, the adjoining vegetative complex, and the habitat provided by the abutting riparian zone. Evaluation of impacts to recreational use must factor in the hydrology of the stream, manmade structures detrimental to recreational use and the riparian zone's ability to keep the system erosion resistant. The jurisdictional limit to be used to evaluate the impacts on recreational use and the natural stream environment will be the greater of the two as follows:

(i) The observed riparian zone or canopy drip line of a undisturbed reference reach; or

(ii) Two times the bankfull width from the bankfull edge of water in a direction perpendicular to the flow and away from the channel up to a maximum of 30 feet.

(c) unreasonably or unnecessarily endanger aquatic wildlife. Any changes made to a natural stream that affect the geometry, water quality, flows, temperature, and vegetative cover may endanger aquatic wildlife. The jurisdictional limit, when considering the impacts to aquatic wildlife, is taken to be contained within the limit established under R655-13-5(1)(b).

(d) unreasonably or unnecessarily diminish the natural channel's ability to conduct high flows. Changes in cross-sectional geometry, grade, surface roughness, sediment load, in-stream structures, levees, and floodplain development, can have an influence on a channel's ability to conduct high flows. The objective in evaluating a stream's ability to conduct high flows is not to attempt to provide a certain level of protection (i.e. 100 year event), but rather to make sure that the losses in the natural stream's carrying capacity are minimized. It is important to recognize that the hydraulic capability of a natural stream, at a section on the stream, is a three dimensional ~~problem~~ issue and alterations at a

point can change the carrying capacity of the stream both upstream and downstream of the actual stream alteration. The jurisdictional area, when considering the channels hydraulic capacity, must include the bankfull stream channel and in many cases portions of the floodplain which have been observed conducting or storing water during high flow events or show physical evidence of conducting or storing water during high flows.

(2) Any work proposed in any of the preceding identified jurisdictional limits will require an approved stream alteration application.

R655-13-6. Application Requirements.

(1) Blank application forms are available through the Division of Water Rights or on the Division of Water Rights website. In addition to the information requested on the application, the following information shall be submitted with the application, if applicable:

- (a) A rehabilitation plan for areas disturbed during construction activities;
- (b) Hydraulic calculations on which the design of the proposed alteration is based;
- (c) A description of the construction methods to be employed; and
- (d) Any other information the state engineer determines is necessary to evaluate the proposal.

(2) Incomplete applications will be returned to the applicant.

R655-13-7. Specific Stream Alteration Activities.

(1) The following subsections address specific types of stream alteration activities and the nature of special information that shall be provided to the state engineer. These subsections are not intended to be comprehensive and other requirements may be imposed at the discretion of the state engineer.

(a) Applications that propose to install a utility (sewer, water, fiber-optic cable, etc.) beneath a natural stream will be subject to the following conditions and requirements:

(i) Applicants will be required to explore the utilization of directional drilling or jacking methods where year-round flows exist.

Where directional drilling or jacking is not feasible, the applicant will be required to submit detailed plans showing how flow will be diverted away from the area during construction (use of coffer dams, temporary culverts, etc.) and how the channel will be rehabilitated to its pre-alteration state following installation of the utility.

(ii) Bedding and backfill material placed over and around the utility shall not be more free-draining than the adjacent bed, bank, and riparian area materials and shall be compacted to in-place densities at least as great as those of similar adjacent materials. In some circumstances, cutoff collars may be required.

(iii) Utility crossings under natural streams shall be placed with the top of the utility a minimum of three (3) feet below the existing natural elevation of the streambed. In some instances, a greater depth may be required if there is significant evidence of on-going erosion.

(iv) Where utility crossings occur on river bends or areas of significant on-going bank erosion, the utility shall be kept at an elevation below that of the bed of the stream, laterally away from the stream, to a distance where erosion will not expose the utility at a later date.

(b) Applications that propose to span natural streams by way of bridges or other structures will be subject to the following conditions and requirements:

(i) Submission of consideration for the use of existing stream crossings as an alternative to construction of a new bridge or span.

(ii) Construction of the bridge abutments shall not encroach on the bankfull stage of a natural stream.

(iii) Clearance of the lowest part of the span shall be a minimum of ~~four (4)~~ three (3) feet above bankfull stage unless specifically exempted by the state engineer.

(c) Applications that propose installation of a culvert or other similar structure will be subject to the following conditions and requirements:

(i) The applicant shall submit evidence to justify the infeasibility of constructing a bridge crossing.

(ii) The grade and elevation of the bottom (or floor) of the culvert shall not change the profile from that of the original undisturbed streambed, unless the culvert is intended to be used as a fish barrier.

(iii) The bottom of the culvert should contain natural streambed material if the natural stream contains a fishery. This may require installing the culvert flowline below the bed of the channel or installation of an open bottom culvert.

(iv) The culvert shall be sized to allow passage of high flood flows and in some cases wildlife migration.

(v) The culvert design should include energy dissipation structures or devices when necessary.

(d) Applications that propose to remove or thin-out living or dead riparian vegetation will be considered if:

(i) the existing riparian vegetation consists exclusively or predominantly of non-native plant and tree species, provided that removal or thinning will not jeopardize the stability of the stream ~~bed or banks~~ or impact wildlife habitat; or

(ii) the existing vegetation represents a ~~significant~~ flood threat to existing buildings or other permanent structures, residential areas, transportation routes, or established utilities.

(e) Dead vegetation within the channel may be removed without written authorization by the state engineer provided that removal can be accomplished by way of manual methods.

(f) Applications that propose to discharge storm water or waste water into a natural stream channel shall include plans for treating the water prior to discharge (debris box, skimmer, or other appropriate method for removing debris or any other pollutant or constituent which will impair the ecosystem health of the receiving channel) when water originates from areas containing potential waste or contaminants. Debris boxes shall be cleaned or otherwise serviced regularly. Outfall structure design shall include methods for reducing water velocities and preventing erosion (keyed-in riprap, flared end-section, baffles, etc).

(g) Applications that propose to relocate a natural stream channel will be considered if:

(i) the existing channel is degraded or impaired and relocating the channel will enhance the natural stream environment; or

(ii) the existing channel location represents a significant hazard to existing permanent structures, residential areas, transportation routes, or established utilities; and other bank stabilization methods can be shown to be inappropriate or infeasible for reducing or eliminating the hazard.

(h) Applications that propose to relocate a natural stream will be required to submit detailed drawings of the new channel (plan, cross-section(s), and profile views) and vegetation plans for the channel and surrounding area. Monitoring of planted vegetation must be conducted and success reported to the Division of Water Rights.

(i) Applications that propose to remove beaver dams will be considered if:

(i) the dam(s) interferes with the operation or maintenance or threaten the integrity of a bridge, culvert, an authorized man-made dam, or authorized water diversion works; or

(ii) the presence of the dam(s) causes or may reasonably be expected to cause flooding of pre-existing developed areas, buildings, transportation routes, or established utilities; or

(iii) the dam(s) exists in areas of highly erosive soil or recently authorized stream restoration activities[-]; or

(iv) the presence of the dam(s) represents a detriment to fish management.

(j) Removal of established beaver dams for the sole purpose of obtaining impounded water to supplement other water sources will be reviewed critically.

KEY: stream alterations
2004
73-3-29



Public Safety, Fire Marshal
R710-4
Buildings Under the Jurisdiction of the
State Fire Prevention Board

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 27003
 FILED: 03/15/2004, 17:56

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Fire Prevention Board met on March 9, 2004, and voted by motion to make changes to Rule R710-4 which include adding definitions and removing the requirement to use the International Existing Building Code.

SUMMARY OF THE RULE OR CHANGE: The proposed changes to Rule R710-4 are as follows: 1) in Section R710-4-2, the Board proposes to add the definition of Appreciable Depth; and 2) in Subsection R710-4-3(3.1.1) through (3.1.3), the Board proposes to eliminate the reference to the International Existing Building Code and replace it with amendments that maintains a reasonable level of fire and life safety and does not create a distinct hazard to life or property.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-204

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no aggregate anticipated cost or savings to the state budget because these proposed amendments do not affect the state budget.

❖ LOCAL GOVERNMENTS: There is no aggregate anticipated cost or savings to local government because these proposed amendments do not affect local government.

❖ OTHER PERSONS: There is also no aggregate anticipated cost or savings to other persons because these amendments do not affect other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance cost for affected persons with the enactment of this rule amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on businesses for the enactment of these rule amendments.

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

PUBLIC SAFETY
 FIRE MARSHAL
 Room 302
 5272 S COLLEGE DR
 MURRAY UT 84123-2611, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Brent Halladay at the above address, by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@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 05/03/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 05/04/2004

AUTHORIZED BY: Gary A. Wise, State Fire Marshal

R710. Public Safety, Fire Marshal.

R710-4. Buildings Under the Jurisdiction of the State Fire Prevention Board.

R710-4-1. Adoption of Fire Codes.

Pursuant to Title 53, Chapter 7, Section 204, of the Utah Code Annotated 1953, the Utah Fire Prevention Board adopts minimum rules for the prevention of fire and for the protection of life and property against fire and panic in any publicly owned building, including all public and private schools, colleges, and university buildings, and in any building or structure used or intended for use, as an asylum, hospital, mental hospital, sanitarium, home for the aged, assisted living facility, children's home or day care center, or any similar institutional type occupancy of any capacity; and in any place of assemblage where fifty (50) or more persons may gather together in a building, structure, tent, or room, for the purpose of amusement, entertainment, instruction, or education.

There is further adopted as part of these rules the following codes which are incorporated by reference:

1.1 National Fire Protection Association (NFPA), Standard 101, Life Safety Code (LSC), 2003 edition, except as amended by provisions listed in R710-4-3, et seq. The following chapters from NFPA, Standard 101 are the only chapters adopted: Chapter 18 - New Health Care Occupancies; Chapter 19 - Existing Health Care Occupancies; Chapter 20 - New Ambulatory Health Care Occupancies; Chapter 21 - Existing Ambulatory Health Care

Occupancies; Chapter 22 - New Detention and Correctional Occupancies; Chapter 23 - Existing Detention and Correctional Occupancies; and other sections referenced within and pertaining to these chapters only. Wherever there is a section, figure or table in NFPA 101 that references "NFPA 5000 - Building Construction and Safety Code", that reference shall be replaced with the "International Building Code".

1.2 National Fire Protection Association (NFPA), Standard 13, Installation of Sprinkler Systems, 2002 edition, except as amended by provisions listed in R710-4-3, et seq.

1.3 National Fire Protection Association (NFPA), Standard 13R, Installation of Sprinkler Systems - Residential Occupancies up to and Including Four Stories in Height, 2002 edition, except as amended by provisions listed in R710-4-3, et seq.

1.4 National Fire Protection Association (NFPA), Standard 72, National Fire Alarm Code, 2002 edition, except as amended by provisions listed in R710-4-3, et seq.

1.5 National Fire Protection Association (NFPA), Standard 70, National Electric Code (NEC), 2002 edition, as adopted by the Uniform Building Standards Act, Title 58, Chapter 56, Section 4, Utah Code Annotated 1953. Wherever there are sections or tables in the International Fire Code (IFC) that reference "ICC Electrical Standard", the reference to "ICC Electrical Standard" shall be replaced with "National Electric Code".

1.6 International Building Code (IBC), 2003 edition, as published by the International Code Council, Inc. (ICC), and as adopted under the authority of the Uniform Building Standards Act, Title 58, Chapter 56, Section 4, Utah Code Annotated 1953 and the Utah Administrative Code, R156-56-701.

1.7 International Fire Code (IFC), 2003 edition, as published by the International Code Council, Inc. (ICC), except as amended by provisions listed in R710-4-3, et seq.

1.8 International Mechanical Code (IMC), 2003 edition, as published by the International Code Council, Inc., and as adopted under the authority of the Uniform Building Standards Act, Title 58, Chapter 56, Section 4, Utah Code Annotated 1953 and the Utah Administrative Code, R156-56-701.

1.9 International Fuel Gas Code (IFGC), 2003 edition, as published by the International Code Council, and as adopted under the authority of the Uniform Building Standards Act, Title 58, Chapter 56, Section 4, Utah Code Annotated 1953 and the Utah Administrative Code, R156-56-701.

1.10 International Plumbing Code (IPC), 2003 edition, as published by the International Code Council, Inc., and as adopted under the authority of the Uniform Building Standards Act, Title 58, Chapter 56, Section 4, Utah Code Annotated 1953 and the Utah Administrative Code, R156-56-701.

1.11 Copies of the above codes are on file in the Office of Administrative Rules and the State Fire Marshal.

R710-4-2. Definitions.

2.1 "Appreciable Depth" means a depth greater than 1/4 inch.

2.[+]2 "Authority Having Jurisdiction (AHJ)" means the State Fire Marshal, his authorized deputies, or the local fire enforcement authority.

2.[2]3 "AWWA" means American Water Works Association.

2.[3]4 "Board" means Utah Fire Prevention Board.

2.[4]5 "Bureau of Fire Prevention or Fire Prevention Bureau" means the AHJ.

2.[5]6 "Fire Chief or Chief of the Department" means the AHJ.

2.[6]7 "Fire Department" means the AHJ.

2.[7]8 "Fire Marshal" means the AHJ.

2.[8]9 "Fire Officer" means the State Fire Marshal, the state fire marshal's deputies, the fire chief or fire marshal of any county, city, or town fire department, the fire officer of any fire district or special service district organized for fire protection purposes is the AHJ.

2.[9]10 "IBC" means International Building Code.

2.[+0]11 "ICC" means International Code Council, Inc.

2.[+1]12 "IFC" means International Fire Code.

2.[+2]13 "IFGC" means International Fuel Gas Code.

2.[+3]14 "IMC" means International Mechanical Code.

2.[+4]15 "IPC" means International Plumbing Code.

2.[+5]16 "LSC" means Life Safety Code.

2.[+6]17 "NEC" means National Electric Code.

2.[+7]18 "NFPA" means National Fire Protection Association.

2.[+8]19 "SFM" means State Fire Marshal.

2.[+9]20 "UCA" means Utah State Code Annotated 1953 as amended.

R710-4-3. Amendments and Additions.

3.1 Administration

3.1.1 IFC, Chapter 1, Section 102.3 is deleted and rewritten and follows: No change shall be made in the use or occupancy of any structure that would place the structure in a different division of the same group or occupancy or in a different group of occupancies, unless such structure maintains a reasonable level of fire and life safety and the change to use or occupancy does not create a distinct hazard to life or property as determined by the AHJ.

3.1.2 IFC, Chapter 1, Section 102.4 is deleted and rewritten as follows: The design and construction of new structures shall comply with the International Building Code. Repairs, alterations and additions to existing structures are allowed when such structure maintains a reasonable level of fire and life safety and the change does not create a distinct hazard to life or property as determined by the AHJ.

3.1.3 IFC, Chapter 1, Section 102.5 is deleted and rewritten as follows: The construction, alteration, repair, enlargement, restoration, relocation or movement of existing buildings or structures that are designated as historic buildings are allowed when such historic structures maintains a reasonable level of fire and life safety and the change does not create a distinct hazard to life or property as determined by the AHJ.

3.[+]2 Definitions

3.[+]2.1 IFC, Chapter 2, Section 202, Educational Group E, Day care is amended as follows: On line three delete the word "five" and replace it with the word "four".

3.[+]2.2 IFC, Chapter 2, Section 202, Institutional Group I-1 is amended to add the following:
On line nine add "type 1" in front of the words "assisted living facilities".

3.[+]2.3 IFC, Chapter 2, Section 202, Institutional Group I-2 is amended as follows: On line three delete the word "five" and replace it with the word "three". On line eight after the words "detoxification facilities" delete the rest of the paragraph, and add the following: "ambulatory surgical centers with two or more operating rooms where care is less than 24 hours and type 2 assisted living facilities. Type 2 assisted living facilities with five or fewer persons shall be classified as a Group R-4. Type 2 assisted living facilities with at least six and not more than 16 residents shall be classified as a Group I-1 facility.

3.[+]2.4 IFC, Chapter 2, Section 202, Institutional Group I-2,

Child care facility is amended as follows: On line two delete the word "five" and replace it with the word "four".

3.[4]2.5 IFC, Chapter 2, Section 202, Institutional Group I-4 day care facilities, Child care facility is amended as follows: On line three delete the word "five" and replace it with the word "four". Also on line two of the Exception delete the word "five" and replace it with the word "four".

3.[2]3 Fire Drills

3.[2]3.1 IFC, Chapter 4, Section 405.2, Table 405.2, is amended to add the following footnotes:

c. Secondary schools in Group E occupancies shall have a fire drill conducted at least every two months, to a total of four fire drills during the nine-month school year. The first fire drill shall be conducted within the first two weeks of the school year.

d. A-3 occupancies in academic buildings of institutions of higher learning are required to have one fire drill per year, provided the following conditions are met:

1. The building has a fire alarm system in accordance with Section 907.2.

2. The rooms classified as assembly, shall have fire safety floor plans as required in Section 404.3.2(4) posted.

3. The building is not classified a high-rise building.

4. The building does not contain hazardous materials over the allowable quantities by code.

3.[3]4 Door Closures

3.[3]4.1 IFC, Chapter 7, Section 703.2. Add the following Exception. In Group E Occupancies, where the corridor serves an occupant load greater than 30 and the building does not have an automatic fire sprinkler system installed, the door closures may be of the friction hold-open type on classrooms doors with a rating of 20 minutes or less only.

3.[4]5 Automatic Fire Sprinkler Systems and Commercial Cooking Operations

3.[4]5.1 Inspection and Testing of Automatic Fire Sprinkler Systems

The owner or administrator of each building shall insure the inspection and testing of water based fire protection systems as required in IFC, Chapter 9, Section 901.6.

3.[4]5.2 IFC, Chapter 9, Section 903.2.9 is amended to add the following: Exception: Group R-4 fire areas not more than 4500 gross square feet and not containing more than 16 residents, provided the building is equipped throughout with an approved fire alarm system that is interconnected and receives its primary power from the building wiring and a commercial power system.

3.[4]5.3 IFC, Chapter 9, Section 903.6 is amended to add the following subsection: 903.6.2 Commercial cooking operation suppression. Automatic fire sprinkler systems protecting commercial kitchen exhaust hood and duct systems with appliances that generate appreciable depth of cooking oils shall be replaced with a UL300 listed system by May 1, 2004.

3.[4]5.4 Water Supply Analysis

3.[4]5.4.1 For proposed construction in both sprinklered and unsprinklered occupancies, the owner or architect shall provide an engineer's water supply analysis evaluating the available water supply.

3.[4]5.4.2 The owner or architect shall provide the water supply analysis during the preliminary design phase of the proposed construction.

3.[4]5.4.3 The water analysis shall be representative of the supply that may be available at the time of a fire as required in NFPA, Standard 13, Appendix A-9-2.1.

3.[5]6 Alternative Automatic Fire-Extinguishing Systems

3.[5]6.1 IFC, Chapter 9, Section 903.6 is amended to add the following subsection: 903.6.3 Dry chemical hood system suppression. Existing automatic fire-extinguishing systems using dry chemical that protect commercial kitchen exhaust hood and duct systems shall be removed and replaced with a UL300 listed system by January 1, 2006 or before that date when any of the following occurs: 1) Six year internal maintenance service; 2) Recharge; 3) Hydrostatic test date as indicated on the manufacturers date of the cylinders; or 4) Reconfiguring of the system piping.

3.[5]6.2 IFC, Chapter 9, Section 903.6 is amended to add the following subsection: 903.6.4 Wet chemical hood system suppression. Existing wet chemical fire-extinguishing systems not UL300 listed and protecting commercial kitchen exhaust hood and duct systems shall be removed, replaced or upgraded to a UL300 listed system by January 1, 2006 or before that date when any of the following occurs: 1) Six year internal maintenance service; 2) Recharge; 3) Hydrostatic test date as indicated on the manufacturers date of the cylinder; or 4) Reconfiguration of the system piping.

3.[6]7 Fire Alarm Systems

3.[6]7.1 General Provisions

3.[6]7.1.1 Fire alarm system construction documents submitted to the AHJ shall include those items required in IFC, Chapter 9, Section 907.1.1.

3.[6]7.2 Required Installations

3.[6]7.2.1 Fire alarm systems shall be provided as required in IFC, Chapter 9, Section 907, and LSC Chapters as adopted, and in other rules promulgated by the Board.

3.[6]7.2.2 All state-owned buildings, college and university buildings, other than institutional, with an occupant load of 100 or more, all schools with an occupant load of 50 or more, shall have an approved fire alarm system with the following features:

3.[6]7.2.2.1 Products-of-combustion smoke detectors shall be installed throughout all corridors and spaces open to the corridor at the maximum prescribed spacing of thirty feet on center and no more than fifteen feet from the walls or as required in NFPA, Standard 72, Section 5.3.

3.[6]7.2.2.2 In other than fully sprinklered buildings, automatic detectors shall be installed in each enclosed space, other than corridors, at maximum prescribed spacing as specified in NFPA, Standard 72, or by their listing.

3.[6]7.2.2.3 Manual fire alarm boxes shall be provided as required. In public and private elementary and secondary schools, manual fire alarm boxes shall be provided in the boiler room, kitchen, and main administrative office of each building, and any other areas as determined by the AHJ.

3.[6]7.2.2.4 The fire alarm system shall be connected to a proprietary panel, where provided within the complex.

3.[6]7.3 Main Panel

3.[6]7.3.1 An approved key plan drawing and operating instructions shall be posted at the main fire alarm panel which displays the location of all alarm zones and if applicable, device addresses.

3.[6]7.3.2 The main panel shall be located in a normally attended area such as the main office or lobby. Location of the Main Panel other than as stated above, shall require the review and authorization of the SFM. Where location as required above is not possible, an electronically supervised remote annunciator from the main panel shall be located in a supervised area of the building. The remote annunciator shall visually indicate system power status, alarms for each zone, and give both a visual and audible indication

of trouble conditions in the system. All indicators on both the main panel and remote annunciator shall be adequately labeled.

3.[6]7.4 System Wiring

3.[6]7.4.1 System Wiring shall be in accordance with the following:

3.[6]7.4.1.1 The Initiating Device circuits (IDC) shall be Style D as defined in NFPA, Standard 72.

3.[6]7.4.1.2 The Indicating Appliance circuits (IAC) shall be Style Z as defined in NFPA, Standard 72.

3.[6]7.4.1.3 Signaling line circuits shall be Style 6 or 7 as defined in NFPA, Standard 72.

3.[6]7.4.2 All junction boxes shall be adequately identified as part of the fire alarm system. Covers for the concealed boxes shall be painted red.

3.[6]7.5 System Devices

All equipment and devices shall be listed and/or labeled by a nationally recognized testing laboratory for fire alarm use.

3.[6]7.6 Fan Shut Down

3.[6]7.6.1 The fan shut down relay(s) in the air handling equipment shall be normally energized, and connected through and controlled by a normally closed contact in the fire alarm panel, or a normally closed contact of a remote relay under supervision by the main panel. The relays will transfer on alarm, and shall not restore until the panel is reset.

3.[6]7.6.2 Duct detectors required by the IMC, shall be interconnected, and compatible with the fire alarm system.

3.[6]7.7 Inspection and Testing

The owner or administrator of each building shall insure maintenance and testing of fire alarm systems as required in IFC, Chapter 9, Section 901.6. A written log, verifying these tests, shall be kept on file for inspection by the AHJ.

3.[7]8 Retroactive Installation of Automatic Fire Alarm Systems

3.[7]8.1 IFC, Chapter 9, Sections 907.3.1.1, 907.3.1.2, 907.3.1.3, 907.3.1.4 and 907.3.1.9 is deleted.

3.[8]9 Fireworks

3.[8]9.1 IFC, Chapter 33, Section 3301.1.3, Exception 4 is amended to add the following sentence: Fireworks are permitted as allowed in UCA 53-7-220 and UCA 11-3-1.

3.[9]10 Flammable and Combustible Liquids

3.[9]10.1 IFC, Chapter 34, Section 3406.1 is amended to add the following special operation: 8. Sites approved by the AHJ.

3.[9]10.2 IFC, Chapter 34, Section 3406.2 is amended to add the following: On line two after the word "sites" add the words "and sites approved by the AHJ". On line five after the words "borrow pits" add the words "and sites approved by the AHJ".

3.[40]11 Health Care Facilities

3.[40]11.1 LSC Chapters 18, 19, 20 and 21, Sections 18.1.2.4, 19.1.2.4, 20.1.2.2 and 21.1.2.2 (Exiting Through Adjoining Occupancies) exception is deleted.

3.[40]11.2 LSC Chapter 19, Section 19.3.6.1, (Rooms Allowed open to Corridor) exceptions No. 1, No. 5, No. 6, and No. 8 are deleted.

3.[41]12 Time Out and Seclusion Rooms

3.[41]12.1 Time Out and Seclusion Rooms are allowed in occupancies fully protected by an automatic fire sprinkler system and fire alarm system.

3.[41]12.2 A vision panel shall be provided in the room door for observation purposes.

3.[41]12.3 Time Out and Seclusion Room doors may be fitted with a lock which is not releasable from the inside provided the lock

automatically releases by the operation of the fire alarm system or power outage.

3.[41]12.4 Time Out and Seclusion Rooms shall be located where a responsible adult can maintain visual monitoring of the person and room.

R710-4-4. Repeal of Conflicting Board Actions.

All former Board actions, or parts thereof, conflicting or inconsistent with the provisions of this Board action or of the codes hereby adopted, are hereby repealed.

R710-4-5. Validity.

The Board hereby declares that should any section, paragraph, sentence, or word of this Board action, or of the codes hereby adopted, be declared, for any reason, to be invalid, it is the intent of the Board that it would have passed all other portions of this Board action, independent of the elimination here from of any such portion as may be declared invalid.

R710-4-6. Conflicts.

In the event where separate requirements pertain to the same situation in the same code, or between different codes as adopted, the more restrictive requirement shall govern, as determined by the AHJ, or his authorized representative.

R710-4-7. Adjudicative Proceedings.

7.1 All adjudicative proceedings performed by the agency shall proceed informally as set forth herein and as authorized by UCA, Sections 63-46b-4 and 63-46b-5.

7.2 A person may request a hearing on a decision made by the AHJ, by filing an appeal to the Board within 20 days after receiving final decision from the AHJ.

7.3 All adjudicative proceedings, other than criminal prosecution, taken by the AHJ to enforce the Utah Fire Prevention and Safety Act, and these rules, shall commence in accordance with UCA, Section 63-46b-3.

7.4 The Board shall act as the hearing authority, and shall convene as an appeals board after timely notice to all parties involved.

7.5 The Board shall direct the SFM to issue a signed order to the parties involved giving the decision of the Board within a reasonable time of the hearing pursuant to UCA, Section 63-46b-5(i).

7.6 Reconsideration of the Board's decision may be requested in writing within 20 days of the date of the decision pursuant to UCA, Section 63-46b-13.

7.7 Judicial review of all final Board actions resulting from informal adjudicative proceedings is available pursuant to UCA, Section 63-46b-15.

KEY: fire prevention, public buildings

[January 2, 2004]May 4, 2004

Notice of Continuation June 12, 2002

53-7-204



Public Safety, Fire Marshal
R710-9
Rules Pursuant to the Utah Fire
Prevention Law

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 27002
 FILED: 03/15/2004, 17:06

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Fire Prevention Board met on March 9, 2004, and voted by motion to make amendments to Rule R710-9 which include adding definitions, making some clarifying amendments and additions to remove the International Existing Building Code; allowing the usage of electronic monitoring of portable fire extinguishers; and clarifying some of the reporting requirements provided by the Utah Fire and Rescue Academy as required in the Fire Academy Contract.

SUMMARY OF THE RULE OR CHANGE: The proposed changes to Rule R710-9 are as follows: 1) in Section R710-9-2, the Board proposes to add four definitions to the rule to clarify and properly define the proposed amendments to the rule; 2) in Subsection R710-9-6(6.1.1) through (6.1.3), the Board proposes to eliminate the reference to the International Existing Building Code and replace it with amendments that maintain a reasonable level of fire and life safety in buildings to be modified, changed, enlarged, or designated historic buildings; 3) in Subsection R710-9-6(6.7.8), the Board proposes that NFPA, Standard 10, Portable Fire Extinguishers, be modified to allow the use of supervised listed electronic monitoring systems for portable fire extinguishers to satisfy the 30 day inspection requirement; and 4) in Section R710-9-13, the Board proposes to make several amendments to the reporting requirements from the Utah Fire and Rescue Academy to the Board on an annual basis to show justification of funding as required by the Fire Academy Contract.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-204

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** There is no aggregate anticipated cost or savings to state budget because these proposed amendments do not effect the state budget.
- ❖ **LOCAL GOVERNMENTS:** There is no aggregate anticipated cost or savings to local government because these proposed amendments do not effect local government.
- ❖ **OTHER PERSONS:** There is also no aggregate anticipated cost or savings to other persons because these proposed amendments do not effect other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance cost for affected persons with the enactment of these rule amendments.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on businesses for the enactment of these rule amendments.

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

PUBLIC SAFETY
 FIRE MARSHAL
 Room 302
 5272 S COLLEGE DR
 MURRAY UT 84123-2611, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Brent Halladay at the above address, by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@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 05/03/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 05/04/2004

AUTHORIZED BY: Gary A. Wise, State Fire Marshal

R710. Public Safety, Fire Marshal.

R710-9. Rules Pursuant to the Utah Fire Prevention Law.

R710-9-1. Title, Authority, and Adoption of Codes.

1.1 These rules shall be known as the "Rules Pursuant to the Utah Fire Prevention Law", and may be cited as such, and will be hereafter referred to as "these rules".

1.2 These rules are promulgated in accordance with Title 53, Chapter 7, Section 204, Utah Code Annotated 1953, as amended.

1.3 These rules are adopted by the Utah Fire Prevention Board to provide minimum rules for safeguarding life and property from the hazards of fire and explosion, for board meeting conduct, procedures to amend incorporated references, establish several board subcommittees, establish a Fire Service Education Administrator and Fire Education Program Coordinator, enforcement of the rules of the State Fire Marshal, establish rules for the Utah Fire and Rescue Academy, and deputizing Special Deputy State Fire Marshals.

1.4 There is adopted as part of these rules the following code which is incorporated by reference:

1.4.1 International Fire Code (IFC), 2003 edition, excluding appendices, as promulgated by the International Code Council, Inc., except as amended by provisions listed in R710-9-6, et seq.

1.5 There is further adopted as part of these rules the following codes which are also incorporated by reference and supercede the adopted standards listed in the International Fire Code, 2003 edition, Chapter 45, Referenced Standards, as follows:

1.5.1 National Fire Protection Association (NFPA), NFPA 10, Standard for Portable Fire Extinguishers, 2002 edition, except as amended by provisions listed in R710-9-6, et seq.

1.5.2 National Fire Protection Association (NFPA), NFPA 13, Standard for Installation of Sprinkler Systems, 2002 edition, except as amended by provisions listed in R710-9-6, et seq.

1.5.3 National Fire Protection Association (NFPA), NFPA 13D, Standard for the Installation of Sprinkler Systems in One and Two Family Dwellings and Manufactured Homes, 2002 edition, except as amended by provisions listed in R710-9-6, et seq.

1.5.4 National Fire Protection Association (NFPA), NFPA 13R, Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and including Four Stories in Height, 2002 edition, except as amended by provisions listed in R710-9-6, et seq.

1.5.5 National Fire Protection Association (NFPA), NFPA 70, National Electric Code, 2002 edition, as adopted by the Uniform Building Standards Act, Title 58, Chapter 56, Section 4, Utah Code Annotated 1953 and the Utah Administrative Code R156-56-701. Wherever there is a section, figure or table in the International Fire Code (IFC) that references "ICC Electrical Standard", that reference shall be replaced with "National Electric Code".

1.5.6 National Fire Protection Association (NFPA), NFPA 72, National Fire Alarm Code, 2002 edition, except as amended in provisions listed in R710-9-6, et seq.

1.5.7 National Fire Protection Association (NFPA), NFPA 101, Life Safety Code, 2003 edition, except as amended in provisions listed in R710-9-6, et seq. Wherever there is a section, figure or table in NFPA 101 that references "NFPA 5000 - Building Construction and Safety Code", that reference shall be replaced with the "International Building Code".

1.5.8 National Fire Protection Association (NFPA), NFPA 160, Standard for Flame Effects Before an Audience, 2001 edition, except as amended by provisions listed in R710-9-6, et seq.

1.6 National Fire Protection Association (NFPA), NFPA 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, 2001 edition, except as amended by provisions listed in R710-9-6, et seq.

1.7 National Fire Protection Association (NFPA), NFPA 1403, Standard on Live Fire Training Evolutions, 2002 edition, except as amended by provisions in R710-9-6, et seq.

R710-9-2. Definitions.

2.1 "Academy" means Utah Fire and Rescue Academy.

2.2 "Academy Director" means the Director of the Utah Fire and Rescue Academy.

2.3 "Administrator" means Fire Service Education Administrator.

2.4 "Appreciable Depth" means a depth greater than 1/4 inch.

2.5 "Authority Having Jurisdiction (AHJ)" means the State Fire Marshal, his authorized deputies, or the local fire enforcement authority.

2.6 "Board" means Utah Fire Prevention Board.

2.7 "Career Firefighter" means one whose primary employment is directly related to the fire service.

2.8 "Certification Council" means Utah Fire Service Certification Council.

2.9 "Coordinator" means Fire Education Program Coordinator.

2.10 "Division" means State Fire Marshal.

2.11 "ICC" means International Code Council, Inc.

2.12 "IFC" means International Fire Code.

2.13 "Institutional occupancy" means asylums, mental hospitals, hospitals, sanitariums, homes for the aged, residential health care facilities, children's homes or institutions, or any similar institutional occupancy.

2.14 "LFA" means Local Fire Authority.

2.15 "NFPA" means National Fire Protection Association.

2.16 "Place of assembly" means where 50 or more people gather together in a building, structure, tent, or room for the purpose of amusement, entertainment, instruction, or education.

2.17 "Plan" means Fire Academy Strategic Plan.

2.18 "SFM" means State Fire Marshal or authorized deputy.

2.19 "Standards Council" means Fire Service Standards and Training Council.

2.20 "Sub-Committee" means Fire Prevention Board Budget Sub-Committee or Amendment Sub-Committee.

2.21 "UCA" means Utah Code Annotated, 1953.

2.22 "Volunteer/Part-Paid Firefighter" means one whose primary employment is not directly related to the fire service.

R710-9-3. Conduct of Board Members and Board Meetings.

3.1 Board meetings shall be presided over and conducted by the chairman and in his absence the vice chairman or the chairman's designee.

3.2 A quorum shall be required to approve any action of the Board.

3.3 The chairman of the Board and Board members shall be entitled to vote on all issues considered by the Board. A Board member who declares a conflict of interest or where a conflict of interest has been determined, shall not vote on that particular issue.

3.4 Meetings of the Board shall be conducted in accordance with an agenda, which shall be submitted to the members by the division, not less than 21 days before the regularly scheduled Board meetings.

3.5 Public notice of Board meetings shall be made by the Division as prescribed in UCA Section 52-4-6.

3.6 The division shall provide the Board with a secretary who shall prepare minutes and shall perform all secretarial duties necessary for the Board to fulfill its responsibility. The minutes of Board meetings shall be completed and sent to Board members at least 14 days prior to the scheduled Board meeting.

3.7 A Board members standing on the Board shall come under review after two unexcused absences in one year from regularly scheduled board meetings. The Board members name shall be submitted to the governors office for status review.

R710-9-4. Deputizing Persons to Act as Special Deputy State Fire Marshals.

4.1 Special deputy state fire marshals may be appointed by the SFM to positions of expertise within the regular scope of the Fire Marshal's Office.

4.2 Pursuant to Section 53-7-101 et seq., special deputy state fire marshals may also be appointed to assist the Fire Marshal's Office in establishing and maintaining minimum fire prevention standards in those occupancy classifications listed in the International Fire Code.

4.3 Special deputy state fire marshals shall be appointed after review by the State Fire Marshal in regard to their qualifications and the overall benefit to the Office of the State Fire Marshal.

4.4 Special deputy state fire marshals shall be appointed by completing an oath and shall be appointed for a specific period of time.

4.5 Special deputy state fire marshals shall have a picture identification card and shall carry that card when performing their assigned duties.

R710-9-5. Procedures to Amend the International Fire Code.

5.1 All requests for amendments to the IFC shall be submitted to the division on forms created by the division, for presentation to the Board at the next regularly scheduled Board meeting.

5.2 Requests for amendments received by the division less than 21 days prior to any regularly scheduled meeting of the Board may be delayed in presentation until the next regularly scheduled Board meeting.

5.3 Upon presentation of a proposed amendment, the Board shall do one of the following:

5.3.1 accept the proposed amendment as submitted or as modified by the Board;

5.3.2 reject the proposed amendment;

5.3.3 submit the proposed amendment to the Board Amendment Subcommittee for further study; or

5.3.4 return the proposed amendment to the requesting agency, accompanied by Board comments, allowing the requesting agency to resubmit the proposed amendment with modifications.

5.4 The Board Amendment Subcommittee shall report its recommendation to the Board at the next regularly scheduled Board meeting.

5.5 The Board shall make a final decision on the proposed amendment at the next Board meeting following the original submission.

5.6 The Board may reconsider any request for amendment, reverse or modify any previous action by majority vote.

5.7 When approved by the Board, the requesting agency shall provide to the division within 45 days, the completed ordinance.

5.8 The division shall maintain a list of amendments to the IFC that have been granted by the Board.

5.9 The division shall make available to any person or agency copies of the approved amendments upon request, and may charge a reasonable fee for multiple copies in accordance with the provisions of UCA, 63-2-203.

R710-9-6. Amendments and Additions.

The following amendments and additions are hereby adopted by the Board for application statewide:

6.1 Administration

6.1.1 IFC, Chapter 1, Section 102.3 is deleted and rewritten as follows: No change shall be made in the use or occupancy of any structure that would place the structure in a different division of the same group or occupancy or in a different group of occupancies, unless such structure maintains a reasonable level of fire and life safety and the change to use or occupancy does not create a distinct hazard to life or property as determined by the AHJ.

6.1.2 IFC, Chapter 1, Section 102.4 is deleted and rewritten as follows: The design and construction of new structures shall comply with the International Building Code. Repairs, alterations and additions to existing structures are allowed when such structure maintains a reasonable level of fire and life safety and the change does not create a distinct hazard to life or property as determined by the AHJ.

6.1.3 IFC, Chapter 1, Section 102.5 is deleted and rewritten as follows: The construction, alteration, repair, enlargement, restoration, relocation or movement of existing buildings or structures that are designated as historic buildings are allowed when such historic structures maintains a reasonable level of fire and life safety and the change does not create a distinct hazard to life or property as determined by the AHJ.

6.1.[4] IFC, Chapter 1, Section 102.4 is amended as follows: On line three after the words "Building Code." add the following sentence: "The design and construction of detached one- and two-family dwellings and multiple single-family dwellings (town houses) not more than three stories above grade plane in height with a separate means of egress and their accessory structures shall comply with the International Residential Code."

6.1.[2] IFC, Chapter 1, Section 109.2 is amended as follows: On line three after the words "is in violation of this code," add the following "or other pertinent laws or ordinances".

6.2 Definitions

6.2.1 IFC, Chapter 2, Section 202, Educational Group E, Day care is amended as follows: On line three delete the word "five" and replace it with the word "four".

6.2.2 IFC, Chapter 2, Section 202, Institutional Group I, Group I-1 is amended to add the following: Add "Type 1" in front of the words "Assisted living facilities".

6.2.3 IFC, Chapter 2 Section 202, Institutional Group I, Group I-2 is amended as follows: On line three delete the word "five" and replace it with the word "three". After "Detoxification facilities" delete the rest of the paragraph, and add the following: "Ambulatory surgical centers with two or more operating rooms where care is less than 24 hours, Outpatient medical care facilities for ambulatory patients (accommodating more than five such patients in each tenant space) which may render the patient incapable of unassisted self-preservation, and Type 2 assisted living facilities. Type 2 assisted living facilities with five or fewer persons shall be classified as a Group R-4. Type 2 assisted living facilities with at least six and not more than 16 residents shall be classified as a Group I-1 facility.

6.2.4 IFC, Chapter 2, Section 202, Institutional Group I, Group I-4, day care facilities, Child care facility is amended as follows: On line three delete the word "five" and replace it with the word "four". Also on line two of the Exception after Child care facility delete the word "five" and replace it with the word "four".

6.2.5 IFC, Chapter 2, Section 202 General Definitions, Occupancy Classification, Residential Group R-1 is amended to add the following: Exception: Boarding houses accommodating 10 persons or less shall be classified as Residential Group R-3.

6.2.6 IFC, Chapter 2, Section 202 General Definitions, Occupancy Classification, Residential Group R-2 is amended to add the following: Exception: Boarding houses accommodating 10 persons or less shall be classified as Residential Group R-3.

6.3 General Precautions Against Fire

6.3.1 IFC, Chapter 3, Section 304.1.2 is amended to delete the following sentence: "Vegetation clearance requirements in urban-wildland interface areas shall be in accordance with the International Urban/Wildland Interface Code."

6.3.2 IFC, Chapter 3, Section 311.1.1 is amended as follows: On line ten delete the words "International Property Maintenance Code and the" from this section.

6.4 Elevator Recall and Maintenance

6.4.1 IFC, Chapter 6, Section 607.3 is deleted and rewritten as follows: Firefighter service keys shall be kept in a "Supra - Stor-a-key" elevator key box or similar box with corresponding key system that is adjacent to the elevator for immediate use by the fire department. The key box shall contain one key for each elevator and one key for lobby control.

6.5 Building Services and Systems

6.5.1 IFC, Chapter 6, Section 610.1 is amended to add the following: On line three after the word "Code" add the words "and NFPA 96".

6.6 Record Drawings

6.6.1 IFC, Chapter 9, Section 901.2.1 is amended to add the following: The code official has the authority to request record drawings ("as built") to verify any modifications to the previously approved construction documents.

6.6.2 IFC, Chapter 9, Section 902.1 Definitions, RECORD DRAWINGS is deleted and rewritten as follows: Drawings ("as built") that document all aspects of a fire protection system as installed.

6.7 Fire Protection Systems

6.7.1 Inspection and Testing of Automatic Fire Sprinkler Systems

The owner or administrator of each building shall insure the inspection and testing of water based fire protection systems as required in IFC, Chapter 9, Section 901.6.

6.7.2 IFC, Chapter 9, Section 903.2.7 Group R, is amended to add the following: Exception: Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) constructed in accordance with the International Residential Code for one- and two-family dwellings.

6.7.3 IFC, Chapter 9, Section 903.2.7 is amended to add the following: Exception: Group R-4 fire areas not more than 4500 gross square feet and not containing more than 16 residents, provided the building is equipped throughout with an approved fire alarm system that is interconnected and receives its primary power from the building wiring and a commercial power system.

6.7.4 IFC, Chapter 9, Section 903.6 is amended to add the following subsection: 903.6.2 Commercial cooking operation suppression. Automatic fire sprinkler systems protecting commercial kitchen exhaust hood and duct systems with appliances that generate appreciable depth of cooking oils shall be replaced with a UL300 listed system by May 1, 2004.

6.7.5 IFC, Chapter 9, Section 903.6 is amended to add the following subsection: 903.6.3 Dry chemical hood system suppression. Existing automatic fire-extinguishing systems using dry chemical that protect commercial kitchen exhaust hood and duct systems shall be removed and replaced with a UL300 listed system by January 1, 2006 or before that date when any of the following occurs: 1) Six year internal maintenance service; 2) Recharge; 3) Hydrostatic test date as indicated on the manufacturers date of the cylinders; or 4) Reconfiguration of the system piping.

6.7.6 IFC, Chapter 9, Section 903.6 is amended to add the following subsection: 903.6.4 Wet chemical hood system suppression. Existing wet chemical fire-extinguishing systems not UL300 listed and protecting commercial kitchen exhaust hood and duct systems shall be removed, replaced or upgraded to a UL300 listed system by January 1, 2006 or before that date when any of the following occurs: 1) Six year internal maintenance service; 2) Recharge; 3) Hydrostatic test date as indicated on the manufacturer date of the cylinder; or 4) Reconfiguration of the system piping.

6.7.7 IFC, Chapter 9, Section 903.6 is amended to add the following subsection: 903.6.5 Group A-2 occupancies. An automatic fire sprinkler system shall be provided throughout Group A-2 occupancies where indoor pyrotechnics are used.

6.7.8 NFPA, Standard 10, Section 6.2.1 is amended to add the following sentence: The use of a supervised listed electronic monitoring system shall be permitted to satisfy the 30 day fire extinguisher interval inspection requirement.

6.8 Backflow Protection

6.8.1 The potable water supply to automatic fire sprinkler systems and standpipe systems shall be protected against backflow

in accordance with the International Plumbing Code as amended in the Utah Administrative Code, R156-56-707.

6.9 Retroactive Installations of Automatic Fire Alarm Systems in Existing Buildings

6.9.1 IFC, Chapter 9, Sections 907.3.1.1, 907.3.1.2, 907.3.1.3, 907.3.1.4, 907.3.1.5, 907.3.1.6, 907.3.1.7, and 907.3.1.8 are deleted.

6.10 Smoke Alarms

6.10.1 IFC, Chapter 9, Section 907.3.2 is amended to add the following: On line three after the word "occupancies" add "and detached one- and two-family dwellings and multiple single-family dwellings (townhouses)".

6.10.2 IFC, Chapter 9, Section 907.3.2.3 is amended to add the following: On line one after the word "occupancies" add "and detached one- and two-family dwellings and multiple single-family dwellings (townhouses)".

6.11 Means of Egress

6.11.1 IFC, Chapter 10, Section 1009.3 is amended as follows: On line six of Exception 5 delete "7.75" and replace it with "8". On line seven of Exception 5 delete "10" and replace it with "9".

6.11.2 IFC, Chapter 10, Section 1009.11, Exception 4 is deleted and replaced with the following: 4. In occupancies in Group R-3, as applicable in Section 101.2 and in occupancies in Group U, which are accessory to an occupancy in Group R-3, as applicable in Section 101.2, handrails shall be provided on at least one side of stairways consisting of four or more risers.

6.11.3 IFC, Chapter 10, Section 1009.11.3 is amended to add the following: Exception: Non-circular handrails serving an individual unit in a Group R-1, Group R-2 or Group R-3 occupancy shall be permitted to have a maximum cross sectional dimension of 3.25 inches (83 mm) measured 2 inches (51mm) down from the top of the crown. Such handrail is required to have an indentation on both sides between 0.625 inch (16mm) and 1.5 inches (38mm) down from the top or crown of the cross section. The indentation shall be a minimum of 0.25 inch (6mm) deep on each side and shall be at least 0.5 (13mm) high. Edges within the handgrip shall have a minimum radius of 0.0625 inch (2mm). The handrail surface shall be smooth with no cusps so as to avoid catching clothing or skin.

6.11.4 IFC, Chapter 10, Section 1012.2 is amended to add the following exception: 3. For occupancies in Group R-3 and within individual dwelling units in occupancies in Group R-2, as applicable in Section 101.2, guards shall form a protective barrier not less than 36 inches (914mm).

6.11.5 IFC, Chapter 10, Section 1027.2 is amended to add the following: On line five after the word "fire" add the words "and building".

6.12 Fireworks

6.12.1 IFC, Chapter 33, Section 3301.1.3 is amended to add the following Exception: 10. The use of fireworks for display and retail sales is allowed as set forth in UCA 53-7-220 and UCA 11-3-1.

6.13 Flammable and Combustible Liquids

6.13.1 IFC, Chapter 34, Section 3404.4.3 is amended as follows: Delete 3403.6 on line three and replace it with 3403.4.

6.14 Liquefied Petroleum Gas

6.14.1 IFC, Chapter 38, Section 3809.12, is amended as follows: Delete 20 from line three and replace it with 10.

R710-9-7. Fire Advisory and Code Analysis Committee.

7.1 There is created by the Board a Fire Advisory and Code Analysis Committee whose duties are to provide direction to the Board in the matters of fire prevention and building codes.

7.2 The committee shall serve in an advisory position to the Board, members shall be appointed by the Board, shall serve for a term of three years, and shall consist of the following members:

7.2.1 A member of the State Fire Marshal's Office.

7.2.2 The Code Committee Chairman of the Fire Marshal's Association of Utah.

7.2.3 A fire marshal from a local fire department.

7.2.4 A fire inspector or fire officer involved in fire prevention duties.

7.2.5 The Chief Elevator Inspector from the Utah Labor Commission.

7.2.6 A member appointed at large.

7.3 This committee shall join together with the Uniform Building Code Commission Fire Protection Advisory Committee to form the Unified Code Analysis Council.

7.4 The Council shall meet as directed by the Board or as directed by the Building Codes Commission or as needed to review fire prevention and building code issues that require definitive and specific analysis.

7.5 The Council shall select one of its members to act in the position of chair and another to act as vice chair. The chair and vice chair shall serve for one year terms on a calendar year basis. Elections for chair and vice chair shall occur at the meeting conducted in the last quarter of the calendar year.

7.6 The chair or vice chair of the council shall report to the Board or Building Codes Commission recommendations of the Council with regard to the review of fire and building codes.

R710-9-8. Fire Service Education Administrator and Fire Education Program Coordinator.

8.1 There is created by the Board a Fire Service Education Administrator for the State of Utah. This Administrator shall be the State Fire Marshal.

8.2 The Administrator shall oversee statewide fire service education of all personnel receiving training monies from the Fire Academy Support Account.

8.2.1 The Administrator shall oversee fire service education in fire suppression, fire prevention, fire administration, operations, hazardous materials, rescue, fire investigation, and public fire education in the State of Utah.

8.3 The Administrator shall dedicate sufficient time and efforts to ensure that those monies dedicated from the Fire Academy Support Account are expended in the best interests of all personnel receiving fire service education.

8.4 The Administrator shall ensure equitable monies are expended in fire service education to volunteer, career, and prospective fire service personnel.

8.5 The Administrator shall as directed by the Board, solicit the legislature for funding to ensure that fire service personnel receive sufficient monies to receive the education necessary to prevent loss of life or property.

8.6 The Administrator shall oversee the Fire Department Assistance Grant program by completing the following:

8.6.1 Insure that a broad based selection committee is impaneled each year.

8.6.2 Compile for presentation to the Board the proposed grants.

8.6.3 Receive the Board's approval before issuing the grants.

8.7 The Administrator shall if necessary, establish proposed changes to fire service education statewide, insuring personnel receive the most proficient and professional training available,

insure completion of agreements and contracts, and insure that payments on agreements and contracts are completed expeditiously.

8.8 The Administrator shall report to the Board at each regularly scheduled Board meeting the current status of fire service education statewide. The Administrator shall present any proposed changes in fire service education to the Board, and receive direction and approval from the Board, before making those changes.

8.9 To assist the Administrator in statewide fire service education there is hereby created a Fire Education Program Coordinator.

8.10 The Coordinator shall conduct fire service education evaluations, budget reviews, performance audits, and oversee the effectiveness of fire service education statewide.

8.11 The Coordinator shall ensure that there is an established Utah Fire Service Strategic Training Plan for fire service education statewide. The Coordinator shall work with the Academy Director to update the Strategic Plan and keep it current to the needs of the fire service.

8.12 The Coordinator shall report findings of audits, budgetary reviews, training contracts or agreements, evaluation of training standards, and any other necessary items of interest with regard to fire service education to the Administrator.

8.13 The Coordinator shall ensure that contracts are established each year for training and education of fire personnel that meets the needs of those involved in fire service education statewide.

8.14 The Coordinator shall be the staff assistant to the Fire Service Standards and Training Council and shall present agenda items to the Council Chair that need resolution or review. As the staff assistant to the Training Council, the coordinator shall ensure that appointed members attend, encourage that the decisions made further the interests of fire service education statewide, and ensure that the Board is kept informed of the Training Council's decisions.

R710-9-9. Enforcement of the Rules of the State Fire Marshal.

9.1 Fire and life safety plan reviews of new construction, additions, and remodels of state owned facilities shall be conducted by the SFM, or his authorized deputies. State owned facilities shall be inspected by the SFM, or his authorized deputies.

9.2 Fire and life safety plan reviews of new construction, additions, and remodels of public and private schools shall be completed by the SFM, or his authorized deputies, and the LFA.

9.3 Fire and life safety plan reviews of new construction, additions, and remodels of publicly owned buildings, privately owned colleges and universities, and institutional occupancies, with the exception of state owned buildings, shall be completed by the LFA. If not completed by the LFA, the SFM, or his authorized deputies shall complete the plan review.

9.4 The following listed occupancies shall be inspected by the LFA. If not completed by the LFA, the SFM, or his authorized deputies shall inspect.

9.4.1 Publicly owned buildings other than state owned buildings as referenced in 9.1 of this rule.

9.4.2 Public and private schools.

9.4.3 Privately owned colleges and universities.

9.4.4 Institutional occupancies as defined in Section 9-2 of this rule.

9.4.5 Places of assembly as defined in Section 9-2 of this rule.

9.5 The Board shall require prior to approval of a grant the following:

9.5.1 That the applying fire agency be actively participating in the statewide fire statistics reporting program.

9.5.2 The Board shall also require that the applying fire agency be actively working towards structural or wildland firefighter certification through the Utah Fire Service Certification System.

R710-9-10. Fire Service Standards and Training Council.

10.1 There is created by the Board, the Fire Service Standards and Training Council, whose duties are to provide direction to the Board and Academy in matters relating to fire service standards, training, and certification.

10.2 The Standards Council shall serve in an advisory position to the Board, members shall be appointed by the Board, shall serve four year terms, and shall consist of the following members:

10.2.1 Representative from the Utah State Fire Chiefs Association.

10.2.2 Representative from the Utah State Firemen's Association.

10.2.3 Representative from the Fire Marshal's Association of Utah.

10.2.4 Specialist in hazardous materials representing the Hazardous Materials Institute.

10.2.5 Fire/arson investigator representing the Utah Chapter of the International Association of Arson Investigators.

10.2.6 Specialist in wildland fire suppression and prevention from the Utah State Division of Forestry, Fire and State Lands.

10.2.7 Representative from the International Association of Firefighters.

10.2.8 Representative from the Utah Fire Service Certification Council.

10.2.9 Representative from the fire service that is an Advanced Life Support (ALS) provider to represent Emergency Medical Services.

10.2.10 Representative from the Utah Fire Training Officers Association.

10.3 The Standards Council shall meet quarterly and may hold other meetings as necessary for proper transaction of business. A majority of the Standards Council members shall be present to constitute a quorum.

10.4 The Standards Council shall select one of its members to act in the position of chair, and another member to act as vice chair. The chair and vice chair shall serve one year terms on a calendar year basis. Elections for chair and vice chair shall occur at the meeting conducted in the last quarter of the calendar year. If voted upon by the council, the vice chair will become the chair the next succeeding calendar year.

10.5 If a Standards Council member has two or more unexcused absences during a 12 month period, from regularly scheduled Standards Council meetings, it is considered grounds for dismissal pending review by the Board. The Coordinator shall submit the name of the Standards Council member to the Board for status review.

10.6 A member of the Standards Council may have a representative of their respective organization sit in proxy of that member, if submitted and approved by the Coordinator prior to the meeting.

10.7 The Chair or Vice Chair of the Standards Council shall report to the Board the activities of the Standards Council at regularly scheduled Board meetings. The Coordinator may report to the Board the activities of the Standards Council in the absence of the Chair or Vice Chair.

10.8 The Standards Council shall consider all subjects presented to them, subjects assigned to them by the Board, and shall report their recommendations to the Board at regularly scheduled Board meetings.

10.9 One-half of the members of the Standards Council shall be reappointed or replaced by the Board every two years.

R710-9-11. Fire Prevention Board Budget and Amendment Sub-Committees.

11.1 There is created two Fire Prevention Board Sub-Committees known as the Budget Subcommittee and the Amendment Subcommittee. The subcommittees membership shall be appointed from members of the Board.

11.2 Membership on the Sub-Committee shall be by appointment of the Board Chair or as volunteered by Board members. Membership on the Sub-Committee shall be limited to four Board members.

11.3 The Sub-Committee shall meet as necessary and shall vote and appoint a chair to represent the Sub-Committee at regularly scheduled Board meetings.

R710-9-12. Utah Fire Service Certification Council.

12.1 There is created by the Board, the Utah Fire Service Certification Council, whose duties are to oversee fire service certification in the State of Utah.

12.2 The Certification Council shall be made up of 12 members, appointed by the Academy Director, approved by the Board, and each member shall serve three year terms.

12.3 The Certification Council shall be made up of users of the certification system and comprise both paid and volunteer fire personnel, members with special expertise, and members from various geographical locations in the state.

12.4 The purpose of the Certification Council is to provide direction on all aspects of certification, and shall report the activities of the Certification Council to the Fire Service Standards and Training Council.

12.5 Functioning of the Certification Council with regard to certification, re-certification, testing, meeting procedures, examinations, suspension, denial, annulment, revocation, appeals, and reciprocity, shall be conducted as specified in the Utah Fire Service Voluntary Certification Program, Policy and Procedures Manual.

12.6 A copy of the Utah Fire Service Voluntary Certification Program, Policy and Procedures Manual, shall be kept on file at the State Fire Marshal's Office and the Utah Fire and Rescue Academy.

R710-9-13. Utah Fire and Rescue Academy.

13.1 The fire service training school shall be known as the Utah Fire and Rescue Academy.

13.2 The Director of the Utah Fire and Rescue Academy shall report to the Administrator the activities of the Academy with regard to completion of the agreed academy contract.

13.3 The Academy Director may recommend to the Administrator or Coordinator new or expanded standards regarding fire suppression, fire prevention, public fire education, safety, certification, and any other items of necessary interest about the Academy.

13.4 The Academy shall receive approval from the Administrator, after being presented to the Standards and Training Council, any substantial changes in Academy training programs that vary from the agreed contract.

13.5 The Academy Director shall provide to the Coordinator by October 1st of each year, a numerical summary of those career, volunteer/part-paid, and non-affiliated students attending the Academy in the following categories:

13.5.1 Those ~~[participating in the certification process and those]~~ who have received certification during the previous contract period at each certification level.

13.5.2 Those ~~[working towards and those]~~ who have received an ~~[Associate]~~ academic degree in any Fire Science category in the previous contract period.

13.5.3 Those who have completed other Academy classes during the previous contract period.

13.6 The Academy Director shall provide to the Coordinator by October 1st of each year, a numerical comparison of the categories required in Section 13.5, comparing attendance in the previous contract period.

13.7 The Academy Director shall provide to the Coordinator by October 1st of each year, in accepted budgeting practices, ~~[a cost analysis of classes provided by the Academy, and the cost per student to the Academy to provide those classes.]~~ the following:

13.7.1 A cost analysis of classes to include the total spent for each class title, the average cost per class, the number of classes delivered, the number of participants per class title, and the cost per participant for each class title provided by the Academy.

13.7.2 A budget summary comparing amounts budgeted to actual expenditures for each budget code funded by the contract.

13.8 The Academy Director shall provide to the Coordinator by October 1st of each year, a numerical summary of those students attending Academy courses in the following categories:

13.8.1 ~~Non-[fire service]~~ affiliated personnel enrolled in college courses.

13.8.2 ~~[Volunteer or e]~~ Career fire service personnel enrolled in college credit courses.

13.8.3 Volunteer and part-paid fire service personnel enrolled in college credit courses.

13.8.4 Non-affiliated personnel enrolled in non-credit continuing education courses.

13.8.~~3~~⁵ ~~[Volunteer or e]~~ Career fire service personnel enrolled in non-credit continuing education courses.

13.8.6 Volunteer and part-paid fire service personnel enrolled in non-credit continuing education courses.

13.9 The Academy Director shall present to the Coordinator by January of each year, proposals to be incorporated in the Academy contract for the next fiscal year.

R710-9-14. Repeal of Conflicting Board Actions.

All former Board actions, or parts thereof, conflicting or inconsistent with the provisions of this Board action or of the codes hereby adopted, are hereby repealed.

R710-9-15. Validity.

The Utah Fire Prevention Board hereby declares that should any section, paragraph, sentence, or word of this Board action, or of the codes hereby adopted, be declared invalid, it is the intent of the Utah Fire Prevention Board that it would have passed all other portions of this action, independent of the elimination of any portion as may be declared invalid.

R710-9-16. Adjudicative Proceedings.

16.1 All adjudicative proceedings performed by the agency shall proceed informally as set forth herein and as authorized by UCA, Sections 63-46b-4 and 63-46b-5.

16.2 If a city, county, or fire protection district refuses to establish a method of appeal regarding a portion of the IFC, the appealing party may petition the Board to act as the board of appeals.

16.3 A person may request a hearing on a decision made by the SFM, his authorized deputies, or the LFA, by filing an appeal to the Board within 20 days after receiving final decision.

16.4 All adjudicative proceedings, other than criminal prosecution, taken by the SFM, his authorized deputies, or the LFA, to enforce the Utah Fire Prevention and Safety Act and these rules, shall commence in accordance with UCA, Section 63-46b-3.

16.5 The Board shall act as the hearing authority, and shall convene as an appeals board after timely notice to all parties involved.

16.6 The Board shall direct the SFM to issue a signed order to the parties involved giving the decision of the Board within a reasonable time of the hearing pursuant to UCA, Section 63-46b-5(i).

16.7 Reconsideration of the Board's decision may be requested in writing within 20 days of the date of the decision pursuant to UCA, Section 63-46b-13.

16.8 Judicial review of all final Board actions resulting from informal adjudicative proceedings is available pursuant to UCA, Section 63-46b-15.

KEY: fire prevention, law

~~[January 2, 2004]~~ May 4, 2004

Notice of Continuation June 12, 2002

53-7-204



End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a PROPOSED RULE in the *Utah State Bulletin*, it may receive public comment that requires the PROPOSED RULE to be altered before it goes into effect. A CHANGE IN PROPOSED RULE allows an agency to respond to comments it receives.

As with a PROPOSED RULE, a CHANGE IN PROPOSED RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the CHANGE IN PROPOSED RULE including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the RULE ANALYSIS, the text of the CHANGE IN PROPOSED RULE is usually printed. The text shows only those changes made since the PROPOSED RULE was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [example]). A row of dots in the text (· · · · ·) indicates that unaffected text was removed to conserve space. If a CHANGE IN PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends May 3, 2004. At its option, the agency may hold public hearings.

From the end of the waiting period through July 30, 2004, the agency may notify the Division of Administrative Rules that it wants to make the CHANGE IN PROPOSED RULE effective. When an agency submits a NOTICE OF EFFECTIVE DATE for a CHANGE IN PROPOSED RULE, the PROPOSED RULE as amended by the CHANGE IN PROPOSED RULE becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file another CHANGE IN PROPOSED RULE in response to additional comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or another CHANGE IN PROPOSED RULE, the CHANGE IN PROPOSED RULE filing, along with its associated PROPOSED RULE, lapses and the agency must start the process over.

CHANGES IN PROPOSED RULES are governed by *Utah Code* Section 63-46a-6 (2001); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

The Changes in Proposed Rules Begin on the Following Page.

Insurance, Administration
R590-153
 Unfair Inducements and Marketing
 Practices in Obtaining Title Insurance
 Business

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 26791
 Filed: 03/15/2004, 16:39

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: As a result of a hearing and comments received during the comment period, further suggestions were made and further changes are now being made to this rule.

SUMMARY OF THE RULE OR CHANGE: The following changes are being made in the rule: 1) the last sentence in Section R590-153-3 is being deleted and moved to Subsection R590-153-5(W) where it replaces the wording regarding title insurance commitments; 2) in Section R590-153-4, the definition of "Bona fide real estate transaction" is being clarified; 3) in Subsection R590-153-5(K), the change clarifies when an employee is not paid a salary, commission, or any other consideration; and 4) in Section R590-153-6, there are two spacing errors that have been corrected. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the December 1, 2003, issue of the Utah State Bulletin, on page 41. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201 and 31A-23a-402

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The changes to this rule will not affect anticipated cost or savings to the state budget. No additional people will need to be hired and no additional revenue will be created or lost as a result.
- ❖ LOCAL GOVERNMENTS: The changes to this rule will not affect local government since it deals solely with the relationship of title producers, agencies, and insurers with the Insurance Department.
- ❖ OTHER PERSONS: The changes to this rule will have no fiscal impact on title producer, agencies, or companies. The changes are for clarification purposes only. The changes will not affect company rate and form filings made to the department. The rates charged and benefits provided to consumers should not be affected by these changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The changes to this rule will have no fiscal impact on title producer, agencies, or companies. The changes are for clarification purposes

only. The changes will not affect company rate and form filings made to the department. The rates charged and benefits provided to consumers should not be affected by these changes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to this rule are strictly for clarification purposes and to correct problems with spacing. They will have no fiscal impact on Utah businesses.

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

INSURANCE
 ADMINISTRATION
 Room 3110 STATE OFFICE BLDG
 450 N MAIN ST
 SALT LAKE CITY UT 84114-1201, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 05/03/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 05/04/2004

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.
R590-153. Unfair Inducements and Marketing Practices in Obtaining Title Insurance Business.
R590-153-1. Authority.

This rule is promulgated pursuant to Section 31A-2-201(3)(a), in which the commissioner is empowered to make rules to implement the Insurance Code, and pursuant to the specific authority of Section 31A-23a-402(8), which authorizes the commissioner to define unfair methods of competition or any other unfair or deceptive act or practice in the business of insurance.

R590-153-2. Purpose.

The purpose of this rule is to identify certain practices, which the commissioner finds provide unfair inducements for the placement of title insurance business and as such constitute unfair methods of competition. These practices include, but are not limited to, the payment of expenses that are considered normal, customary, reasonable and recurring in the operation of a client of a title insurer, agency or producer.

R590-153-3. Scope.

This rule applies to all title insurers, title insurance agencies and title insurance producers and all employees, representatives and any other party working for or on behalf of said entities whether as a full time or part time employee or as an independent contractor. ~~—Title insurers, agencies and producers who have ownership in, or control of, other business entities may not use those other business entities to enter~~

~~into any agreement, arrangement, or understanding or to pursue any course of conduct, designed to avoid the provisions of this rule.]~~

R590-153-4. Definitions.

For the purpose of this rule the commissioner adopts the definitions as set forth in Section 31A-1-301, and the following:

A. "Client" means any person, or group, who influences, or who may influence, the placement of title insurance business or who is engaged in a business, profession or occupation of:

- (1) buying or selling interests in real property;
- (2) making loans secured by interests in real property; and
- (3) shall include but not be limited to real estate agents, real estate

brokers, mortgage brokers, lending or financial institutions, builders, developers, sub-dividers, attorneys, consumers, ~~[exchange companies,~~] escrow companies and the employees, agents, representatives, solicitors and groups or associations of any of the foregoing.

B. "Discount" means the furnishing or offering to furnish title insurance, services constituting the business of title insurance or escrow services for a total charge less than the amounts set forth in the applicable rate schedules filed pursuant to Section 31A-19a-203 or 31A-19a-209.

C. "Trade Association" means a recognized association of persons, a majority of whom are clients or persons whose primary activity involves real property.

D. "Business meals" shall include, but are not limited to, breakfast, brunch, lunch, dinner, cocktails and tips. In no case shall such business meals rise to the level of ceremonies, for example, awards banquets, recognition events or similar activities sponsored by or for clients.

E. "Official Trade Association Publication" means:

(1) a membership directory, provided its exclusive purpose is that of providing the distribution of an annual roster of the association's members to the membership and other interested parties; or

(2) an annual, semiannual, quarterly or monthly publication containing information and topical material for the benefit of the members of the association.

F. "Business Activities" shall include, but are not limited to, sporting events, sporting activities, music and art events. In no case shall such business activities rise to the level of ceremonies, for example award banquets, recognition events or similar activities sponsored by or for clients, or include travel by air, or other commercial transportation.

G. ~~["Bona fide real estate transaction" means: A transaction in which a preliminary title report is ordered by a seller or the listing broker in behalf of the seller at the time of the listing of a property for sale, and/or the ordering of a commitment to insure at the time an offer to purchase is fully executed, or at such time as an order is placed by a lender or mortgagor at the time of application by a mortgagor for a loan.]"~~ Bona fide real estate transaction" means:

(1) a preliminary title report is issued to a seller or listing agent in conjunction with the listing of a property, or

(2) a commitment for title insurance is ordered, issued, or distributed in a purchase and sale transaction showing the name of the proposed buyer and the sales price, or in a loan transaction showing the proposed lender and loan amount.

R590-153-5. Unfair Methods of Competition, Acts and Practices.

The commissioner finds that providing or offering to provide any of the following benefits by parties identified in Section R590-153-3 to any client, either directly or indirectly, except as specifically allowed in Section R590-153-6 below, is a material and unfair inducement to

obtaining title insurance business and constitutes an unfair method of competition in the business of title insurance prohibited under Section 31A-23a-402:

A. The furnishing of a title insurance commitment without one of the following:

(1) sufficient evidence in the file of the title insurer, agency or producer that a bona fide real estate transaction exists; or

(2) payment in full at the time the title insurance commitment is provided.

B. The paying of any charges for the cancellation of an existing title insurance commitment issued by a competing organization, unless that commitment discloses a defect which gives rise to a claim on an existing policy.

C. Furnishing escrow services pursuant to Section 31A-23a-406, for a charge less than the charge filed pursuant to Section 31A-19a-209(5) or the filing of charges for escrow services with the commissioner, which are less than the actual cost of providing the services.

D. Waiving all or any part of established fees or charges for services, which are not the subject of rates filed with the commissioner.

E. Deferring or waiving any payment for insurance or services otherwise due and payable, including "holding for resale".

F. Furnishing services not reasonably related to a bona fide title insurance or escrow, settlement, or closing transaction, including, but not limited to computer services, non-related delivery services, accounting assistance, legal counseling.

G. The paying for, furnishing, or waiving all or any part of the rental or lease charge for space, which is occupied by any client.

H. Renting or leasing space from any client, regardless of the purpose, at a rate which is excessive or inadequate when compared with rental or lease charges for comparable space in the same geographic area, or paying rental or lease charges based in whole or in part on the volume of business generated by any client.

I. Furnishing all or any part of the time or productive effort of any employee of the title insurer, agency or producer, for example, ~~[c]secretary, clerk, messenger or escrow officer, to any client.~~

J. Paying for all or any part of the salary of a client or an employee of any client.

K. Paying, or offering to pay, either directly or indirectly, salary, commissions or any other consideration to any employee who is at the same time licensed as a real estate agent or real estate broker or as a mortgage lender or mortgage company. ~~[a client.]~~

L. Paying for the fees or charges of a professional, for example, an appraiser, surveyor, engineer or attorney, whose services are required by any client to structure or complete a particular transaction.

M. Sponsoring, cosponsoring, subsidizing, contributing fees, prizes, gifts, food or otherwise providing anything of value for an activity, except as allowed under Subsection R590-153-6(F) of a client. Activities include, but are not limited to "open houses" at homes or property for sale, meetings, breakfasts, luncheons, dinners, conventions, installation ceremonies, celebrations, outings, cocktail parties, hospitality room functions, open house celebrations, dances, fishing trips, gambling trips, sporting events of all kinds, hunting trips or outings, golf or ski tournaments, artistic performances and outings in recreation areas or entertainment areas.

N. Sponsoring, subsidizing, supplying prizes or labor, except as allowed under Subsection R590-153-6(C), or otherwise providing things of value for promotional activities of a client. Title insurers, agencies or producers may attend activities of a client if there is no additional cost to the title insurer, agency or producer other than their own entry fees, registration fees, meals, etc., and provided that these

fees are no greater than those charged to clients or others attending the function.

O. Providing gifts or anything of value to a client in connection with social events such as birthdays or job promotions except as provided in Subsection R590-153-6(H). A letter or card in these instances will not be interpreted as providing a thing of value.

P. Providing either directly or indirectly, a compensating balance or deposit in a lending institution either for the express or implied purpose of influencing the placement or steering of title insurance business by such lending institution. This does not preclude transactions with lending institutions, which are in the normal course of business.

Q. Furnishing any part of a title insurer's, agency's or producer's facilities, for example, conference rooms or meeting rooms, to a client or trade association without receiving a fair rental or lease charge comparable to other rental or lease charges for facilities in the same geographic area.

R. Furnishing information packets, listing kits, "farm" packages, reports, or any form of title evidence without first filing a specimen form copy with the commissioner and specifying a rate for which the form is available. The rate may not be less than the actual cost of producing the information and the material furnished.

S. Paying for any advertising on behalf of a client.

T. Advertising jointly with a client on subdivision or condominium project signs, or signs for the sale of a lot or lots in a subdivision or units in a condominium project. A title insurer, agency or producer may advertise independently that it has provided title insurance for a particular subdivision or condominium project but may not indicate that all future title insurance will be written by that title insurer, agency or producer.

U. A direct or indirect benefit provided to a client which is not specified in Section R590-153-6 below, will be investigated by the department for the purpose of determining whether it should be defined by the commissioner as an unfair inducement under Section 31A-23a-402(8).

V. Donations to charitable organizations must:

- (1) not be paid in cash; and
- (2) if paid by negotiable instrument, be made payable only to the charitable organization; and
- (3) be distributed directly to the charitable organization; and
- (4) not provide any benefit to a client.

~~[W. Providing a title insurance commitment, which does not identify the proposed insured party or which does not contain a valid commitment from a title insurer.]~~ W. Title insurers, agencies and producers who have ownership in, or control of, other business entities may not use those other business entities to enter into any agreement, arrangement, or understanding or to pursue any course of conduct, designed to avoid the provisions of this rule.

R590-153-6. Permitted Advertising and Business Entertainment.

A. A title insurer, ~~[agency or]~~ agency or producer may furnish the following without charge, and without additions, addenda or attachments which may be construed as reaching conclusions of the insurer, agency or producer regarding matters of marketable ownership or encumbrances:

- (1) A copy of an existing plat map; or
- (2) Tax information covering a specific parcel of real estate, for example, tax identification number, assessed owner, assessed value of land and improvements, or the latest tax amount; or
- (3) other information regarding real property which the county recorder's office provides to the public free of charge, or at a nominal

charge, and in the exact format and content as provided by the county recorder's office.

B. Advertisements by title insurers, agencies or producers must comply with the following:

- (1) The advertisement must be purely self-promotional.
- (2) Advertisements may not be placed in a publication, including an Internet web page and its links, that is hosted, published, produced for, distributed by or on behalf of a client except as allowed under R590-153-6 (B)(3).

(3) Advertisements in official trade association publications are permissible as long as any title insurer, agency or producer has an equal opportunity to advertise in the publication and at the standard rates other advertisers in the publication are charged.

C. A title, insurer, agency or producer may donate time to serve on a trade association committee and may also serve as an officer for the trade association.

D. A title insurer, agency or producer may have two self-promotional open houses per calendar year for each of its owned or occupied facilities, including branch offices. The title insurer, agency or producer may not expend more than \$10 per guest per open house. The open house may take place on or off the title insurer's, agency's or producer's premises but may not take place on the client's premises.

E. A title insurer, agency or producer may distribute self-promotional items having a value of \$3 or less to clients, consumers and members of the general public. These self-promotional items shall be novelty gifts which are non-edible and may not be personalized or bear the name of the donee. Self-promotional items may only be distributed in the regular course of business. Self-promotional items may not be given to clients or trade associations for redistribution by these entities.

F. A title insurer, agency or producer may make expenditures for business meals or business activities on behalf of any person, whether a client or not, as a method of advertising, if the expenditure meets all the following criteria:

- (1) The person representing the title insurer, agency or ~~[producer must]~~ producer must be present during the business meal or business activity.
- (2) There is a substantial title insurance business discussion directly before, during or after the business meal or business activity.
- (3) The total cost of the business meal, the business activity, or both is not more than \$75 per person, per day.
- (4) No more than three individuals from an office of a client may be provided a business meal or business activity by a title insurer, agency or producer in a single day.
- (5) The entire business meal or business activity may take place on or off the title insurer's, agency's or producer's premises, but may not take place on the client's premises.

G. A title insurer, agency or producer may conduct educational programs under the following conditions:

- (1) The educational program shall address only title insurance, escrow or topics directly related thereto.
- (2) The educational program must be of at least one hour duration.
- (3) For each hour of education \$10 or less per person may be expended, including the cost of meals and refreshments.
- (4) No more than one such educational program may be conducted at the office of a client per calendar quarter.

H. A title insurer, agency or producer may acknowledge a wedding, birth or adoption of a child, or funeral of a client or members of his/her immediate family with flowers or gifts not to exceed \$50.

I. Any other advertising and/or business entertainment must be requested in writing and approved in advance and in writing by the commissioner.

R590-153-7. Enforcement Date.

The commissioner will begin enforcing the provisions of this rule 45 days from the effective date of the rule.

R590-153-8. Severability.

If any provision or clause of this rule or its application to any person or situation is held invalid, such invalidity may not affect any other provision or application of this rule which can be given effect

without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

KEY: title insurance

2004

Notice of Continuation November 27, 2002

31A-2-201

31A-23a-402



End of the Notices of Changes in Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1998).

Administrative Services, Facilities Construction and Management

R23-29

Across the Board Delegation

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 26991
FILED: 03/10/2004, 17:00

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: Subsection 63A-5-103(1)(e) authorizes the State Building Board to make rules necessary to discharge its duties and the duties of the Division of Facilities Construction and Management (DFCM). Subsection 63A-5-206(4) authorizes the Building Board to delegate the administration of a facility construction project on state property to another agency or institution other than DFCM. This rule addresses the delegation of projects within certain categories to research universities.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule is necessary in order to implement the requirements associated with this delegation of authority.

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

ADMINISTRATIVE SERVICES
FACILITIES CONSTRUCTION AND MANAGEMENT
Room 4110 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:
Kenneth Nye at the above address, by phone at 801-538-3284, by FAX at 801-538-3267, or by Internet E-mail at knye@utah.gov

AUTHORIZED BY: Keith Stepan, Director

EFFECTIVE: 03/10/2004



Agriculture and Food, Animal Industry

R58-20

Domesticated Elk Hunting Parks

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 26990
FILED: 03/05/2004, 14:28

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 4-39-106 authorizes the department to make and enforce rules.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes and sets the standards for the licensing and operation of elk hunting parks and therefore, should be continued.

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

AGRICULTURE AND FOOD
ANIMAL INDUSTRY
350 N REDWOOD RD
SALT LAKE CITY UT 84116-3087, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Marolyn Leetham or Terry Menlove at the above address, by phone at 801-538-7114 or 801-538-7166, by FAX at 801-538-7126 or 801-538-7169, or by Internet E-mail at mleetham@utah.gov or tmenlove@utah.gov

AUTHORIZED BY: Cary G. Peterson, Commissioner

EFFECTIVE: 03/05/2004

▼ ————— ▼

**Regents (Board Of), Salt Lake
Community College**

R784-1

**Government Records Access and
Management Act Rules**

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

DAR FILE NO.: 26994
FILED: 03/12/2004, 15:44

**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: The authority for the rule is in Sections 63-2-204 and 63-2-904 of the Government Records Access and Management Act (GRAMA), effective July 2, 1992.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuation of the rule is requested to provide procedures for access to government records at Salt Lake Community College.

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

REGENTS (BOARD OF)
SALT LAKE COMMUNITY COLLEGE
Room AD050
4600 S REDWOOD RD
SALT LAKE CITY UT 84130, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Nancy Sanchez at the above address, by phone at 801-957-4041, by FAX at 801-957-4444, or by Internet E-mail at nancy.sanchez@slcc.edu

AUTHORIZED BY: Nancy Sanchez, Director

EFFECTIVE: 03/12/2004

▼ ————— ▼

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

NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. These effective dates are at least 31 days and not more than 120 days after the date the following rules were published.

Abbreviations

AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Agriculture and Food

Animal Industry

No. 26891 (AMD): R58-21. Trichomoniasis.
Published: February 1, 2004
Effective: March 4, 2004

Commerce

Occupational and Professional Licensing

No. 26888 (AMD): R156-63. Security Personnel Licensing Act Rules.
Published: February 1, 2004
Effective: March 4, 2004

Education

Administration

No. 26902 (AMD): R277-700. The Elementary and Secondary School Core Curriculum.
Published: February 1, 2004
Effective: March 3, 2004

Public Safety

Driver License

No. 26894 (AMD): R708-2. Commercial Driver Training Schools.
Published: February 1, 2004
Effective: March 4, 2004

Fire Marshal

No. 26900 (AMD): R710-5. Automatic Fire Sprinkler System Inspecting and Testing.
Published: February 1, 2004
Effective: March 3, 2004

End of the Notices of Rule Effective Dates Section

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

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2003, including notices of effective date received through March 15, 2004, the effective dates of which are no later than April 1, 2004. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

DAR NOTE: The index may contain inaccurate page number references. Also the index is incomplete in the sense that index entries for Changes in Proposed Rules (CPRs) are not preceded by entries for their parent Proposed Rules. These difficulties with the index are related to a new software package used by the Division to create the Bulletin and related publications; we hope to have them resolved as soon as possible. Bulletin issue information and effective date information presented in the index are, to the best of our knowledge, complete and accurate. If you have any questions regarding the index and the information it contains, please contact Nancy Lancaster (801 538-3218), Mike Broschinsky (801 538-3003), or Kenneth A. Hansen (801 538-3777).

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Administrative Services					
<u>Facilities Construction and Management</u>					
R23-29	Across the Board Delegation	26991	5YR	03/10/2004	2004-7/36
<u>Fleet Operations, Surplus Property</u>					
R28-3	Utah State Agency for Surplus Property Adjudicative Proceedings	26843	AMD	02/12/2004	2004-1/4
Agriculture and Food					
<u>Animal Industry</u>					
R58-20	Domesticated Elk Hunting Parks	26990	5YR	03/05/2004	2004-7/36
R58-21	Trichomoniasis	26891	AMD	03/04/2004	2004-3/4

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Commerce					
<u>Occupational and Professional Licensing</u>					
R156-1-106	Division - Duties, Functions, and Responsibilities	26805	AMD	01/20/2004	2003-24/4
R156-5a	Podiatric Physician Licensing Act Rules	26917	5YR	01/27/2004	2004-4/74
R156-17a-612	Operating Standards - Pharmaceutical Wholesaler/Distributor and Pharmaceutical Manufacturer located in Utah	26754	CPR	02/19/2004	2004-2/10
R156-17a-612	Operating Standards - Pharmaceutical Wholesaler/Distributor and Pharmaceutical Manufacturer located in Utah	26754	AMD	02/19/2004	2003-22/11
R156-26a-303b	Renewal and Reinstatement Requirements - Continuing Professional Education (CPE)	26786	AMD	01/06/2004	2003-23/7
R156-37c	Utah Controlled Substance Precursor Act Rules	26916	5YR	01/27/2004	2004-4/74
R156-38	Residence Lien Restriction and Lien Recovery Fund Rules	26834	AMD	02/03/2004	2004-1/5
R156-39a	Alternative Dispute Resolution Providers Certification Act Rules	26915	5YR	01/27/2004	2004-4/75
R156-54-302b	Examination Requirements - Radiology Practical Technician	26580	AMD	01/20/2004	2003-18/4
R156-54-302b	Examination Requirements - Radiology Practical Technician	26580	CPR	01/20/2004	2003-24/70
R156-56	Utah Uniform Building Standard Act Rules	26693	AMD	01/01/2004	2003-21/7
R156-56-707	Statewide Amendments to the IPC	26692	AMD	01/01/2004	2003-21/34
R156-63	Security Personnel Licensing Act Rules	26888	AMD	03/04/2004	2004-3/5
R156-74	Certified Shorthand Reporters Licensing Act Rules	26927	5YR	02/02/2004	2004-4/75
R156-76-102	Definitions	26777	AMD	01/20/2004	2003-23/14
<u>Real Estate</u>					
R162-7-3	Investigation and Enforcement	26835	AMD	02/18/2004	2004-1/9
R162-105	Scope of Authority	26890	5YR	01/13/2004	2004-3/42
R162-202	Residential Mortgage Renewal Period	26837	AMD	02/03/2004	2004-1/10
R162-206	Licensing Examination	26840	NEW	02/03/2004	2004-1/12
R162-207	License Renewal	26839	NEW	02/03/2004	2004-1/13
R162-208	Continuing Education	26836	NEW	02/03/2004	2004-1/14
<u>Securities</u>					
R164-11-2	Hearings for Certain Exchanges of Securities	26481	AMD	01/05/2004	2003-15/17
R164-11-2	Hearings for Certain Exchanges of Securities	26481	CPR	01/05/2004	2003-23/83
Corrections					
<u>Administration</u>					
R251-101	Corrections Advisory Council Bylaws	26769	REP	03/24/2004	2003-23/15
Education					
<u>Administration</u>					
R277-102	Adjudicative Proceedings	26958	5YR	02/26/2004	2004-6/59
R277-413	Accreditation of Secondary Schools, Alternative or Special Purpose Schools	26959	5YR	02/26/2004	2004-6/59
R277-425	Budgeting, Accounting, and Auditing for Utah School Districts	26960	5YR	02/26/2004	2004-6/60
R277-437	Student Enrollment Options	26871	5YR	01/05/2004	2004-3/42
R277-462	Comprehensive Guidance Program	26850	AMD	02/05/2004	2004-1/16
R277-486	Professional Staff Cost Program	26828	NEW	01/15/2004	2003-24/5

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R277-502	Educator Licensing and Data Retention	26827	AMD	01/15/2004	2003-24/6
R277-517	Athletic Coaching Certification	26852	AMD	02/05/2004	2004-1/18
R277-520	Appropriate Licensing and Assignment of Teachers	26851	R&R	02/05/2004	2004-1/20
R277-524	Paraprofessional Qualifications	26853	NEW	02/05/2004	2004-1/25
R277-601	Standards for Utah School Buses and Operations	26961	5YR	02/26/2004	2004-6/60
R277-700	The Elementary and Secondary School Core Curriculum	26902	AMD	03/03/2004	2004-3/10
R277-712	Advanced Placement Programs	26962	5YR	02/26/2004	2004-6/61
R277-720	Child Nutrition Programs	26830	AMD	01/15/2004	2003-24/10
R277-724	Criteria for Sponsors Recruiting Day Care Facilities in the Child and Adult Care Food Program	26829	NEW	01/15/2004	2003-24/11
R277-734	Standards and Procedures for Adult Education Section 353 Funds	26963	5YR	02/26/2004	2004-6/61
R277-735	Standards and Procedures for Corrections Education Programs Serving Inmates of the Utah Department of Corrections	26870	5YR	01/05/2004	2004-3/43
<u>Rehabilitation</u>					
R280-201	USOR ADA Complaint Procedure	26872	5YR	01/05/2004	2004-3/43
R280-202	USOR Procedures for Individuals with the Most Severe Disabilities	26873	5YR	01/05/2004	2004-3/44
Environmental Quality					
<u>Air Quality</u>					
R307-150	Emission Inventories	26942	5YR	02/09/2004	2004-5/43
R307-214	National Emission Standards for Hazardous Air Pollutants	26939	5YR	02/09/2004	2004-5/44
R307-415	Permits: Operating Permit Requirements	26940	5YR	02/09/2004	2004-5/45
R307-417	Permits: Acid Rain Sources	26941	5YR	02/09/2004	2004-5/45
<u>Drinking Water</u>					
R309-705	Financial Assistance: Federal Drinking Water Project Revolving Loan Program	26760	AMD	01/01/2004	2003-22/19
<u>Solid and Hazardous Waste</u>					
R315-320	Waste Tire Transporter and Recycler Requirements	26972	5YR	03/01/2004	2004-6/62
<u>Water Quality</u>					
R317-1	Definitions and General Requirements	26796	AMD	03/29/2004	2003-23/16
R317-2	Standards of Quality for Waters of the State	26242	CPR	01/06/2004	2003-18/35
R317-2	Standards of Quality for Waters of the State	26242	AMD	01/06/2004	2003-10/27
Health					
<u>Children's Health Insurance Program</u>					
R382-10	Eligibility	26757	AMD	01/05/2004	2003-22/21
<u>Health Care Financing, Coverage and Reimbursement Policy</u>					
R414-9	Federally Qualified Health Centers	26854	NEW	02/03/2004	2004-1/26
R414-50	Dental, Oral and Maxillofacial Surgeons	26802	AMD	01/28/2004	2003-24/13
R414-51	Dental, Orthodontia	26782	AMD	01/28/2004	2003-23/25
R414-52	Optometry Services	26798	AMD	01/01/2004	2003-23/27
R414-53	Eyeglasses Services	26783	AMD	01/28/2004	2003-23/28
R414-54	Speech-Language Pathology Services	26803	AMD	01/28/2004	2003-24/14
R414-54	Speech-Language Pathology Services	27012	5YR	03/23/2004	Not Printed

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R414-58	Children's Organ Transplants	26935	5YR	02/03/2004	2004-5/46
R414-99	Chiropractic Services	26809	NEW	02/17/2004	2003-24/15
R414-300	Primary Care Network, Covered-at-Work Demonstration Waiver	26811	NEW	02/10/2004	2003-24/17
R414-304	Income and Budgeting	26781	AMD	01/01/2004	2003-23/29
R414-310	Medicaid Primary Care Network Demonstration Waiver	26810	AMD	02/10/2004	2003-24/18
<u>Health Systems Improvement, Emergency Medical Services</u>					
R426-13	Emergency Medical Services Provider Designations	26669	AMD	01/01/2004	2003-20/7
R426-14	Ambulance Service and Paramedic Service Licensure	26670	AMD	01/01/2004	2003-20/10
R426-15	Licensed and Designated Provider Operations	26671	AMD	01/01/2004	2003-20/14
<u>Center for Health Data, Health Care Statistics</u>					
R428-10	Health Data Authority Hospital Inpatient Reporting Rule	26800	AMD	02/27/2004	2003-23/36
R428-11	Health Data Authority Ambulatory Surgical Data Reporting Rule	26799	AMD	02/27/2004	2003-23/37
<u>Health Systems Improvement, Licensing</u>					
R432-1	General Health Care Facility Rules	26868	5YR	01/05/2004	2004-3/44
R432-2	General Licensing Provisions	26876	5YR	01/05/2004	2004-3/45
R432-3	General Health Care Facility Rules Inspection and Enforcement	26875	5YR	01/05/2004	2004-3/45
R432-4	General Construction	26869	5YR	01/05/2004	2004-3/46
R432-5	Nursing Facility Construction	26877	5YR	01/05/2004	2004-3/46
R432-6	Assisted Living Facility General Construction	26886	5YR	01/08/2004	2004-3/47
R432-100-16	Emergency Care Services	26755	AMD	01/09/2004	2003-22/24
<u>Epidemiology and Laboratory Services, Laboratory Services</u>					
R438-13	Rules for the Certification of Institutions to Obtain Impounded Animals in the State of Utah	26968	5YR	02/27/2004	2004-6/62
Human Services					
<u>Administration</u>					
R495-879	Parental Support for Children in Care	26822	AMD	01/26/2004	2003-24/27
<u>Administration, Administrative Services, Licensing</u>					
R501-2	Core Standards	26925	AMD	03/17/2004	2004-4/16
<u>Child and Family Services</u>					
R512-3	Procedures for Establishing Policy (EXPIRED RULE)	27014	NSC	03/04/2004	Not Printed
R512-3	Procedures for Establishing Policy (5YR EXTENSION)	26774	NSC	03/04/2004	Not Printed
<u>Recovery Services</u>					
R527-210	Guidelines for Setting Child Support Awards	26889	5YR	01/13/2004	2004-3/48
Insurance					
<u>Administration</u>					
R590-102	Insurance Department Fee Payment Rule	26787	AMD	01/08/2004	2003-23/39
R590-170	Fiduciary and Trust Account Obligations	26976	5YR	03/01/2004	2004-6/63
R590-187	Assessment of Title Insurance Agencies and Title Insurers for Costs Related to Regulation of Title Insurance	26792	AMD	01/08/2004	2003-23/44
R590-195	Rental Car Related Licensing Rule	27011	5YR	03/19/2004	Not Printed
R590-220	Submission of Accident and Health Insurance Filings	26806	CPR	03/24/2004	2004-4/61

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R590-225	Submission of Property Casualty Rate and Form Filings	26821	CPR	03/24/2004	2004-4/64
Labor Commission					
<u>Adjudication</u>					
R602-1	General Provisions	26772	AMD	01/02/2004	2003-23/46
R602-2-1	Pleadings and Discovery	26773	AMD	01/02/2004	2003-23/47
<u>Industrial Accidents</u>					
R612-4-2	Premium Rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund.	26697	AMD	01/01/2004	2003-21/64
<u>Safety</u>					
R616-2-3	Safety Codes and Rules for Boilers and Pressure Vessels	26674	AMD	01/01/2004	2003-20/25
Money Management Council					
<u>Administration</u>					
R628-19	Requirements for the Use of Investment Advisers by Public Treasurers	26676	NEW	02/10/2004	2003-20/27
R628-19	Requirements for the Use of Investment Advisers by Public Treasurers	26676	CPR	02/10/2004	2004-1/38
Natural Resources					
<u>Oil, Gas and Mining: Coal</u>					
R645-301-100	General Contents	26710	AMD	02/06/2004	2003-22/34
R645-301-500	Engineering	26711	AMD	02/06/2004	2003-22/35
R645-303-200	Permit Review, Change and Renewal	26712	AMD	02/06/2004	2003-22/36
R645-401	Inspection and Enforcement: Civil Penalties	26713	AMD	02/06/2004	2003-22/38
<u>Parks and Recreation</u>					
R651-611	Fee Schedule	26776	AMD	01/06/2004	2003-23/52
<u>Forestry, Fire and State Lands</u>					
R652-40-1800	Abandonment	26865	AMD	02/24/2004	2004-2/2
<u>Water Resources</u>					
R653-2	Financial Assistance from the Board of Water Resources	26779	AMD	01/07/2004	2003-23/56
R653-5	Cloud Seeding	26784	AMD	01/07/2004	2003-23/59
<u>Water Rights</u>					
R655-13	Stream Alteration	26814	NEW	03/25/2004	2003-24/43
<u>Wildlife Resources</u>					
R657-5	Taking Big Game	26817	AMD	01/21/2004	2003-24/46
R657-13	Taking Fish and Crayfish	26659	AMD	01/02/2004	2003-20/28
R657-17-4	General Deer Permits and Tags	26818	AMD	01/21/2004	2003-24/55
R657-33	Taking Bear	26867	AMD	02/24/2004	2004-2/3
R657-38	Dedicated Hunter Program	26819	AMD	01/21/2004	2003-24/56
R657-41	Conservation and Sportsman Permits	26778	AMD	01/05/2004	2003-23/61
R657-42	Accepted Payment of Fees, Late Fees, Exchanges, Surrenders, Refunds and Reallocation of Licenses, Certificates of Registration and Permits	26820	AMD	01/21/2004	2003-24/61

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Public Safety					
<u>Administration</u>					
R698-4	Certification of the Law Enforcement Agency of a Private College or University	26969	5YR	02/27/2004	2004-6/64
<u>Driver License</u>					
R708-2	Commercial Driver Training Schools	26894	AMD	03/04/2004	2004-3/27
R708-30	Motorcycle Rider Training Schools	26918	5YR	01/27/2004	2004-4/76
<u>Fire Marshal</u>					
R710-2	Rules Pursuant to the Utah Fireworks Act	26795	AMD	01/02/2004	2003-23/65
R710-4	Buildings Under the Jurisdiction of the State Fire Prevention Board	26793	AMD	01/02/2004	2003-23/67
R710-4	Buildings Under the Jurisdiction of the State Fire Prevention Board	26920	EMR	01/28/2004	2004-4/66
R710-5	Automatic Fire Sprinkler System Inspecting and Testing	26900	AMD	03/03/2004	2004-3/32
R710-6	Liquefied Petroleum Gas Rules	26801	AMD	01/16/2004	2003-24/63
R710-9	Rules Pursuant to the Utah Fire Prevention Law	26788	AMD	01/02/2004	2003-23/72
R710-9	Rules Pursuant to the Utah Fire Prevention Law	26919	EMR	01/28/2004	2004-4/70
<u>Criminal Investigations and Technical Services, Criminal Identification</u>					
R722-900	Review and Challenge of Criminal Record	26895	5YR	01/15/2004	2004-3/48
R722-900	Review and Challenge of Criminal Record (5YR EXTENSION)	26858	NSC	01/15/2004	Not Printed
Public Service Commission					
<u>Administration</u>					
R746-200-6	Termination of Service	26780	AMD	01/07/2004	2003-23/76
R746-350	Application to Discontinue or Curtail Telecommunications Services	26785	NEW	01/15/2004	2003-23/79
R746-365	Intercarrier Service Quality	26883	5YR	01/06/2004	2004-3/49
Regents (Board Of)					
<u>Salt Lake Community College</u>					
R784-1	Government Records Access and Management Act Rules	26994	5YR	03/12/2004	2004-7/37
<u>University of Utah, Administration</u>					
R805-1	Operating Regulations for Bicycles, Skateboards and Scooters	26914	5YR	01/27/2004	2004-4/76
<u>University of Utah, Museum of Natural History (Utah)</u>					
R807-1	Curation of Collections from State Lands	26913	5YR	01/26/2004	2004-4/77
Tax Commission					
<u>Auditing</u>					
R865-7H	Environmental Assurance Fee	26957	5YR	02/25/2004	2004-6/64
<u>Property Tax</u>					
R884-24P-24	Form for Notice of Property Valuation and Tax Changes Pursuant to Utah Code Ann. Sections 59-2-918 through 59-2-924	26910	NSC	01/27/2004	Not Printed
Transportation					
<u>Administration</u>					
R907-64	Longitudinal and Wireless Access to Interstate Highway Rights-of-Way for Installation of Telecommunications Facilities	26878	5YR	01/05/2004	2004-3/49

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R907-65	Compensation Schedule for Longitudinal Access to Interstate Highway Rights-of-Way for Installation of Telecommunications Facilities	26879	5YR	01/05/2004	2004-3/50
R907-67	Suspension of Contractors from Work on Department Projects -- Reasons	26720	NEW	01/05/2004	2003-22/50
<u>Motor Carrier</u>					
R909-1	Adoption of Federal Regulations	26823	AMD	03/01/2004	2003-24/66
R909-3	Standards for Utah School Buses	26880	5YR	01/05/2004	2004-3/50
<u>Motor Carrier, Ports of Entry</u>					
R912-14	Changes in Utah's Oversize/Overweight Permit Program - Semitrailer Exceeding 48 Feet Length	26881	5YR	01/05/2004	2004-3/51
<u>Preconstruction, Right-of-Way Acquisition</u>					
R933-2-3	Definitions	26892	EMR	01/14/2004	2004-3/39
R933-2-3	Definitions	26893	AMD	03/23/2004	2004-3/37
Workforce Services					
<u>Employment Development</u>					
R986-100	Employment Support Programs	26705	AMD	01/01/2004	2003-21/75
R986-100-134	Payments of Assistance Pending the Hearing	26932	AMD	04/01/2004	2004-4/33
R986-200	Family Employment Program (FEP)	26704	AMD	02/02/2004	2003-21/77
R986-200	Family Employment Program	26934	AMD	04/01/2004	2004-4/35
R986-400	General Assistance and Working Toward Employment	26706	AMD	01/01/2004	2003-21/81
R986-700	Child Care Assistance	26707	AMD	01/01/2004	2003-21/83
R986-700	Child Care Assistance	26933	AMD	04/01/2004	2004-4/36
<u>Workforce Information and Payment Services</u>					
R994-102	Purpose of Employment Security Act	26921	AMD	04/04/2004	2004-4/38
R994-103	Approval of Counsel Fees	26922	REP	04/04/2004	2004-4/40
R994-104	Prosecution	26923	REP	04/04/2004	2004-4/41
R994-201	Definition of Terms in Employment Security Act	26928	AMD	04/04/2004	2004-4/42
R994-404	Wage Freeze Following Workers' Compensation	26930	R&R	04/04/2004	2004-4/43
R994-406	Appeal Procedures	26924	AMD	04/04/2004	2004-4/45
R994-508	Appeal Procedures	26929	R&R	04/04/2004	2004-4/51

RULES INDEX - BY KEYWORD (SUBJECT)

ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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<u>KEYWORD AGENCY</u>	<u>FILE NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE DATE</u>	<u>BULLETIN ISSUE/PAGE</u>
<u>accelerated learning</u> Education, Administration	26962	R277-712	5YR	02/26/2004	2004-6/61
<u>accountants</u> Commerce, Occupational and Professional Licensing	26786	R156-26a-303b	AMD	01/06/2004	2003-23/7
<u>accreditation</u> Education, Administration	26959	R277-413	5YR	02/26/2004	2004-6/59
<u>acid rain</u> Environmental Quality, Air Quality	26941	R307-417	5YR	02/09/2004	2004-5/45
<u>administrative procedures</u> Education, Administration	26958	R277-102	5YR	02/26/2004	2004-6/59
Labor Commission, Adjudication	26772	R602-1	AMD	01/02/2004	2003-23/46
	26773	R602-2-1	AMD	01/02/2004	2003-23/47
<u>adult education</u> Education, Administration	26963	R277-734	5YR	02/26/2004	2004-6/61
<u>air pollution</u> Environmental Quality, Air Quality	26942	R307-150	5YR	02/09/2004	2004-5/43
	26939	R307-214	5YR	02/09/2004	2004-5/44
	26940	R307-415	5YR	02/09/2004	2004-5/45
<u>air quality</u> Environmental Quality, Air Quality	26941	R307-417	5YR	02/09/2004	2004-5/45
<u>alternative dispute resolution</u> Commerce, Occupational and Professional Licensing	26915	R156-39a	5YR	01/27/2004	2004-4/75
<u>animals</u> Health, Epidemiology and Laboratory Services, Laboratory Services	26968	R438-13	5YR	02/27/2004	2004-6/62
<u>appellate procedures</u> Administrative Services, Fleet Operations, Surplus Property	26843	R28-3	AMD	02/12/2004	2004-1/4
Workforce Services, Workforce Information and Payment Services	26924	R994-406	AMD	04/04/2004	2004-4/45
	26929	R994-508	R&R	04/04/2004	2004-4/51
<u>appraisals</u> Tax Commission, Property Tax	26910	R884-24P-24	NSC	01/27/2004	Not Printed
<u>arbitration</u> Commerce, Occupational and Professional Licensing	26915	R156-39a	5YR	01/27/2004	2004-4/75
<u>archaeological resources</u> Regents (Board Of), University of Utah, Museum of Natural History (Utah)	26913	R807-1	5YR	01/26/2004	2004-4/77
<u>assignment</u> Education, Administration	26851	R277-520	R&R	02/05/2004	2004-1/20

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>athletics</u> Education, Administration	26852	R277-517	AMD	02/05/2004	2004-1/18
<u>automatic fire sprinklers</u> Public Safety, Fire Marshal	26900	R710-5	AMD	03/03/2004	2004-3/32
<u>bear</u> Natural Resources, Wildlife Resources	26867	R657-33	AMD	02/24/2004	2004-2/3
<u>bicycles</u> Regents (Board Of), University of Utah, Administration	26914	R805-1	5YR	01/27/2004	2004-4/76
<u>big game seasons</u> Natural Resources, Wildlife Resources	26817	R657-5	AMD	01/21/2004	2003-24/46
<u>boilers</u> Labor Commission, Safety	26674	R616-2-3	AMD	01/01/2004	2003-20/25
<u>budgeting</u> Health, Health Care Financing, Coverage and Reimbursement Policy	26781	R414-304	AMD	01/01/2004	2003-23/29
<u>building codes</u> Commerce, Occupational and Professional Licensing	26693	R156-56	AMD	01/01/2004	2003-21/7
	26692	R156-56-707	AMD	01/01/2004	2003-21/34
<u>building inspection</u> Commerce, Occupational and Professional Licensing	26693	R156-56	AMD	01/01/2004	2003-21/7
	26692	R156-56-707	AMD	01/01/2004	2003-21/34
<u>buildings</u> Administrative Services, Facilities Construction and Management	26991	R23-29	5YR	03/10/2004	2004-7/36
<u>buses</u> Education, Administration	26961	R277-601	5YR	02/26/2004	2004-6/60
<u>certification</u> Labor Commission, Safety	26674	R616-2-3	AMD	01/01/2004	2003-20/25
<u>child care</u> Workforce Services, Employment Development	26933	R986-700	AMD	04/01/2004	2004-4/36
	26707	R986-700	AMD	01/01/2004	2003-21/83
<u>child support</u> Human Services, Administration	26822	R495-879	AMD	01/26/2004	2003-24/27
Human Services, Recovery Services	26889	R527-210	5YR	01/13/2004	2004-3/48
<u>child welfare policy</u> Human Services, Child and Family Services	27014	R512-3	NSC	03/04/2004	Not Printed
	26774	R512-3	NSC	03/04/2004	Not Printed
<u>children's health benefits</u> Health, Children's Health Insurance Program	26757	R382-10	AMD	01/05/2004	2003-22/21

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>chiropractic services</u> Health, Health Care Financing, Coverage and Reimbursement Policy	26809	R414-99	NEW	02/17/2004	2003-24/15
<u>coaching certification</u> Education, Administration	26852	R277-517	AMD	02/05/2004	2004-1/18
<u>coal mines</u> Natural Resources, Oil, Gas and Mining; Coal	26710	R645-301-100	AMD	02/06/2004	2003-22/34
	26711	R645-301-500	AMD	02/06/2004	2003-22/35
	26712	R645-303-200	AMD	02/06/2004	2003-22/36
	26713	R645-401	AMD	02/06/2004	2003-22/38
<u>colleges</u> Public Safety, Administration	26969	R698-4	5YR	02/27/2004	2004-6/64
<u>complaints</u> Education, Rehabilitation	26872	R280-201	5YR	01/05/2004	2004-3/43
<u>continuing professional education</u> Commerce, Occupational and Professional Licensing	26786	R156-26a-303b	AMD	01/06/2004	2003-23/7
<u>contractors</u> Commerce, Occupational and Professional Licensing	26834	R156-38	AMD	02/03/2004	2004-1/5
	26693	R156-56	AMD	01/01/2004	2003-21/7
	26692	R156-56-707	AMD	01/01/2004	2003-21/34
Transportation, Administration	26720	R907-67	NEW	01/05/2004	2003-22/50
<u>controlled substances</u> Commerce, Occupational and Professional Licensing	26916	R156-37c	5YR	01/27/2004	2004-4/74
<u>corrections</u> Corrections, Administration	26769	R251-101	REP	03/24/2004	2003-23/15
<u>counselors</u> Education, Administration	26850	R277-462	AMD	02/05/2004	2004-1/16
Workforce Services, Workforce Information and Payment Services	26922	R994-103	REP	04/04/2004	2004-4/40
<u>court reporting</u> Commerce, Occupational and Professional Licensing	26927	R156-74	5YR	02/02/2004	2004-4/75
<u>covered-at-work benefits</u> Health, Health Care Financing, Coverage and Reimbursement Policy	26811	R414-300	NEW	02/10/2004	2003-24/17
<u>criminal records</u> Public Safety, Criminal Investigations and Technical Services, Criminal Identification	26895	R722-900	5YR	01/15/2004	2004-3/48
	26858	R722-900	NSC	01/15/2004	Not Printed
<u>curation</u> Regents (Board Of), University of Utah, Museum of Natural History (Utah)	26913	R807-1	5YR	01/26/2004	2004-4/77

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>curricula</u> Education, Administration	26902	R277-700	AMD	03/03/2004	2004-3/10
<u>custody</u> Education, Administration	26870	R277-735	5YR	01/05/2004	2004-3/43
<u>custody of children</u> Human Services, Administration	26822	R495-879	AMD	01/26/2004	2003-24/27
<u>definitions</u> Workforce Services, Workforce Information and Payment Services	26928	R994-201	AMD	04/04/2004	2004-4/42
<u>delegation</u> Administrative Services, Facilities Construction and Management	26991	R23-29	5YR	03/10/2004	2004-7/36
<u>demonstration</u> Health, Health Care Financing, Coverage and Reimbursement Policy	26810	R414-310	AMD	02/10/2004	2003-24/18
<u>dental</u> Health, Health Care Financing, Coverage and Reimbursement Policy	26782	R414-51	AMD	01/28/2004	2003-23/25
<u>disabled persons</u> Education, Rehabilitation	26872	R280-201	5YR	01/05/2004	2004-3/43
	26873	R280-202	5YR	01/05/2004	2004-3/44
<u>disease control</u> Agriculture and Food, Animal Industry	26891	R58-21	AMD	03/04/2004	2004-3/4
<u>diversion programs</u> Commerce, Occupational and Professional Licensing	26805	R156-1-106	AMD	01/20/2004	2003-24/4
<u>domestic violence policy</u> Human Services, Child and Family Services	26774	R512-3	NSC	03/04/2004	Not Printed
	27014	R512-3	NSC	03/04/2004	Not Printed
<u>driver education</u> Public Safety, Driver License	26894	R708-2	AMD	03/04/2004	2004-3/27
<u>education finance</u> Education, Administration	26960	R277-425	5YR	02/26/2004	2004-6/60
<u>educational testing</u> Education, Administration	26962	R277-712	5YR	02/26/2004	2004-6/61
<u>educator</u> Education, Administration	26851	R277-520	R&R	02/05/2004	2004-1/20
<u>educator licensing</u> Education, Administration	26827	R277-502	AMD	01/15/2004	2003-24/6
<u>effluent standards</u> Environmental Quality, Water Quality	26796	R317-1	AMD	03/29/2004	2003-23/16

<u>KEYWORD AGENCY</u>	<u>FILE NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE DATE</u>	<u>BULLETIN ISSUE/PAGE</u>
<u>emergency medical services</u>					
Health, Health Systems Improvement, Emergency Medical Services	26669	R426-13	AMD	01/01/2004	2003-20/7
	26670	R426-14	AMD	01/01/2004	2003-20/10
	26671	R426-15	AMD	01/01/2004	2003-20/14
<u>emission fees</u>					
Environmental Quality, Air Quality	26940	R307-415	5YR	02/09/2004	2004-5/45
<u>employment support procedures</u>					
Workforce Services, Employment Development	26705	R986-100	AMD	01/01/2004	2003-21/75
	26932	R986-100-134	AMD	04/01/2004	2004-4/33
<u>enrollment options</u>					
Education, Administration	26871	R277-437	5YR	01/05/2004	2004-3/42
<u>environment</u>					
Tax Commission, Auditing	26957	R865-7H	5YR	02/25/2004	2004-6/64
<u>environmental protection</u>					
Environmental Quality, Air Quality	26940	R307-415	5YR	02/09/2004	2004-5/45
<u>exiting providers</u>					
Public Service Commission, Administration	26785	R746-350	NEW	01/15/2004	2003-23/79
<u>eyeglasses</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	26783	R414-53	AMD	01/28/2004	2003-23/28
<u>facilities</u>					
Education, Administration	26829	R277-724	NEW	01/15/2004	2003-24/11
<u>facility</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	26854	R414-9	NEW	02/03/2004	2004-1/26
<u>family employment program</u>					
Workforce Services, Employment Development	26934	R986-200	AMD	04/01/2004	2004-4/35
	26704	R986-200	AMD	02/02/2004	2003-21/77
<u>fees</u>					
Natural Resources, Parks and Recreation	26776	R651-611	AMD	01/06/2004	2003-23/52
<u>filing deadlines</u>					
Labor Commission, Adjudication	26772	R602-1	AMD	01/02/2004	2003-23/46
<u>financial assistance</u>					
Environmental Quality, Drinking Water	26760	R309-705	AMD	01/01/2004	2003-22/19
<u>financial disclosures</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	26781	R414-304	AMD	01/01/2004	2003-23/29
<u>fire prevention</u>					
Public Safety, Fire Marshal	26793	R710-4	AMD	01/02/2004	2003-23/67
	26920	R710-4	EMR	01/28/2004	2004-4/66
	26919	R710-9	EMR	01/28/2004	2004-4/70

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
	26788	R710-9	AMD	01/02/2004	2003-23/72
<u>fireworks</u> Public Safety, Fire Marshal	26795	R710-2	AMD	01/02/2004	2003-23/65
<u>fish</u> Natural Resources, Wildlife Resources	26659	R657-13	AMD	01/02/2004	2003-20/28
<u>fishing</u> Natural Resources, Wildlife Resources	26659	R657-13	AMD	01/02/2004	2003-20/28
<u>food programs</u> Education, Administration	26829	R277-724	NEW	01/15/2004	2003-24/11
<u>game laws</u> Natural Resources, Wildlife Resources	26817	R657-5	AMD	01/21/2004	2003-24/46
	26818	R657-17-4	AMD	01/21/2004	2003-24/55
	26867	R657-33	AMD	02/24/2004	2004-2/3
<u>general assistance</u> Workforce Services, Employment Development	26706	R986-400	AMD	01/01/2004	2003-21/81
<u>geology</u> Commerce, Occupational and Professional Licensing	26777	R156-76-102	AMD	01/20/2004	2003-23/14
<u>gifted children</u> Education, Administration	26962	R277-712	5YR	02/26/2004	2004-6/61
<u>GRAMA</u> Regents (Board Of), Salt Lake Community College	26994	R784-1	5YR	03/12/2004	2004-7/37
<u>hazardous air pollutant</u> Environmental Quality, Air Quality	26939	R307-214	5YR	02/09/2004	2004-5/44
<u>health</u> Health, Center for Health Data, Health Care Statistics	26800	R428-10	AMD	02/27/2004	2003-23/36
	26799	R428-11	AMD	02/27/2004	2003-23/37
<u>health facilities</u> Health, Health Systems Improvement, Licensing	26868	R432-1	5YR	01/05/2004	2004-3/44
	26876	R432-2	5YR	01/05/2004	2004-3/45
	26875	R432-3	5YR	01/05/2004	2004-3/45
	26886	R432-6	5YR	01/08/2004	2004-3/47
	26755	R432-100-16	AMD	01/09/2004	2003-22/24
<u>health facility</u> Health, Health Systems Improvement, Licensing	26877	R432-5	5YR	01/05/2004	2004-3/46
<u>health facilities</u> Health, Health Systems Improvement, Licensing	26869	R432-4	5YR	01/05/2004	2004-3/46
<u>health insurance filings</u> Insurance, Administration	26806	R590-220	CPR	03/24/2004	2004-4/61

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>health planning</u>					
Health, Center for Health Data, Health Care Statistics	26800	R428-10	AMD	02/27/2004	2003-23/36
	26799	R428-11	AMD	02/27/2004	2003-23/37
<u>hearings</u>					
Labor Commission, Adjudication	26773	R602-2-1	AMD	01/02/2004	2003-23/47
<u>highways</u>					
Transportation, Administration	26720	R907-67	NEW	01/05/2004	2003-22/50
<u>hospital policy</u>					
Health, Center for Health Data, Health Care Statistics	26800	R428-10	AMD	02/27/2004	2003-23/36
	26799	R428-11	AMD	02/27/2004	2003-23/37
<u>human services</u>					
Human Services, Administration, Administrative Services, Licensing	26925	R501-2	AMD	03/17/2004	2004-4/16
<u>hunting</u>					
Natural Resources, Wildlife Resources	26819	R657-38	AMD	01/21/2004	2003-24/56
<u>hunting and fishing licenses</u>					
Natural Resources, Wildlife Resources	26818	R657-17-4	AMD	01/21/2004	2003-24/55
<u>implements of husbandry</u>					
Transportation, Motor Carrier	26823	R909-1	AMD	03/01/2004	2003-24/66
<u>income</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	26781	R414-304	AMD	01/01/2004	2003-23/29
<u>industrial waste</u>					
Environmental Quality, Water Quality	26796	R317-1	AMD	03/29/2004	2003-23/16
<u>informal review</u>					
Public Service Commission, Administration	26780	R746-200-6	AMD	01/07/2004	2003-23/76
<u>inmates</u>					
Education, Administration	26870	R277-735	5YR	01/05/2004	2004-3/43
<u>inspections</u>					
Agriculture and Food, Animal Industry	26990	R58-20	5YR	03/05/2004	2004-7/36
<u>insurance</u>					
Insurance, Administration	26787	R590-102	AMD	01/08/2004	2003-23/39
	26976	R590-170	5YR	03/01/2004	2004-6/63
<u>insurance licensing</u>					
Insurance, Administration	27011	R590-195	5YR	03/19/2004	Not Printed
<u>interconnection</u>					
Public Service Commission, Administration	26883	R746-365	5YR	01/06/2004	2004-3/49
<u>interstate highway system</u>					
Transportation, Administration	26878	R907-64	5YR	01/05/2004	2004-3/49
	26879	R907-65	5YR	01/05/2004	2004-3/50

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>inventories</u> Environmental Quality, Air Quality	26942	R307-150	5YR	02/09/2004	2004-5/43
<u>investment advisers</u> Money Management Council, Administration	26676	R628-19	NEW	02/10/2004	2003-20/27
	26676	R628-19	CPR	02/10/2004	2004-1/38
<u>jurisdiction</u> Workforce Services, Workforce Information and Payment Services	26924	R994-406	AMD	04/04/2004	2004-4/45
<u>laboratories</u> Health, Epidemiology and Laboratory Services, Laboratory Services	26968	R438-13	5YR	02/27/2004	2004-6/62
<u>laboratory animals</u> Health, Epidemiology and Laboratory Services, Laboratory Services	26968	R438-13	5YR	02/27/2004	2004-6/62
<u>law</u> Public Safety, Fire Marshal	26919	R710-9	EMR	01/28/2004	2004-4/70
	26788	R710-9	AMD	01/02/2004	2003-23/72
<u>law enforcement officer certification</u> Public Safety, Administration	26969	R698-4	5YR	02/27/2004	2004-6/64
<u>license</u> Education, Administration	26851	R277-520	R&R	02/05/2004	2004-1/20
<u>licensing</u> Commerce, Occupational and Professional Licensing	26805	R156-1-106	AMD	01/20/2004	2003-24/4
	26917	R156-5a	5YR	01/27/2004	2004-4/74
	26754	R156-17a-612	AMD	02/19/2004	2003-22/11
	26754	R156-17a-612	CPR	02/19/2004	2004-2/10
	26786	R156-26a-303b	AMD	01/06/2004	2003-23/7
	26916	R156-37c	5YR	01/27/2004	2004-4/74
	26834	R156-38	AMD	02/03/2004	2004-1/5
	26915	R156-39a	5YR	01/27/2004	2004-4/75
	26580	R156-54-302b	CPR	01/20/2004	2003-24/70
	26580	R156-54-302b	AMD	01/20/2004	2003-18/4
	26693	R156-56	AMD	01/01/2004	2003-21/7
	26692	R156-56-707	AMD	01/01/2004	2003-21/34
	26888	R156-63	AMD	03/04/2004	2004-3/5
	26927	R156-74	5YR	02/02/2004	2004-4/75
	26777	R156-76-102	AMD	01/20/2004	2003-23/14
Human Services, Administration, Administrative Services, Licensing	26925	R501-2	AMD	03/17/2004	2004-4/16
<u>liens</u> Commerce, Occupational and Professional Licensing	26834	R156-38	AMD	02/03/2004	2004-1/5
<u>liquefied petroleum gas</u> Public Safety, Fire Marshal	26801	R710-6	AMD	01/16/2004	2003-24/63

<u>KEYWORD AGENCY</u>	<u>FILE NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE DATE</u>	<u>BULLETIN ISSUE/PAGE</u>
<u>loans</u> Environmental Quality, Drinking Water	26760	R309-705	AMD	01/01/2004	2003-22/19
<u>MACT</u> Environmental Quality, Air Quality	26939	R307-214	5YR	02/09/2004	2004-5/44
<u>mediation</u> Commerce, Occupational and Professional Licensing	26915	R156-39a	5YR	01/27/2004	2004-4/75
<u>Medicaid</u> Health, Health Care Financing, Coverage and Reimbursement Policy	26854	R414-9	NEW	02/03/2004	2004-1/26
	26802	R414-50	AMD	01/28/2004	2003-24/13
	26782	R414-51	AMD	01/28/2004	2003-23/25
	26798	R414-52	AMD	01/01/2004	2003-23/27
	26783	R414-53	AMD	01/28/2004	2003-23/28
	26803	R414-54	AMD	01/28/2004	2003-24/14
	27012	R414-54	5YR	03/23/2004	Not Printed
	26809	R414-99	NEW	02/17/2004	2003-24/15
	26811	R414-300	NEW	02/10/2004	2003-24/17
	26781	R414-304	AMD	01/01/2004	2003-23/29
	26810	R414-310	AMD	02/10/2004	2003-24/18
<u>motorcycle rider training schools</u> Public Safety, Driver License	26918	R708-30	5YR	01/27/2004	2004-4/76
<u>natural resources; management; surveys</u> Natural Resources, Forestry, Fire and State Lands	26865	R652-40-1800	AMD	02/24/2004	2004-2/2
<u>NCLB</u> Education, Administration	26853	R277-524	NEW	02/05/2004	2004-1/25
<u>nutrition</u> Education, Administration	26830	R277-720	AMD	01/15/2004	2003-24/10
<u>occupational licensing</u> Commerce, Occupational and Professional Licensing	26805	R156-1-106	AMD	01/20/2004	2003-24/4
<u>operating permits</u> Environmental Quality, Air Quality	26940	R307-415	5YR	02/09/2004	2004-5/45
	26941	R307-417	5YR	02/09/2004	2004-5/45
<u>optometry</u> Health, Health Care Financing, Coverage and Reimbursement Policy	26798	R414-52	AMD	01/01/2004	2003-23/27
<u>organ transplants</u> Health, Health Care Financing, Coverage and Reimbursement Policy	26935	R414-58	5YR	02/03/2004	2004-5/46
<u>orthodontia</u> Health, Health Care Financing, Coverage and Reimbursement Policy	26782	R414-51	AMD	01/28/2004	2003-23/25

RULES INDEX

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>overpayments</u> Workforce Services, Workforce Information and Payment Services	26924	R994-406	AMD	04/04/2004	2004-4/45
<u>paleontological resources</u> Regents (Board Of), University of Utah, Museum of Natural History (Utah)	26913	R807-1	5YR	01/26/2004	2004-4/77
<u>paraprofessional qualifications</u> Education, Administration	26853	R277-524	NEW	02/05/2004	2004-1/25
<u>parks</u> Natural Resources, Parks and Recreation	26776	R651-611	AMD	01/06/2004	2003-23/52
<u>pedestrians</u> Regents (Board Of), University of Utah, Administration	26914	R805-1	5YR	01/27/2004	2004-4/76
<u>peer review</u> Commerce, Occupational and Professional Licensing	26786	R156-26a-303b	AMD	01/06/2004	2003-23/7
<u>permits</u> Natural Resources, Wildlife Resources	26820	R657-42	AMD	01/21/2004	2003-24/61
Transportation, Motor Carrier, Ports of Entry	26881	R912-14	5YR	01/05/2004	2004-3/51
<u>permitting authority</u> Environmental Quality, Air Quality	26941	R307-417	5YR	02/09/2004	2004-5/45
<u>personal property</u> Tax Commission, Property Tax	26910	R884-24P-24	NSC	01/27/2004	Not Printed
<u>pharmacies</u> Commerce, Occupational and Professional Licensing	26754	R156-17a-612	CPR	02/19/2004	2004-2/10
	26754	R156-17a-612	AMD	02/19/2004	2003-22/11
<u>pharmacists</u> Commerce, Occupational and Professional Licensing	26754	R156-17a-612	CPR	02/19/2004	2004-2/10
	26754	R156-17a-612	AMD	02/19/2004	2003-22/11
<u>podiatric physician</u> Commerce, Occupational and Professional Licensing	26917	R156-5a	5YR	01/27/2004	2004-4/74
<u>podiatrists</u> Commerce, Occupational and Professional Licensing	26917	R156-5a	5YR	01/27/2004	2004-4/74
<u>precursor</u> Commerce, Occupational and Professional Licensing	26916	R156-37c	5YR	01/27/2004	2004-4/74
<u>primary care</u> Health, Health Care Financing, Coverage and Reimbursement Policy	26810	R414-310	AMD	02/10/2004	2003-24/18
<u>primary care network</u> Health, Health Care Financing, Coverage and Reimbursement Policy	26811	R414-300	NEW	02/10/2004	2003-24/17

<u>KEYWORD AGENCY</u>	<u>FILE NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE DATE</u>	<u>BULLETIN ISSUE/PAGE</u>
<u>private security officers</u> Commerce, Occupational and Professional Licensing	26888	R156-63	AMD	03/04/2004	2004-3/5
<u>professional competency</u> Education, Administration	26827	R277-502	AMD	01/15/2004	2003-24/6
<u>professional geologists</u> Commerce, Occupational and Professional Licensing	26777	R156-76-102	AMD	01/20/2004	2003-23/14
<u>professional staff</u> Education, Administration	26828	R277-486	NEW	01/15/2004	2003-24/5
<u>property casualty insurance filing</u> Insurance, Administration	26821	R590-225	CPR	03/24/2004	2004-4/64
<u>property tax</u> Tax Commission, Property Tax	26910	R884-24P-24	NSC	01/27/2004	Not Printed
<u>prosecution</u> Workforce Services, Workforce Information and Payment Services	26923	R994-104	REP	04/04/2004	2004-4/41
<u>public buildings</u> Public Safety, Fire Marshal	26920 26793	R710-4 R710-4	EMR AMD	01/28/2004 01/02/2004	2004-4/66 2003-23/67
<u>public education</u> Education, Administration	26871 26850 26870	R277-437 R277-462 R277-735	5YR AMD 5YR	01/05/2004 02/05/2004 01/05/2004	2004-3/42 2004-1/16 2004-3/43
<u>public funds</u> Money Management Council, Administration	26676 26676	R628-19 R628-19	CPR NEW	02/10/2004 02/10/2004	2004-1/38 2003-20/27
<u>public input in policy</u> Human Services, Child and Family Services	26774 27014	R512-3 R512-3	NSC NSC	03/04/2004 03/04/2004	Not Printed Not Printed
<u>public utilities</u> Public Service Commission, Administration	26883	R746-365	5YR	01/06/2004	2004-3/49
<u>radiology practical technician</u> Commerce, Occupational and Professional Licensing	26580	R156-54-302b	AMD	01/20/2004	2003-18/4
<u>radiology practical technicians</u> Commerce, Occupational and Professional Licensing	26580	R156-54-302b	CPR	01/20/2004	2003-24/70
<u>radiology technologist</u> Commerce, Occupational and Professional Licensing	26580	R156-54-302b	AMD	01/20/2004	2003-18/4

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>radiology technologists</u> Commerce, Occupational and Professional Licensing	26580	R156-54-302b	CPR	01/20/2004	2003-24/70
<u>rates</u> Labor Commission, Industrial Accidents	26697	R612-4-2	AMD	01/01/2004	2003-21/64
<u>real estate appraisals</u> Commerce, Real Estate	26890	R162-105	5YR	01/13/2004	2004-3/42
<u>real estate brokers</u> Commerce, Real Estate	26835	R162-7-3	AMD	02/18/2004	2004-1/9
<u>reclamation</u> Natural Resources, Oil, Gas and Mining; Coal	26710	R645-301-100	AMD	02/06/2004	2003-22/34
	26711	R645-301-500	AMD	02/06/2004	2003-22/35
	26712	R645-303-200	AMD	02/06/2004	2003-22/36
	26713	R645-401	AMD	02/06/2004	2003-22/38
<u>recreation</u> Natural Resources, Wildlife Resources	26819	R657-38	AMD	01/21/2004	2003-24/56
<u>rehabilitation</u> Education, Rehabilitation	26873	R280-202	5YR	01/05/2004	2004-3/44
<u>reimbursement</u> Health, Health Care Financing, Coverage and Reimbursement Policy	26854	R414-9	NEW	02/03/2004	2004-1/26
<u>replacement providers</u> Public Service Commission, Administration	26785	R746-350	NEW	01/15/2004	2003-23/79
<u>reports</u> Environmental Quality, Air Quality	26942	R307-150	5YR	02/09/2004	2004-5/43
<u>residential mortgage loan origination</u> Commerce, Real Estate	26837	R162-202	AMD	02/03/2004	2004-1/10
	26840	R162-206	NEW	02/03/2004	2004-1/12
	26839	R162-207	NEW	02/03/2004	2004-1/13
	26836	R162-208	NEW	02/03/2004	2004-1/14
<u>rights-of-way</u> Transportation, Administration	26878	R907-64	5YR	01/05/2004	2004-3/49
	26879	R907-65	5YR	01/05/2004	2004-3/50
<u>rules and procedures</u> Education, Administration	26958	R277-102	5YR	02/26/2004	2004-6/59
Public Safety, Driver License	26894	R708-2	AMD	03/04/2004	2004-3/27
Public Service Commission, Administration	26780	R746-200-6	AMD	01/07/2004	2003-23/76
<u>safety</u> Labor Commission, Safety	26674	R616-2-3	AMD	01/01/2004	2003-20/25
Transportation, Motor Carrier	26880	R909-3	5YR	01/05/2004	2004-3/50

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>school</u> Education, Administration	26961	R277-601	5YR	02/26/2004	2004-6/60
<u>school buses</u> Transportation, Motor Carrier	26880	R909-3	5YR	01/05/2004	2004-3/50
<u>school lunch program</u> Education, Administration	26830	R277-720	AMD	01/15/2004	2003-24/10
<u>school transportation</u> Education, Administration	26961	R277-601	5YR	02/26/2004	2004-6/60
<u>schools</u> Public Safety, Driver License	26894	R708-2	AMD	03/04/2004	2004-3/27
<u>SDWA</u> Environmental Quality, Drinking Water	26760	R309-705	AMD	01/01/2004	2003-22/19
<u>securities</u> Money Management Council, Administration	26676	R628-19	CPR	02/10/2004	2004-1/38
	26676	R628-19	NEW	02/10/2004	2003-20/27
<u>securities regulation</u> Commerce, Securities	26481	R164-11-2	AMD	01/05/2004	2003-15/17
	26481	R164-11-2	CPR	01/05/2004	2003-23/83
<u>security guards</u> Commerce, Occupational and Professional Licensing	26888	R156-63	AMD	03/04/2004	2004-3/5
<u>services</u> Public Service Commission, Administration	26785	R746-350	NEW	01/15/2004	2003-23/79
<u>settlement</u> Labor Commission, Adjudication	26773	R602-2-1	AMD	01/02/2004	2003-23/47
<u>shorthand reporter</u> Commerce, Occupational and Professional Licensing	26927	R156-74	5YR	02/02/2004	2004-4/75
<u>signs</u> Transportation, Preconstruction, Right-of- Way Acquisition	26892	R933-2-3	EMR	01/14/2004	2004-3/39
	26893	R933-2-3	AMD	03/23/2004	2004-3/37
<u>SLCC</u> Regents (Board Of), Salt Lake Community College	26994	R784-1	5YR	03/12/2004	2004-7/37
<u>solid waste management</u> Environmental Quality, Solid and Hazardous Waste	26972	R315-320	5YR	03/01/2004	2004-6/62
<u>speed limits</u> Regents (Board Of), University of Utah, Administration	26914	R805-1	5YR	01/27/2004	2004-4/76
<u>stream alterations</u> Natural Resources, Water Rights	26814	R655-13	NEW	03/25/2004	2003-24/43

RULES INDEX

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
<u>surplus property</u> Administrative Services, Fleet Operations, Surplus Property	26843	R28-3	AMD	02/12/2004	2004-1/4
<u>suspension</u> Transportation, Administration	26720	R907-67	NEW	01/05/2004	2003-22/50
<u>taxation</u> Tax Commission, Auditing	26957	R865-7H	5YR	02/25/2004	2004-6/64
Tax Commission, Property Tax	26910	R884-24P-24	NSC	01/27/2004	Not Printed
<u>telecommunications</u> Public Service Commission, Administration	26785	R746-350	NEW	01/15/2004	2003-23/79
	26883	R746-365	5YR	01/06/2004	2004-3/49
<u>time</u> Labor Commission, Adjudication	26772	R602-1	AMD	01/02/2004	2003-23/46
<u>title insurance</u> Insurance, Administration	26792	R590-187	AMD	01/08/2004	2003-23/44
<u>transportation</u> Transportation, Administration	26720	R907-67	NEW	01/05/2004	2003-22/50
<u>transportation safety</u> Transportation, Motor Carrier	26823	R909-1	AMD	03/01/2004	2003-24/66
<u>trucks</u> Transportation, Motor Carrier	26823	R909-1	AMD	03/01/2004	2003-24/66
Transportation, Motor Carrier, Ports of Entry	26881	R912-14	5YR	01/05/2004	2004-3/51
<u>unemployment compensation</u> Workforce Services, Workforce Information and Payment Services	26921	R994-102	AMD	04/04/2004	2004-4/38
	26922	R994-103	REP	04/04/2004	2004-4/40
	26923	R994-104	REP	04/04/2004	2004-4/41
	26928	R994-201	AMD	04/04/2004	2004-4/42
	26930	R994-404	R&R	04/04/2004	2004-4/43
	26924	R994-406	AMD	04/04/2004	2004-4/45
	26929	R994-508	R&R	04/04/2004	2004-4/51
<u>utility service</u> Public Service Commission, Administration	26780	R746-200-6	AMD	01/07/2004	2003-23/76
<u>waste disposal</u> Environmental Quality, Solid and Hazardous Waste	26972	R315-320	5YR	03/01/2004	2004-6/62
Environmental Quality, Water Quality	26796	R317-1	AMD	03/29/2004	2003-23/16
<u>water funding</u> Natural Resources, Water Resources	26779	R653-2	AMD	01/07/2004	2003-23/56
<u>water policy</u> Natural Resources, Water Resources	26784	R653-5	AMD	01/07/2004	2003-23/59

<u>KEYWORD AGENCY</u>	<u>FILE NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE DATE</u>	<u>BULLETIN ISSUE/PAGE</u>
<u>water pollution</u>					
Environmental Quality, Water Quality	26796	R317-1	AMD	03/29/2004	2003-23/16
	26242	R317-2	CPR	01/06/2004	2003-18/35
	26242	R317-2	AMD	01/06/2004	2003-10/27
<u>water quality standards</u>					
Environmental Quality, Water Quality	26242	R317-2	AMD	01/06/2004	2003-10/27
	26242	R317-2	CPR	01/06/2004	2003-18/35
<u>weather modification</u>					
Natural Resources, Water Resources	26784	R653-5	AMD	01/07/2004	2003-23/59
<u>wildlife</u>					
Natural Resources, Wildlife Resources	26817	R657-5	AMD	01/21/2004	2003-24/46
	26659	R657-13	AMD	01/02/2004	2003-20/28
	26818	R657-17-4	AMD	01/21/2004	2003-24/55
	26867	R657-33	AMD	02/24/2004	2004-2/3
	26819	R657-38	AMD	01/21/2004	2003-24/56
	26778	R657-41	AMD	01/05/2004	2003-23/61
	26820	R657-42	AMD	01/21/2004	2003-24/61
<u>wildlife conservation</u>					
Natural Resources, Wildlife Resources	26819	R657-38	AMD	01/21/2004	2003-24/56
<u>wildlife law</u>					
Natural Resources, Wildlife Resources	26659	R657-13	AMD	01/02/2004	2003-20/28
<u>wildlife permits</u>					
Natural Resources, Wildlife Resources	26778	R657-41	AMD	01/05/2004	2003-23/61
<u>witness fees</u>					
Labor Commission, Adjudication	26772	R602-1	AMD	01/02/2004	2003-23/46
<u>workers' compensation</u>					
Labor Commission, Adjudication	26773	R602-2-1	AMD	01/02/2004	2003-23/47
Labor Commission, Industrial Accidents	26697	R612-4-2	AMD	01/01/2004	2003-21/64
Workforce Services, Workforce Information and Payment Services	26930	R994-404	R&R	04/04/2004	2004-4/43
<u>working toward employment</u>					
Workforce Services, Employment Development	26706	R986-400	AMD	01/01/2004	2003-21/81