

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
Filed May 15, 2004, 12:00 a.m. through June 1, 2004, 11:59 p.m.

Number 2004-12  
June 15, 2004

Kenneth A. Hansen, Director  
Nancy L. Lancaster, Editor

The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah State Government. The Department of Administrative Services, Division of Administrative Rules produces the *Bulletin* under authority of Section 63-46a-10, *Utah Code Annotated* 1953.

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.

Division of Administrative Rules, Salt Lake City 84114

All materials in this publication are in the public domain and may be reproduced, Reprinted, and/or redistributed as desired. Citation to the source is requested.

Printed in the United States of America

**Library of Congress Cataloging-in-Publication Data**

Utah state bulletin.

Semimonthly.

1. Delegated legislation--Utah--Periodicals.
2. Administrative procedure--Utah--Periodicals.
- I. Utah. Office of Administrative Rules.

KFU440.A73S7

348.792'025--DDC

85-643197

# TABLE OF CONTENTS

---

## 1. SPECIAL NOTICES

Administrative Services, Finance: Public Notice - Additional Information for Compliance Costs on Filings for Rule R25-7 Entitled Travel-Related Reimbursements for State Employees.....	1
Governor, Administration: Governor's Proclamation: Calling the Fifty-Fifth Legislature into a Ninth Extraordinary Session (Senate Only).....	1

## 2. NOTICES OF PROPOSED RULES

### Alcoholic Beverage Control

#### Administration

No. 27201 (Amendment): R81-2-9. Accepting Credit Cards as Payment for Liquor.....	3
---	---

### Commerce

#### Occupational and Professional Licensing

No. 27188 (Amendment): R156-55d-302f. Qualifications for Licensure - Good Moral Character - Disqualifying Convictions.....	4
---	---

### Education

#### Administration

No. 27202 (New Rule): R277-402. Online Testing.....	5
No. 27203 (New Rule): R277-418. School Professional Development Days Pilot Program.....	7
No. 27204 (Amendment): R277-422. State Supported Voted Leeway.....	8
No. 27206 (Amendment): R277-501. Educator Licensing Renewal.....	10
No. 27207 (Amendment): R277-502. Educator Licensing and Data Retention.....	14
No. 27208 (Repeal): R277-510. Special Subject Certification for Small Secondary Schools.....	18
No. 27213 (Repeal): R277-511. Eminence or Special Qualification Authorization for Teaching in the Public Schools.....	19
No. 27209 (Repeal): R277-512. Letters of Authorization.....	20
No. 27210 (Amendment): R277-520. Appropriate Licensing and Assignment of Teachers.....	21
No. 27211 (Amendment): R277-522. Entry Years Enhancements (EYE) for Quality Teaching - Level 1 Utah Teachers.....	24

### Environmental Quality

#### Environmental Response and Remediation

No. 27194 (Amendment): R311-200. Underground Storage Tanks: Definitions.....	27
No. 27195 (Amendment): R311-201. Underground Storage Tanks: Certification Programs.....	30
No. 27196 (Amendment): R311-203. Underground Storage Tanks: Notification, New Installations, and Registration Fees.....	34
No. 27197 (Amendment): R311-204. Underground Storage Tanks: Closure and Remediation.....	37

TABLE OF CONTENTS

No. 27198 (Amendment): R311-205. Underground Storage Tanks: Site Assessment Protocol .....39

No. 27199 (Amendment): R311-206. Underground Storage Tanks: Financial Assurance Mechanisms .....44

No. 27200 (Amendment): R311-212. Administration of the Petroleum Storage Tank Loan Fund .....48

Health

Health Care Financing, Coverage and Reimbursement Policy

No. 27189 (Amendment): R414-1-14. Utilization Control .....52

No. 27216 (Amendment): R414-306. Program Benefits .....53

Health Systems Improvement, Licensing

No. 27186 (Amendment): R432-100-17. Perinatal Services.....57

Human Services

Recovery Services

No. 27182 (Amendment): R527-475. State Tax Refund Intercept.....59

Insurance

Administration

No. 27191 (Repeal): R590-204. Adoption Indemnity Benefit.....60

Natural Resources

Parks and Recreation

No. 27183 (New Rule): R651-411. OHV Use in State Parks .....61

No. 27181 (Amendment): R651-601-17. Definitions.....62

No. 27184 (Amendment): R651-611. Fee Schedule .....62

No. 27185 (Amendment): R651-615-7. Motorized Transportation Devices .....65

Tax Commission

Property Tax

No. 27190 (Amendment): 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 .....66

Workforce Services

Workforce Information and Payment Services

No. 27193 (Amendment): R994-401-207. Retirement or Disability Retirement Income .....68

No. 27192 (Amendment): R994-405. Ineligibility for Benefits .....70

**3. NOTICES OF CHANGES IN PROPOSED RULES**

Commerce

Occupational and Professional Licensing

No. 27020: R156-38. Residence Lien Restriction and Lien Recovery Fund Rules.....73

Money Management Council

Administration

No. 27136: R628-15. Certification as an Investment Adviser .....74

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

Education

Administration

No. 27214: R277-105. Recognizing Constitutional Freedoms in the Schools..... 79

No. 27205: R277-438. Dual Enrollment ..... 79

No. 27212: R277-916. Technology, Life, and Careers, and Work-Based Learning Programs..... 80

Health

Epidemiology and Laboratory Services, Environmental Services

No. 27187: R392-101. Food Safety Manager Certification ..... 80

**5. NOTICES OF RULE EFFECTIVE DATES ..... 82**

**6. RULES INDEX ..... 85**



# SPECIAL NOTICES

---

## Administrative Services Finance

### Public Notice - Additional Information for Compliance Costs on Filings for Rule R25-7 Entitled "Travel-Related Reimbursements for State Employees"

The Division of Finance recently filed two amendments to Rule R25-7. The first amendment was published in the 05/15/2004 issue of the Bulletin under DAR No. 27120 and changed the lodging per diem for Layton and changed the reimbursement for private vehicle mileage. The second amendment was published in the 06/01/2004 issue of the Bulletin under DAR No. 27164 and specified a premium allowance for remaining meals on a day when an employee receives a complimentary meal in a premium city. The following information explains why there are no compliance costs for affected persons associated with these amendments.

If an agency chooses to permit employees to travel, any costs resulting from compliance with these amendments will be paid by the agency, not by employees (the affected persons). In fact, employees who are allowed to travel will actually receive additional reimbursement as a result of the amendments.

Questions regarding this information should be directed to Teddy Cramer by phone: 801-538-3450 or e-mail: [tcramer@utah.gov](mailto:tcramer@utah.gov).

---

### Governor's Proclamation: Calling the Fifty-Fifth Legislature into a Ninth Extraordinary Session (Senate Only)

#### PROCLAMATION

**WHEREAS**, since the close of the 2004 General Session of the 55th Legislature of the State of Utah, certain matters have arisen which require immediate legislative attention; and

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

**NOW, THEREFORE**, I, OLENE S. WALKER, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and the Laws of the State of Utah, do by this Proclamation call the Senate only of the 55th Legislature of the State of Utah into an Ninth Extraordinary Session at the State Capitol in Salt Lake City, Utah, on the 16th day of June, 2004, at 12:00 noon, for the following purpose:

For the Senate to consent to appointments made by the Governor to positions within state government of the State of Utah since the close of the 2004 General Session of the 55th Legislature of the State of Utah.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the State Capitol Complex in Salt Lake City, Utah, this 2nd day of June, 2004.

(State Seal)

**Olene S. Walker**  
Governor

**Gayle F. McKeachnie**  
Lieutenant Governor

## 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 May 15, 2004, 12:00 a.m., and June 1, 2004, 11:59 p.m. are included in this, the June 15, 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 July 15, 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 October 13, 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.**



**Alcoholic Beverage Control,  
Administration  
R81-2-9  
Accepting Credit Cards as Payment for  
Liquor**

**NOTICE OF PROPOSED RULE  
(Amendment)**

DAR FILE NO.: 27201  
FILED: 06/01/2004, 12:02

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This proposed rule amendment further clarifies the procedures to be followed by state liquor store employees when a credit card is used for a liquor purchase, and the credit card company returns a message of "call" or "call hold". It also corrects a minor error regarding liquor store equipment.

**SUMMARY OF THE RULE OR CHANGE:** There are two changes in this proposed amendment. First, the word "hypercom" is removed from Subsection R81-2-9(2)(d) because the department no longer uses the hypercom equipment. Second, Subsection R81-2-9(2)(e)(ii) further clarifies the procedures to be followed by liquor store employees when a customer uses a credit card to make a liquor purchase and the credit card company returns a message of "call" or "call hold". The second change is primarily made to ensure the employee's safety when dealing with a potentially difficult situation.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 32A-1-107

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** None--This proposed amendment only clarifies procedures to be used by liquor store employees when accepting credit cards for purchase of liquor and deletes the name of a piece of equipment no longer used in state liquor stores. These changes will affect no cost or savings to the state budget.

❖ **LOCAL GOVERNMENTS:** None--This proposed amendment involves credit card sales in state liquor stores and will not affect local governments.

❖ **OTHER PERSONS:** None--This proposed amendment only clarifies procedures to be used by liquor store employees when accepting credit cards for purchase of liquor and deletes the name of a piece of equipment that is no longer used in liquor stores. It will not produce an aggregate cost or savings to those involved.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** None--Making the proposed amendments to this rule will involve no compliance cost to any affected individual. The amendments only clarifies procedures used by state liquor store employees when accepting credit cards for the purchase of liquor and deletes the name of a piece of equipment no longer used in liquor stores.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The changes proposed in this rule amendment will have no fiscal impact on businesses. The change is proposed primarily to provide additional guidelines to state liquor store employees if and when they become involved in a potentially volatile situation as a result of asking a customer to surrender a credit card as instructed by the credit card company.

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

ALCOHOLIC BEVERAGE CONTROL  
ADMINISTRATION  
1625 S 900 W  
SALT LAKE CITY UT 84104-1630, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sharon Mackay at the above address, by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at [smackay@utah.gov](mailto:smackay@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 07/15/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2004

AUTHORIZED BY: Kenneth F. Wynn, Director

**R81. Alcoholic Beverage Control, Administration.  
R81-2. State Stores.**

**R81-2-9. Accepting Credit Cards as Payment for Liquor.**

(1) Purpose. This rule explains the procedures to be followed by state liquor store employees in accepting credit cards for the purchase of alcoholic beverages.

(2) Application of Rule.

(a) The owner of the credit card must furnish the cashier with their actual credit card. No sale may be based on the customer merely furnishing a credit card number, or another person's credit card, including that of their spouse.

(b) The cashier shall examine the security features on the card such as signature, account number, expiration date, and hologram before accepting the card.

(c) The card must be signed by the card holder.

(d) If for any reason the credit card cannot be scanned, the cashier shall hand-key the credit card number into the ~~hypercom or~~ cash register keyboard. If the transaction is approved, the cashier shall imprint a copy of the credit card, and have the card holder sign it.

(e) After the cashier scans or hand-keys a credit card, the credit card company may approve or reject the transaction. A rejection may indicate that the card has been stolen, the customer's account is over-drawn, the card has expired, or some other problem. The cashier may receive several messages from the credit card company.

(i) If the message is "decline" or "card not accepted", the cashier should return the card to the customer, suggest another form of payment, and suggest that the customer contact the issuer of the card.

(ii) If the message is "call" or "call hold", the store employee should hold the card and either phone the credit card company's voice authorization center for more information, or enter a "code 10" request. The voice authorization center may instruct that the card be confiscated. The card should then be obtained only if it can be done by peaceful means, and if the card holder voluntarily agrees to surrender the card. The "code 10" request will result in the credit card company researching the status of the card and approving the transaction with a "yes" or rejecting the transaction with a "no" prompt. At no time should store employees put themselves at risk by confiscating a credit card against the desires of the cardholder. If the card ~~is~~ can be willingly surrendered and confiscated, the store employee should ~~immediately~~ destroy the card by cutting it in half lengthwise shortly after leaving the customer's presence. The card pieces should then be sent to the card owner's bank with a completed ABC Department LQ-55 form having been filled out by a store employee.

(f) Credit card receipts contain confidential information that must be safeguarded. Cashiers should not throw the receipts in the trash. State store managers and their employees should consult their regional manager concerning proper storage and disposal of receipts.

(g) Refunds, or exchanges of products of unequal value that were purchased with a credit card, shall be handled by crediting the customer's credit card account. The cash register must be balanced by doing a return at the register.

(h) Licensee purchases may not be paid by credit card. Licensee purchases may be only in cash or by check.

**KEY: alcoholic beverages**

**2004**

**Notice of Continuation November 16, 2001**

**32A-1-107**

**32A-1-301 to 32A-1-305**



**Commerce, Occupational and  
Professional Licensing  
R156-55d-302f  
Qualifications for Licensure - Good  
Moral Character - Disqualifying  
Convictions**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 27188

FILED: 05/24/2004, 16:44

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Alarm System Security and Licensing Board are adding this new section to the rule which will define and clarify the qualifications for licensure for the occupation with respect to good moral character and disqualifying convictions.

SUMMARY OF THE RULE OR CHANGE: Section R156-55d-302f is being added to the rule to further define "good moral

character" by clarifying when an application for licensure may be approved for an applicant who has a criminal background.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 58-55-101 and 58-55-308; and Subsections 58-1-106(1)(a), 58-1-202(1)(a), 58-55-302(3)(h), 58-55-302(3)(i), and 58-55-302(4)

ANTICIPATED COST OR SAVINGS TO:

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

❖ LOCAL GOVERNMENTS: Proposed amendment does not apply to local governments. Therefore, there are no cost or savings to local governments.

❖ OTHER PERSONS: This proposed amendment will only apply to applicants for licensure as a burglar alarm company or a burglar alarm company agent. The Division does not anticipate any costs or savings as a result of this proposed amendment, unless an applicant is not able to qualify for licensure due to not being able to meet the good moral character qualifications as a result of a criminal background. The proposed amendment will aid the Division to more efficiently address applications in which the applicant has a criminal background and does not increase any costs to the burglar alarm industry.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This proposed amendment will only apply to applicants for licensure as a burglar alarm company or a burglar alarm company agent. The Division does not anticipate any costs or savings as a result of this proposed amendment, unless an applicant is not able to qualify for licensure due to not being able to meet the good moral character qualifications as a result of a criminal background. The proposed amendment will aid the Division to more efficiently address applications in which the applicant has a criminal background and does not increase any costs to the burglar alarm industry.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule amendment codifies the Division's existing practice as to the good moral character evaluation of applicants. There appears to be no fiscal impact to businesses from such codification. 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:

Clyde Ormond at the above address, by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at [cormond@utah.gov](mailto:cormond@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 07/15/2004

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 7/07/2004 at 9:00 AM, 160 East 300 South, Conference Room 4B (fourth floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2004

AUTHORIZED BY: J. Craig Jackson, Director

**R156. Commerce, Occupational and Professional Licensing.**  
**R156-55d. Utah Construction Trades Licensing Act Burglar Alarm Licensing Rules.**  
**R156-55d-302f. Qualifications for Licensure - Good Moral Character - Disqualifying Convictions.**

(1) In addition to those criminal convictions prohibiting licensure as set forth in Subsections 58-55-302(3)(h)(vi) and (3)(i), the following is a list of criminal convictions which may disqualify a person from obtaining or holding a burglar alarm company or a burglar alarm company agent's license:

(a) crimes against a person as defined in Title 76, Chapter 5, Parts 1 and 2;

(b) theft/larceny, including retail theft, as defined in Title 76, Chapter 6;

(c) sex offenses as defined in Title 76, Chapter 5, Part 4;

(d) any offense involving controlled dangerous substances;

(e) fraud;

(f) forgery;

(g) perjury, obstructing justice and tampering with evidence;

(h) conspiracy to commit any of the offenses listed herein;

(i) burglary

(j) escape from jail, prison or custody;

(k) false or bogus checks;

(l) pornography;

(m) any attempt to commit any of the above offenses; or

(n) two or more charges for driving under the influence of alcohol within the last three years.

(2) Applications for licensure or renewal of licensure shall be considered on a case by case basis taking into consideration the following:

(a) the conduct involved;

(b) the potential or actual injury caused by the applicant's conduct; and

(c) the existence of aggravating or mitigating factors.

**KEY: licensing, alarm company[≠], burglar alarms[≠]  
~~April 3, 2001~~2004**

58-55-101

58-1-106(1)(a)

58-1-202(1)(a)

58-55-302(3)(h)

58-55-302(3)(i)

58-55-302(4)

58-55-308



## Education, Administration **R277-402** Online Testing

### NOTICE OF PROPOSED RULE (New Rule)

DAR FILE No.: 27202

FILED: 06/01/2004, 15:12

#### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to provide additional definitions and a timeline for expeditious implementation of an educational technology infrastructure for school districts/charter schools to use to satisfy Utah Performance Assessment System for Students (U-PASS) requirements through an online testing system.

SUMMARY OF THE RULE OR CHANGE: The rule provides for application and award procedures, procedures for distribution of funds, and provides a timeline for school districts/charter schools to apply for funds.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-1-708(5)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Monies were appropriated by the 2004 Utah State Legislature to fund a pilot program for online testing. Additional state funds beyond the appropriation are not immediately anticipated.

❖ LOCAL GOVERNMENTS: School districts can use the funds provided by the Utah State Legislature for a pilot program. There is no need for additional local funding.

❖ OTHER PERSONS: There are no cost or savings to other persons. Funds provided by the state are for services for school districts.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Funds provided by the state are for services for school districts.

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. Patrick Ogden, Interim State Superintendent of Public Instruction

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 07/15/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2004

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

**R277. Education, Administration.**

**R277-402. Online Testing.**

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

- A. "Board" means the Utah State Board of Education.
- B. "Intent to implement a uniform online summative test system" as used in 53A-1-708(4) means the commitment by a school district/charter school to administer at least one U-PASS-required assessment in spring 2005 or spring 2006, including the willingness to provide documentation of preparatory activities or of actual test-taking by students.
- C. "Summative tests" means tests administered near the end of a course to assess overall achievement of course goals.
- D. "Uniform online summative test system" means a single system coordinated by the USOE for the online delivery of summative tests required under U-PASS.
- E. "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 and in charter schools by means of tests designated by the Board;
  - (2) criterion-referenced achievement testing of students in all grade levels in:
    - (a) language arts (grades 1-11);
    - (b) mathematics (grades 1-7) and pre-algebra, elementary algebra, and geometry;
    - (c) science (grades 4-8) and earth systems, biology, chemistry, and physics; and
  - (3) a direct writing assessment in grades 6 and 9;
  - (4) beginning with the 2004-2005 school year, a tenth grade basic skills competency test as detailed in Section 53A-1-611; and
  - (5) beginning with the 2002-2003 school year, the use of student behavior indicators in assessing student performance.
- F. "USOE" means Utah State Office of Education.

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

- A. This rule is authorized by Utah constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-708(5) which directs the Board to specify procedures and accountability for online summative testing by school districts/charter schools consistent with existing U-PASS requirements, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.
- B. The purpose of this rule is to provide additional definitions and a timeline for expeditious implementation of an educational technology infrastructure for school districts/charter schools to use to satisfy U-PASS requirements through an online testing system.

**R277-402-3. Application and Award Procedures.**

- A. Online testing funds shall be distributed to school districts/charter schools consistent with 53A-1-708(5)(b).
- B. The USOE shall provide non-competitive applications to school districts/charter schools for a twenty-five percent base and seventy-five percent per pupil distribution of funds. For the purpose of this funding, all charter schools are considered collectively for the twenty-five percent base.
- (1) Applications shall express the intent of the school district/charter school to build educational technology infrastructure and capacity to participate in online testing consistent with R277-402-1B;
  - (2) Applications shall provide a timeline for online testing implementation including names of participating schools within the school district and participating charter schools and dates of tests and numbers of students who will participate in the online testing for each year of the school district's/charter school's online testing phase-in plan; and
  - (3) Applications shall provide an evaluation or accountability process for determining and documenting the effectiveness of the online testing phase-in plan.
  - (4) Application budget shall be consistent with the school district/charter school Consolidated Utah Student Achievement Plan (CUSAP) and educational technology plan.

**R277-402-4. Distribution of Funds.**

- A. Twenty-five percent of the funds shall be distributed equally to school districts/charter schools that provide applications required under R277-402-3. Seventy-five percent of the funds appropriated by the Legislature in Section 53A-1-708 shall be distributed to school districts/charter schools on a per pupil basis that provide applications required under R277-402-3.
- B. Per pupil amounts shall be derived from October 2004 student counts of applicants.
- C. The USOE shall work with applicants, to the extent of resources available, to improve the applications for funding.

**R277-402-5. Timelines.**

- A. School districts/charter schools shall submit to the USOE their intent to apply for funds under this rule no later than June 15, 2004.
- B. Applications shall be available from the USOE for funds under this rule by July 1, 2004.
- C. Applications shall be due to the USOE by August 15, 2004.
- D. The USOE shall design and post a Request for Proposal to select an online testing company or service adequate to provide online testing services to schools no later than July 1, 2004.
- E. School districts/charter schools shall provide an evaluation of planning or preparation for the use of online testing or an assessment of the actual online testing process as directed by the USOE.
- F. Schools that do not provide timely, complete and accurate evaluations may not be considered for continued funding under this rule.

**KEY: online testing**  
**2004**  
**Art X Sec 3**  
**53A-1-708(5)**  
**53A-1-401(3)**

Education, Administration  
**R277-418**  
 School Professional Development Days  
 Pilot Program

**NOTICE OF PROPOSED RULE**

(New Rule)  
 DAR FILE NO.: 27203  
 FILED: 06/01/2004, 15:13

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule is to provide criteria for a local school board to implement a school professional development days pilot program.

**SUMMARY OF THE RULE OR CHANGE:** This rule provides program requirements and timelines, plan components and accountability, and Board review and accountability.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 53A-3-702(4)

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** There is no anticipated cost or savings to state budget. No additional funds were appropriated or designated.

❖ **LOCAL GOVERNMENTS:** Local school boards are allowed to use additional instructional time for professional development. Plans for professional development must be approved locally and submitted to the state. Costs should be minimal and must be absorbed by the school district. Additionally, if local school boards cannot absorb any minimal costs, they need not participate.

❖ **OTHER PERSONS:** There are no anticipated cost or savings to other persons. Individual teachers should not be required to pay for professional development offered during school time.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for affected persons. Individual teachers should not be required to pay for professional development offered during school time and participation by local school boards is voluntary.

**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. Patrick Ogden, Interim State Superintendent of Public Instruction

**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 07/15/2004.**

**THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2004**

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

**R277. Education, Administration.  
R277-418. School Professional Development Days Pilot Program.**

**R277-418. Definitions.**

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

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

C. "Local school committee" means a committee developed by each applicant school designated by the school principal. The committee has the responsibility of designing the professional development days plan. The committee may include administrators, teachers, parents and classified employees, as appropriate. All or part of a school community council, under Section 53A-1a-108, may be designated as the local school committee.

D. "School community council" means a committee composed of school employees and parents as defined under Section 53A-1a-108(3).

**R277-418-2. Authority and Purpose.**

A. This rule is authorized under Utah Constitution Article X, Section 3 which gives general control and supervision of the public school system to the Board, by Section 53A-3-702(4) which directs the Board to make rules to implement a professional development pilot program, and by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities

B. The purpose of this rule is to implement the pilot program and distribute funds consistent with Section 53A-3-702.

**R277-418-3. Program Requirements and Timeline.**

A. A School desiring and approved by its local board to develop a pilot program which allows the school to use a maximum of 22 hours of the 990 hours of student instructional time required under R277-419 for professional development days shall submit a proposed schedule of activities and school schedule variances to the school community council for recommendation to the local board by June 30 prior to the affected school year.

B. Following community council review and recommendation, a local school committee shall submit the plan to the local board by July 15.

C. A local board shall submit school plans accepted by the local board to the Board by July 20.

D. The Board shall review and approve or deny plans submitted by local boards by August 10. Local boards shall include signatures of approval by community council chairs, principals and local board presidents on school plans submitted to the Board.

**R277-418-4. Plan Components and Accountability.**

A. All plans shall include components/information consistent with the criteria under Section 53A-3-702(2) and:

(1) expected results expressed in terms of measurable student achievement outcomes with timelines for outcomes including:

(a) specific evaluation criteria to be used and personnel (by name, if available) employed or assigned by the district/charter school to measure the effect of the change;

(b) student achievement test scores on related CRTs;

(c) formative assessment scores or qualitative data, or both.

(2) an assessment/evaluation of the program shall be provided by each participating school to the local board.

B. School assessments shall include a parent comment and evaluation component.

C. Pilot program evaluations shall be submitted to the local school board by June 30 of each year of participation in the pilot program.

**R277-418-5. Board Review and Accountability.**

A. The Board may accept or approve all programs submitted by local boards that satisfy all components/requirements of Section 53A-3-702 and this rule.

B. The Board may allow schools that submit complete and satisfactory program evaluations to submit abbreviated plans for the 2005-06 school year.

C. The Board may review and audit schools, hours and programs, following adequate notice to the school and the local board, and may require additional assessment or information from the school or local board.

D. The Board shall report to the Education Interim Committee as required in Section 53A-3-702(5).

**KEY: professional development days**

**2004**

**Art X Sec 3**

**53A-3-702(4)**

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



**Education, Administration**

**R277-422**

**State Supported Voted Leeway**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 27204

FILED: 06/01/2004, 15:14

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide requirements, timelines, and clarifications for the state-supported voted leeway, local board-approved leeway, and local board leeway for reading improvement programs.

SUMMARY OF THE RULE OR CHANGE: The rule provides new definitions, requirements and timelines for state-supported voted leeway, procedures for local board-approved leeway requirements and timelines, optional reading improvement levy requirements and timelines, and a tax rate setting schedule.

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated cost or savings to state budget. Monies were appropriated by the 2004 Utah State Legislature to provide funding for a reading improvement program.

❖ LOCAL GOVERNMENTS: There are no anticipated cost or savings to school districts. Local school boards may raise their voted and local board leeway following a vote of the voters in the school district. A complex formula and process allows for a local increase for reading improvement if the local school board provides matching funds.

❖ OTHER PERSONS: Individual taxpayers may have a nominal tax increase if the local school board chooses to participate and if the taxpayers approve the increase.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be a nominal tax increase if the local school board chooses to participate and if the taxpayers approve the increase. It is uncertain what cost individual taxpayers would pay if a local school board chooses to raise board and voted leeway.

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. Patrick Ogden, Interim State Superintendent of Public Instruction

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 07/15/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2004

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

\_\_\_\_\_

**R277. Education, Administration.****R277-422. State Supported Voted Leeway, Local Board-Approved Leeway and Local Board Leeway for Reading Improvement Programs.****R277-422-1. Definitions.**

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

B. "Voted leeway program" or "state-supported voted leeway program" means a state-supported program in which a property tax levy approved under Section 53A-17a-133 is authorized to cover a portion of the costs within the general fund~~[of operation and maintenance]~~ of the state-supported minimum school program in a district.

C. "Local board leeway program" or "local board-approved leeway program" means a state-supported program in which a local board authorizes a property tax levy under Section 53A-17a-134 to cover a portion of the costs within the school district general fund of the state-supported minimum school program. The levy may require voter approval under Section 53A-17a-134(4). These funds shall be spent for class size reduction or other purposes in a district if the local board determines that the average class size in the school district is not excessive.

D. "Local board" means the school board members elected to govern a school district.

E. "Local board leeway for reading improvement" means a local board leeway program in which a local board authorizes a property tax levy under Section 53A-17a-151 to cover a portion of the costs of a school district K-3 Reading Improvement Program established in Section 53A-17a-150.

~~[D]~~E. "State-supported" means a formula-based state contribution of money to the voted leeway program and the board-approved leeway program as defined in Section 53A-17a-133(3) and Section 53A-17a-134(2).]

~~C. "WPU" means weighted pupil unit: the basic unit used in calculating each district's share of state school funds.]~~

**R277-422-2. Authority and Purpose.**

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-402(1)(f) which directs the Board to establish rules for the minimum school program, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to specify ~~[standards]~~ requirements, timelines, and clarifications for the state-supported voted, local board-approved, and local board leeway for reading improvement ~~[leeway]~~ programs.

**R277-422-3. ~~[Standards]~~ Requirements and Timelines for State-Supported Voted Leeway.**

A. ~~[Each district that has approved a voted leeway program may set a voted leeway tax levy as authorized by the election required under Section 53A-17a-133 and by the local board of education.]~~ A local board may establish a state-supported voted leeway program following an election process that approves a special tax. The election process is provided for under Section 53A-17a-133(2).

~~(+)~~B. ~~[districts]~~ Local boards which have approved voted leeway programs since 1965 may set an annual fiscal year fixed tax rate levy for the voted leeway equal to or less than the levy authorized by the election~~[;]~~.

~~(2)~~C. ~~[districts that set their levies on a percentage based on elections held prior to 1965 may estimate their tax rate levy limits for the fiscal year according to the following formula:~~

~~— A equals ((Estimated WPU's for Fiscal Year / 26) times \$ Value of State Distribution Unit at time of election) plus Fiscal Year State Transportation \$ Value to and from School~~

~~— Levy Limit for Fiscal Year equals (% Authorized by Elections times A) minus Fiscal Year Tax Rate Yield of .0002~~

~~— The local board of education may authorize a voted leeway levy equal to or less than the levy limit.]~~ ~~An election to consider adoption or modification of a state-approved voted leeway program is required.~~

D. A local board may continue an existing state-supported voted leeway program despite a majority vote opposing a modification of the state-supported voted leeway program.

E. If adoption of a voted leeway program is contingent upon an offset reduction of other local board tax levies, the local board shall allow the electors, in a election, to reconsider modifying or discontinuing the voted leeway program prior to a subsequent increase in the certified tax rate as set by the local board.

~~[B]~~E. The state provides state guarantee funds to support the district state-supported voted leeway according to the amount specified in Section 53A-17a-133(3) and the local board-approved leeway according to the amount specified in Section 53A-17a-134(2).

~~[C. Districts shall submit levies to county auditors before the second Tuesday in August.~~

~~[D]~~G. State and local funds received by a ~~[school district]~~ local board under the state-supported voted leeway program are ~~[free]~~unrestricted revenue and may be budgeted and expended ~~[under maintenance and operation]~~within the school district's general fund as authorized by the local board~~[of education]~~.

H. In order to receive state support for an initial or subsequent increase in a voted leeway tax rate, a local board shall receive voter approval no later than December 1 prior to the commencement of the fiscal year of implementation of that initial or additional voted leeway tax rate.

I. If a school district qualifies for state support the year prior to an increase in its existing voted leeway tax levy; and:

~~(1) receives voter approval for an increase after December 1, and~~

~~(2) intends to levy the additional rate for the fiscal year starting the following July 1, then~~

~~(3) the district shall only receive state support for the existing voted leeway tax rate and not the additional voter-approved tax rate for the fiscal year commencing the following July 1, and~~

~~(4) shall receive state support for the existing and additional voter-approved tax rate for each year thereafter, as long as the district qualifies to receive state support.~~

**R277-422-4. Local Board-Approved Leeway Requirements and Timelines.**

In order to receive state support for an initial or subsequent increase in a board-approved leeway tax rate, a local board shall approve the tax rate no later than April 1 prior to the commencement of the fiscal year of implementation of that initial or additional board leeway tax rate.

**R277-522-5. Optional Reading Improvement Levy Requirements and Timelines.**

A. Local funds received by a local board under the local board leeway for reading improvement tax levy shall be used for funding the school district's K-3 Reading Improvement Program.

(1) This levy is in addition to any other tax levy or maximum tax rate; and

(2) does not require voter approval; and

(3) may be modified or terminated by a majority vote of the local board.

(4) The local board leeway for reading improvement is not a state-supported levy.

B. A local board shall establish its optional board leeway for reading improvement levy by June 1 to have the levy apply to the fiscal year beginning July 1 in that same calendar year.

C. If after 36 months of K-3 Reading Improvement Program operation, a school district fails to meet the goals stated in the district's plan for student reading proficiency improvement, as measured by gain scores, the local board shall at the next possible tax rate setting opportunity terminate its board leeway for reading improvement tax levy.

D. School districts that fail to reach their reading goals shall terminate their levy under Section 53A-17a-150(15). After a period of no less than one year, school districts that terminated their levy may present a new or revised K-3 Reading Initiative plan to the Board. Following approval by the Board, the local board may reinstate the levy at the next possible tax rate setting opportunity.

**R277-422-6. Tax Rate Setting Schedule.**

Districts shall submit all approved tax levies to county auditors before the second Tuesday in August.

**KEY: education, finance**

**[1987]2004**

**Notice of Continuation October 18, 2002**

**Art X Sec 3**

**53A-1-402(1)(f)**

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

**53A-17a-133**

**53A-17a-134**

**53A-17a-150**

**53A-17a-151**

Education, Administration

**R277-501**

Educator Licensing Renewal

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 27206

FILED: 06/01/2004, 15:16

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide for a renewal point category for volunteer and paraprofessional service in instructional roles, to update

terminology and make the rule consistent with other licensing rules, and to provide for individual responsibility of educators to track their renewal cycles.

SUMMARY OF THE RULE OR CHANGE: The rule provides new definitions, a new category of acceptable activities for a licensed educator to receive professional development points, and updates terminology to make the rule consistent with state and federal law.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-6-104

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The amendments to this rule may result in savings to the state if individuals take seriously the responsibility to track their own renewal requirements.

❖ LOCAL GOVERNMENTS: There are no cost or savings to school districts except very speculative savings that could result if individuals maintaining licenses volunteer in schools.

❖ OTHER PERSONS: There are no specific cost or savings to other persons. The rule provides individuals with one more option for professional development toward license renewal which could save money, though very speculative.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The rule provides individuals with one more option for professional development toward license renewal which could save money, though very 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. Patrick Ogden, Interim State Superintendent of Public Instruction

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 07/15/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2004

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation



**R277. Education, Administration.****R277-501. Educator Licensing Renewal, Highly Qualified and Timelines.****R277-501-1. Definitions.**

A. "Acceptable alternative professional development activities" means activities that do not fall within a specific category under R277-501-3 but are consistent with this rule.

B. "Accredited" means a teacher preparation program accredited by the National Council for Accreditation of Teacher Education (NCATE), the Teacher Education Accreditation Council (TEAC) or one of the major regional accrediting associations as defined under R277-503-1L.

~~[B]C.~~ "Active educator" means an individual holding a valid license issued by the Board who is employed by a unit of the public education system or an accredited private school in a role covered by the license or an individual who has taught successfully for three of the five years in the educator's renewal cycle.

~~[C]D.~~ "Active educator license" means a license that is currently valid for service in a position requiring a license.

~~[D]E.~~ "Approved inservice" means training or courses, approved by the USOE under R277-519-3, in which current educators or individuals who have previously received a license may participate to renew a license, teach in another subject area or teach at another grade level.

~~[E]F.~~ "Board" means the Utah State Board of Education.

~~[F]G.~~ "College/university course" means a course taken through an institution approved under Section 53A-6-108. "University level course" means a course having the same academic rigor and requirements similar to a university/college course and taught by appropriately trained individuals.

~~[G]H.~~ "Core academic subjects" means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography under the Elementary and Secondary Education Act (ESEA), also known as the No Child Left Behind Act (NCLB), Title IX, Part A, 20 U.S.C. 7801, Section 9101(11).

~~[H]I.~~ "Documentation of professional development activities" means:

(1) an original report card or student transcript for university/college courses;

(2) certificate of completion for an approved inservice, conference, workshop, institute, symposium, educational travel experience and staff development;

(3) summary, explanation, or copy of the product and supervisor's signature, if available, or complete documentation of professional development activities that support district and school policies and further academic pursuit or educational innovations of professional development activities. All agendas, work products, and certificates shall be maintained by the educator ~~in the educator's Utah Educator License Renewal Folder~~;

(4) an agenda or conference program demonstrating sessions and duration of professional development activities.

~~[I]J.~~ "Educational research" means conducting educational research or investigating education innovations.

~~[J]K.~~ "Highly qualified" means a teacher has met the specific requirements of ESEA, NCLB, Title IX, Part A, 20 U.S.C. 7801, Section 9101(23).

~~[K]L.~~ "HOUSSE" means high, objective, uniform state standard of evaluation permitted under ESEA, NCLB, Title IX, Part A, 20 U.S.C. 7801, Section 9101(23)(C)(ii).

~~[L]M.~~ "Inactive educator" means an individual holding a valid license issued by the Board who was employed by a unit of the public education system or an accredited private school in a role covered by the license for less than three years in the individual's renewal period.

~~[M]N.~~ "Inactive educator license" means a license, other than a surrendered, suspended or revoked license, that is currently not valid due to the holder's failure to complete requirements for license renewal.

~~[N]O.~~ "Level 1 license" means a Utah professional educator license issued upon completion of an approved preparation program or an alternative preparation program, or pursuant to an agreement under the NASDTEC Interstate Contract, to ~~candidates~~ applicants who have also met all ancillary requirements established by law or rule.

~~[O]P.~~ "Level 2 license" means a Utah professional educator license issued after satisfaction of all requirements for a Level 1 license and:

(1) requirements established by law or rule; ~~and~~

(2) three years of successful education experience within a five-year period; ~~and~~

(3) satisfaction of requirements under R277-522 for teachers employed after January 1, 2003.

~~[P]Q.~~ "Level 3 license" means a Utah professional educator license issued to an educator who holds a current Utah Level 2 license and has also received National Board Certification or a doctorate in education or in a field related to a content area in a unit of the public education system or an accredited private school.

~~[Q]R.~~ "License" means an authorization issued by the Board which permits the holder to serve in a professional capacity in a unit of the public education system or an accredited private school.

~~[R]S.~~ "NASDTEC" means the National Association of State Directors of Teacher Education and Certification. NASDTEC maintains an Educator Information Clearinghouse for its members regarding persons whose licenses have been suspended or revoked.

~~[S]T.~~ "National Board Certification" means the successful completion of the National Board for Professional Teaching Standards (NBPTS) process, a three-year process, that may include national content-area assessment, an extensive portfolio, and assessment of video-taped classroom teaching experience. ~~[~~

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

U. "Professional development plan" means a document prepared by the educator consistent with this rule.

V. "Professional development points" means the points accumulated by a Utah license holder through activities approved under this rule for the purpose of satisfying requirements of Section 53A-6-104. ~~[~~

~~—W. "Utah Educator License Renewal Folder" means the folder provided by the USOE or school districts for educators to collect and track professional activities for purposes of license renewal. The Utah Educator License Renewal Folder may also be developed by an educator upon his own initiative and in an individual format, but shall include adequate documentation of participation in activities approved under this rule.]~~

~~[X]W.~~ "USOE" means the Utah State Office of Education.

~~[Y]X.~~ "Verification of employment" means official documentation of employment as an educator.

**R277-501-2. Authority and Purpose.**

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-6-104 which requires the Board to make rules requiring participation in professional development activities in order for educators to retain Utah licensure, and Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to provide definitions and requirements for an educator to renew a Utah educator license. This rule requires verification of employment, development of a professional development plan and documentation of activities consistent with Section Title 53A, Chapter 6.

**R277-501-3. Categories of Acceptable Activities for a Licensed Educator.**

A. A college/university course:

(1) shall be successfully completed with a "C" or better, or a "pass."

(2) Each semester hour equals 18 license points; or

(3) Each quarter hour equals 12 license points.

B. Inservice:

(1) shall be state-approved under R277-519-3.

(2) may be requested from the USOE by:

(a) written request from a private provider on a form supplied by the USOE and received by the appropriate USOE subject specialist at least two weeks prior to the beginning date of the scheduled inservice, or

(b) a request submitted through the computerized inservice program connected to the USOE licensure system.

(i) The computerized process is available in most Utah school districts and area technology centers.

(ii) Such requests shall be made at least two weeks prior to the beginning of the scheduled inservice.

(3) Each clock hour of authorized inservice time equals one professional development point.

(4) The inservice shall be successfully completed through attendance and required project(s).

C. Conferences, workshops, institutes, symposia, educational travel experience or staff-development programs:

(1) Acceptable workshops and programs include those with prior written approval by the USOE, recognized professional associations, district supervisors, or school supervisors regardless of the source of sponsorship or funding.

(2) One license point is awarded for each clock hour of educational participation.

D. Service in professional activities in an educational institution:

(1) Acceptable service includes that in which the license holder contributes to improving achievement in a school, district, or other educational institution, including planning and implementation of an improvement plan.

(2) One license point is awarded for each clock hour of participation.

(3) An inactive educator may earn professional development points by service in professional activities under the supervision of an active administrator.

E. Service in a leadership role in a national, state-wide or district recognized professional education organization:

(1) Acceptable service includes that in which the license holder assumes a leadership role in a professional education organization.

(2) One license point is awarded for each clock hour of participation with a maximum of 10 license points per year.

F. Educational research and innovation that results in a final, demonstrable product:

(1) Acceptable activities include conducting educational research or investigating educational innovations.

(2) This research activity shall follow school and district policy.

(3) An inactive educator may conduct research and receive professional development points on programs or issues approved by a practicing administrator.

(4) One license point is awarded for each clock hour of participation.

G. Acceptable alternative professional development activities:

(1) Acceptable activities are those that enhance or improve education yet may not fall into a specific category.

(2) These activities shall be approved by an educator's principal/supervisor.

(3) One license point is awarded for each clock hour of participation.

H. Substituting in a unit of the public education system or an accredited private school may be an acceptable alternative professional development activity toward license renewal if the license holder is not an active educator as defined under R277-501[B]C and is paid and authorized as a substitute. A substitute shall earn one point for every two hours of documented substitute time. Verification of hours shall be obtained from the employer or from the supervising principal. A license holder may earn ~~a maximum of 50 professional development points during the renewal period as a substitute~~ up to 25 professional development points per year not to exceed a total of 50 points in a license cycle as a substitute.

I. A license-holder who instructs students in a professional or volunteer capacity in a unit of the public education system or an accredited private school may earn up to 25 professional development points per year not to exceed a total of 50 points in a license cycle. Paraprofessionals/volunteers may accrue one professional development point for every three hours of paraprofessional/volunteer service, as determined and verified by the building principal or supervisor.

[F]J. Up to 50 license points may be earned in any one or any combination of categories D, [F]E and [G]E above.

**R277-501-4. NCLB Highly Qualified - Secondary.**

In order to meet the federal requirements under a Highly Objective Uniform Statewide System of Evaluation (HOUSSE), a secondary educator shall have a bachelor's degree, an educator license and one of the following for each of the teacher's NCLB Core academic subject assignments:

A. a University major degree, masters degree, doctoral degree or National Board Certification; or

B. documentation that the teacher has passed, at a level designated by the USOE, an appropriate USOE-approved subject area test(s); or

C. an endorsement in a subject area directly related to the educator's academic major; or

D. documentation of coursework equivalent to a major degree (30 semester or 45 quarter hours); or

E. documentation of satisfaction of Utah's HOUSSE requirements for assignments not directly related to the educator's academic major:

- (1) a current endorsement for the assignment; and
- (2) completion of 200 professional development points directly related to the area in which the teacher seeks to meet the federal standard under R277-501(3) as applicable. (No more than 100 points may be earned for successful teaching in related area(s)); and
- (3) ~~[points and documentation are required for teachers of all NCLB content courses prior to]~~ all Utah secondary teachers who teach NCLB content courses shall have points and documentation of highly qualified status before June 30, 2006; and
- (4) documentation includes official transcripts, annual teaching evaluation(s), data of adequate student achievement.

**R277-501-5. NCLB Highly Qualified - Elementary and Early Childhood.**

A. In order to meet the federal requirements under a Highly Objective Uniform Statewide System of Evaluation (HOUSSE), an elementary/early childhood educator shall satisfy before June 30, 2006 R277-501-5A (1) and (2) and (3)(a) or (b), and B or C as provided below:

- (1) the educator has a current Utah educator license; and
- (2) the educator is assigned consistent with the teacher's current state educator license; and
- (3) the educator shall:
  - (a) have completed an elementary or early childhood major or both from an accredited college or university; or
  - (b) the teacher's employer may review the teacher's college/university transcripts and subsequent professional development to document that the following have been satisfied with academic grades of C or better:
    - (i) nine semester hours of language arts/reading or the equivalent; and
    - (ii) six semester hours of physical/biological science or the equivalent; and
    - (iii) nine semester hours of social sciences or the equivalent; and
    - (iv) three semester hours of the arts or the equivalent; and
    - (v) nine semester hours of college level mathematics or the equivalent as approved by the USOE; and
    - (vi) six semester hours of elementary/early childhood methodology (block); and
- B. the educator has obtained a Level 2 license; or
- C. An elementary/early childhood teacher shall pass Board-approved content test(s).

**R277-501-6. Required Renewal License Points for Designated License Holders.**

A. Level 1 license holder with no licensed educator experience.

- (1) An educator desiring to retain active status shall earn at least 100 license points in each three year period.

B. Level 1 license holder with one year licensed educator experience within a three year period.

- (1) An active educator shall earn at least 75 license points in each three year period; and
- (2) any years taught shall have satisfactory evaluation(s).

C. Level 1 license holder with two years licensed educator experience within a three year period.

- (1) An active educator shall earn at least 50 license points in each three year period; and
- (2) Any years taught shall have satisfactory evaluation(s).

D. Level 1 license holder with three years licensed educator experience within a three year period.

(1) An active educator shall earn at least 25 professional development points in each three year period; and

- (2) Any years taught shall have satisfactory evaluation(s).

E. An educator seeking a Level 2 license shall notify the USOE of completion of Level 2 license prerequisites consistent with R277-522, Entry Years Enhancements (EYE) for Quality Teaching - Level 1 Utah Teachers and R277-502, Educator Licensing and Data Retention.

F. Level 2 license holder:

(1) An active educator shall earn at least 100 license points within each five year period. License points shall be earned in activities defined under this rule that contribute to competence, performance, and effectiveness in the education profession.

(2) An inactive educator shall earn at least 200 license points within a five year period to maintain an active educator license.

(3) An inactive educator who works one year within a five year period shall earn 165 license points within a five year period to maintain an active educator license.

(4) An inactive educator who works two years within a five year period shall earn 130 license points within a five year period to maintain an active educator license.

(5) Credit for any year(s) taught requires satisfactory evaluation(s).

G. Level 3 license holder:

(1) A Level 3 license holder with National Board Certification shall meet the National Board for Professional Teaching Standards (NBPTS) requirements consistent with the NBPTS schedule available from the USOE Educator Licensure Section. A Level 3 license holder shall be responsible to provide verification of NBPTS status prior to the license holder's designated renewal date.

(2) A Level 3 license holder with a doctorate degree in education or in a field related to a content area in a unit of the public education system or an accredited private school shall meet the active or inactive educator Level 2 license holder requirements within a seven year period.

(3) An educator seeking a Level 3 license shall notify the USOE of completion of Level 3 license requirements. Level 3 license criteria apply to the license holder as of the license holder's renewal date following the notification to the USOE.

H. Teachers seeking license renewal who do not meet NCLB standards shall focus 100 of the 200 required professional development points in teaching assignments in which the teacher does not hold an appropriate major or major equivalent.

**R277-501-7. Renewal Timeline with Point Requirements for Educator Level 2 License Holders.**

A. Level 2 active educators:

(1) A licensed educator whose license expires June 30, 2004 shall earn 80 license points between July 1, 1999 and June 30, 2004 and shall provide verification of employment.

(2) A licensed educator whose license expires June 30, 2005 shall earn 100 license points between July 1, 1999 and June 30, 2005 and shall provide verification of employment.

B. Level 2 inactive educators:

(1) A licensed educator whose license expires on June 30, 2004 shall earn 180 license points between July 1, 1999 and June 30, 2004.

(2) A licensed educator whose license expires after June 30, 2004 shall earn 200 license points during the renewal period.

**R277-501-8. Miscellaneous Renewal Information.**

A. A licensed educator shall develop and maintain a professional development plan. The plan:

- (1) shall be based on the educator's professional goals and current or anticipated assignment,
- (2) shall take into account the goals and priorities of the school/district,
- (3) shall be consistent with federal and state laws and district policies, and
- (4) may be adjusted as circumstances change.
- (5) shall be reviewed and signed by the educator's supervisor.
- (6) If an educator is not employed in education at the renewal date, the educator shall:

(a) review the plan and documentation with a professional colleague who may sign the professional development plan and USOE verification form, or

(b) review the professional development plan and personally sign the verification form.

B. Each Utah license holder shall be responsible for maintaining a professional development folder.

(1) It is the educator's responsibility to retain copies of complete documentation of professional development activities with appropriate signatures.

(2) The professional development folder shall be retained by the educator for a minimum of two renewal cycles.

C. The "Verification for License Renewal" form shall be submitted to the USOE Licensing Section, 250 East 500 South, P.O. Box 144200, Salt Lake City, Utah 84114-4200 between January 1 and June 30 of the renewal year.

(1) Forms that are not complete or do not bear original signatures shall not be processed.

(2) Failure to submit the verification form consistent with deadlines shall result in beginning anew the administrative licensure process, including all attendant fees and criminal background checks.

(3) The USOE may, at its own discretion, review or audit verification for license renewal forms or ~~[the Utah E]educator [F]license [R]renewal [F]folders or records.~~

D. License holders may begin to acquire professional development points under this rule as of July 1, 1999.

E. This rule does not explain criteria or provide credit standards for state approved inservice programs. That information is provided in R277-519.

F. Credit for district lane changes or other purposes is determined by a school district and is awarded at a school district's discretion. Professional development points should not be assumed to be credit for school district purposes, such as salary or lane change credit.

G. A renewal fee set by the USOE shall be charged to educators who seek renewal from an inactive status or to make level changes. Educators with active licenses shall ~~[not]~~ be charged a renewal fee consistent with R277-503.

H. The USOE may make exceptions to the provisions of this rule for unique and compelling circumstances.

(1) Exceptions may only be made consistent with the purposes of this rule and the authorizing statutes.

(2) Requests for exceptions shall be made in writing at least 30 days prior to the license holder's renewal date to the Coordinator of Educator Licensing, USOE.

(3) Approval or disapproval shall be made in a timely manner.

I. Licenses awarded under R277-521, Professional Specialist Licensing, are subject to renewal requirements under this rule.

(1) Specialists shall be considered licensed as of September 15, 1999, the effective date of R277-521.

(2) All specialists shall be considered Level 1 license holders.

(3) Years of work experience beginning September 15, 1999 count toward levels of licensure.

J. Consistent with Section 53A-6-104(2) and (4), an educator may comply with the professional development requirements of this rule by:

(1) satisfactory completion of the educator's employing school district's district-specific professional development plan; and

(2) submission by the employing school district of the names of educators who completed district-specific professional development plans; and

(3) submission of professional development information in a timely manner consistent with the educator's license renewal cycle; failure of timely notification by districts to the USOE may result in expiration of licenses and additional time and costs for relicensure.

K. Completion of relicensure requirements by an educator under R277-501-6 or R277-501-8J, may not satisfy HOUSSE requirements for highly qualified status under No Child Left Behind, as defined in R277-520.

L. Educators are individually responsible for tracking their renewal cycles and completing professional development in a timely manner.

**KEY: educational program evaluations, educator license renewal**

**[April 15,]2004**

**Art X Sec 3**

**53A-6-104**

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



## Education, Administration **R277-502**

### Educator Licensing and Data Retention

#### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 27207

FILED: 06/01/2004, 15:17

#### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide for consistency with other Utah State Board of Education rules and to provide for licensing fees.

SUMMARY OF THE RULE OR CHANGE: The amendments to the rule provide for letters of authorization for alternative routes to licensure (ARL) candidates, Utah State Office of Education-designated content testing for license applicants to begin July 1, 2005, and for a new \$15 fee for addition of endorsement(s).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-6-104

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There may be savings to the state as appropriate licensing and relicensing fees are allowed and licensing becomes less of a fiscal burden to the Utah State Office of Education and/or self-supporting.
- ❖ LOCAL GOVERNMENTS: There are no cost or savings to school districts. Any cost would be between the licensee and the state.
- ❖ OTHER PERSONS: Costs for licensing/relicensing may increase. Costs/fees have been proposed, but not finally proposed by the Utah State Board of Education.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Individuals may have increased costs for licensing in the future. The Utah State Board of Education has not yet determined the exact fees.

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. Patrick Ogden, Interim State Superintendent of Public Instruction

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 07/15/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2004

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

**R277. Education, Administration.**

**R277-502. Educator Licensing and Data Retention.**

**R277-502-1. Definitions.**

A. "Accredited" means a teacher preparation program accredited by the National Council for Accreditation of Teacher Education (NCATE), the Teacher Education Accreditation Council (TEAC) or one of the major regional accrediting associations as defined under R277-503-1L.

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

C. "Letter of Authorization" means a designation given to an individual for one year, such as an out-of-state candidate or individual pursuing an alternative license, who has not completed

the requirements for a Level 1, 2, or 3 license ~~[and who is employed by a school district for a limited period of time until required documentation is complete.]~~ or who has not completed necessary endorsement requirements and who is employed by a school district. A teacher working under a letter of authorization who is not an alternative routes to licensing (ARL) candidate, cannot be designated highly qualified under R277-520-1G.

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

E. "Level 2 license" means a Utah professional educator license issued after satisfaction of all requirements for a Level 1 license as well as any additional requirements established by law or rule relating to professional preparation or experience.

F. "Level 3 license" means a Utah professional educator license issued to an educator who holds a current Utah Level 2 license and has also received, in the educator's field of practice, National Board certification or a doctorate from an accredited institution.

G. "License areas of concentration" are obtained by completing an approved preparation program or an alternative preparation program in a specific area of educational studies to include the following: 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, and may also bear endorsements relating to subjects or specific assignments.

H. "License endorsement (endorsement)" means a specialty field or area earned through course work equivalent to at least an academic minor (with pedagogy) or through demonstrated competency; the endorsement shall be listed on the Professional Educator License indicating the specific qualification(s) of the holder.

I. "Professional development plan" means a plan developed by an educator and approved by the educator's supervisor that includes locally or Board-approved education-related training or activities that enhance an educator's background. Professional development points are required for periodic educator license renewal.

J. "Renewal" means reissuing or extending the length of a license consistent with R277-501.

K. "State Approved Endorsement Program (SAEP)" means a professional development plan on which an educator is working to obtain an endorsement.

**R277-502-2. Authority and Purpose.**

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of the public school system under the Board, by Section 53A-6-104 which gives the Board power to issue licenses, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. This rule specifies the types of license levels and license areas of concentration available and procedures for obtaining a license, required for employment as a licensed educator in the public schools of Utah. All licensed educators employed in the Utah public schools shall be licensed consistent with this rule in order for the district to receive full funding under Section 53A-17a-107(2).

**R277-502-3. Program Approval.**

A. The Board ~~[uses the approved program approach to educator preparation and licensing which includes:~~

~~— (1) the development of educator preparation programs by post-secondary institutions in accordance with established rules and procedures;~~

~~— (2) the official review and evaluation of each institutional program in accordance with standards adopted by the Board and the subsequent approval of a program if standards are met;~~

~~— (3) approval of applicants for licensing, whether students in post-secondary institutions, individuals with out of state licenses, or individuals in other circumstances, prior to their significant unsupervised access to students;~~

~~— (4) licensing by the Board of an applicant upon completion of an approved program;~~

~~— (5) the issuance, by the Board, of an educator license. The initial Level 1 license may be converted to a Level 2 or Level 3 license upon demonstration of competence during employment, satisfaction of requirements of R277-522, Entry Years Enhancements (EYE) for Quality Teaching - Level 1 Utah Teachers, and any other federal requirements.] shall accept educator license recommendations from NCATE accredited, TEAC accredited or competency-based regionally accredited organizations.~~

B. The Board, or its designee, shall establish deadlines and uniform forms and procedures for all aspects of licensing.

**R277-502-4. License Levels, Procedures, and Periods of Validity.**

A. An initial license, the Level 1 license, is issued to an individual who is recommended by a Board-approved educator preparation program or approved alternative preparation program, or an educator with a professional educator license from another state.

(1) The recommendation indicates that the individual has satisfactorily completed the programs of study required for the preparation of educators and met licensing standards in the license areas of concentration for which the individual is recommended.

(2) The Level 1 license is issued for three years.

(3) Employing school districts and educator preparation institutions shall cooperate in making special assistance available for educator Level 1 license holders. The resources of both may be used to assist those educators experiencing significant problems. The institution in closest proximity to the employing school district is the first choice for district involvement; however, the school district is encouraged to make a cooperative arrangement with the institution from which the educator graduated.

(4) An educator shall satisfy requirements and criteria of R277-522, Entry Years Enhancements (EYE) for Quality Teaching - Level 1 Utah Teachers.

(5) An educator shall satisfy all federal requirements for an educator license prior to moving from Level 1 to Level 2.

B. A Level 2 license may be issued by the Board to a Level 1 license holder upon satisfaction of all requirements and the recommendation of the employing school district.

(1) The recommendation shall be made following the completion of three years of successful, professional growth and educator experience and satisfaction of R277-522, Entry Years Enhancements (EYE) for Quality Teaching - Level 1 Utah Teachers and before the Level 1 license expires.

(2) A Level 2 license shall be issued for five years and shall be valid unless suspended or revoked for cause by the Board.

(3) The Level 2 license may be renewed for successive five year periods consistent with R277-501, Educator Licensing Renewal.

(4) A Level 2 license holder shall satisfy all federal requirements for an educator license holder prior to renewal after June 30, 2006 to remain ~~[interim]~~ highly qualified.

C. A Level 3 license may be 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.

(1) It is valid for seven years unless suspended or revoked for cause by the Board.

(2) The Level 3 license may be renewed for successive seven year periods consistent with R277-501.

D. Licenses expire on June 30 of the year shown on the face of the license and may be renewed any time after January of that year. Responsibility for securing renewal of the license rests upon the holder.

**R277-502-5. Professional Educator License Areas of Concentration, and Approved Programs Endorsements and Under-Qualified Employees.**

A. Unless excepted under rules of the Board, to be employed in the public schools in a capacity covered by the following license areas of concentration, a person shall hold a valid license issued by the Board in the respective license areas of concentration:

- (1) Early Childhood (K-3);
- (2) Elementary (1-8);
- (3) Middle (5-9);
- (4) Secondary (6-12);
- (5) Administrative/Supervisory;
- (6) Applied Technology Education;
- (7) School Counselor;
- (8) School Psychologist;
- (9) School Social Worker;
- (10) Special Education (K-12);
- (11) Preschool Special Education (Birth-Age 5)
- (12) Communication Disorders.

B. ~~[Licensed educators may be authorized by the Board for employment in the public schools under the following programs:~~

~~— (1) a license earned through a Board-approved post-secondary educator education program.~~

~~— (a) The individual seeking a license shall be approved by the post-secondary program personnel following completion of a USOE approved license area of concentration program;~~

~~— (b) The program shall require university/college students to satisfy the requirements of Section 53A-3-410, criminal background check, prior to having significant unsupervised access to students. This may include review and approval by the Utah Professional Practices Advisory Commission (UPPAC), consistent with its rules and policies, prior to classroom experience.~~

~~— (2) alternative educator preparation consistent with R277-503.~~

~~— (3) eminence, consistent with R277-520.~~

~~— (4) applied technology, consistent with R277-518.~~

~~— (5) out of state applicants under R277-502-7.~~

~~— C. —] Under[-]-qualified educators:~~

(1) Educators who are licensed but working out of their endorsement area(s) shall request and prepare a SAEP to complete the requirements of an endorsement with a USOE education specialist; or

(2) Local boards may request from the Board a Letter of Authorization for educators employed by the local board who have completed requirements for licensing but are waiting documentation of that completion. An approved Letter of Authorization is valid for a limited period of time. Following the expiration of the Letter of Authorization, the educator who has still not been completely approved for licensing is considered under qualified.

~~[D]~~C. Licenses may be endorsed to indicate qualification in a subject or content area. An endorsement without a current license is not valid for employment purposes.

#### **R277-502-6. School Counselor Levels of Licensure.**

There are three levels of licensure for a K-12 school counselor:

A. School Counselor Professional Educator License Level 1 is a license issued:

(1) upon completion of an accredited counselor education program; or

(2) to persons applying for licensure under interstate agreements.

(3) This license is issued to counselors who are beginning their professional careers who have completed an approved 600 hour field experience (400 hours if the applicant has completed two or more years of successful teaching experience as approved by USOE licensing).

B. School Counselor Professional Educator License Level 2 is:

(1) a license issued after satisfaction of all requirements for a Level 1 license and 3 years of successful experience as a school counselor in an accredited school in Utah; and

(2) is valid for five years.

C. Counseling Intern Temporary License is based on written recommendation from a USOE accredited program that a candidate:

(1) is currently enrolled in the program;

(2) has completed 30 semester hours of course work, including successful completion of a practicum; and

(3) has skills to work in a school as an intern with supervision from the school setting and from the counselor education program.

(a) Letters from the accredited program recommending eligible candidates shall be submitted to USOE at the beginning of each school year.

(b) The Counseling Intern Temporary License is valid for the current year only and is not renewable.

#### **R277-502-7. Professional Educator License Reciprocity.**

A. Utah is a member of the Compact for Interstate Qualification of Educational Personnel under Section 53A-6-201.

B. A Level 1 license may be issued to a graduate of an educator preparation program from an accredited institution of higher education in another state.

(1) The institution conducting the teacher preparation program ~~[must]~~shall be accredited by ~~[the National Council for Accreditation of Teacher Education]~~(NCATE), TEAC or one of the major regional accrediting associations.

(2) If the applicant has one or more years of previous educator experience, a Level 2 license may be issued following satisfaction of the requirements of R277-522 upon the recommendation of the employing Utah school district after at least one year.

#### **R277-502-8. Computer-Aided Credentials of Teachers in Utah Schools (CACTUS).**

A. CACTUS maintains public and protected and private information on licensed Utah educators.

(1) Public information includes name, educational qualifications, degrees earned, and current assignment (if applicable).

(2) Private or protected information includes such items as home address, date of birth, social security number, and any disciplinary action taken against an individual's license.

B. A CACTUS file is opened on a licensed Utah educator when:

(1) the individual's fingerprint cards are submitted to the USOE, or

(2) the USOE receives an application for a license from an individual seeking licensing in Utah.

C. The data in CACTUS may only be changed as follows:

(1) Authorized USOE staff or authorized school district staff may change demographic data.

(2) Authorized USOE staff may change licensing data such as endorsements, degrees, license areas of concentration.

(3) Authorized employing school district staff may update data on work experience for the current school year only.

D. Licensed individuals may view personal data if registered with the Utah Education Network (UEN). An individual may not change or add data.

E. Individuals currently employed by public, private or parochial schools under letters of authorization are included in CACTUS. Interns may be included on CACTUS.

F. Designated individuals have access to CACTUS data:

(1) A licensed individual may view his own file.

(2) Designated USOE staff may view or change CACTUS files on a limited basis with specific authorization.

(3) For employment or assignment purposes only, designated district or school staff members may access data on individuals employed by their own districts or data on licensed individuals who are not currently employed by public schools, ~~[charter schools]~~ some private and parochial schools and ATCs.

(4) Designated individuals may also view specific limited information on job applicants if the applicant has provided a school district with a Social Security Number.

#### **R277-502-9. Professional Educator License Fees.**

A. The Board, or its designee, shall establish a fee schedule for the issuance and renewal of licenses and endorsements consistent with 53A-6-105. All endorsements to which the applicant is entitled may be issued or renewed with the same expiration date for one licensing fee. ~~[-The renewal of endorsements at different times may require the payment of a renewal fee for each endorsement.]~~

B. A fee may be charged for a valid license to be reprinted or for an endorsement to be added.

~~[B]C.~~ [A fee may be charged any time credit is submitted for license renewal.] All costs of testing, evaluation, and course work shall be borne by the applicant unless other arrangements are agreed to in advance by the employing school district.

~~—C.~~ An endorsement may be added at any time, and unless the license is reprinted, there shall be no charge. If a new license is issued, a fee shall be charged.]

D. Costs may include differentiated fees for resident and nonresident applicants.

E. Costs may include an expediting fee if an applicant seeks to have a license application reviewed before applications received earlier.

**KEY: professional competency, educator licensing**  
**[January 15,]2004**  
**Notice of Continuation September 12, 2002**  
**Art X Sec 3**  
**53A-6-104**  
**53A-1-401(3)**

Education, Administration

**R277-510**

Special Subject Certification for Small  
 Secondary Schools

**NOTICE OF PROPOSED RULE**

(Repeal)

DAR FILE NO.: 27208  
 FILED: 06/01/2004, 15:18

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is repealed because the rule no longer reflects current state and/or federal law. Provisions and language consistent with current state and/or federal law have been incorporated into other rules.

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)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There are no anticipated cost or savings to state budget because information from this rule has been incorporated into other licensing rules.
- ❖ LOCAL GOVERNMENTS: Some speculative savings to school districts. School districts will not have funds withheld for teachers in Youth in Custody programs and for necessarily existent small schools.
- ❖ OTHER PERSONS: There are no anticipated cost or savings to other persons. Information from this rule has been incorporated into other licensing rules.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Information from this rule has been incorporated into other licensing rules.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule, and I see no fiscal impact on businesses. Patrick Ogden, Interim State Superintendent of Public Instruction

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 07/15/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2004

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

**R277. Education, Administration.**

~~[R277-510. Special Subject Certification for Small Secondary Schools.~~

~~**R277-510-1. Definitions.**~~

~~— A. "Endorsement" means a specialty field or area listed on a certificate which indicates specific qualification of the candidate such as counseling, elementary teaching, or secondary teaching.~~

~~— B. "Small secondary school" means a school, grades 7 through 12, having fewer than 12 teachers or a school, grades 9 through 12, having fewer than eight teachers, including the principal.~~

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

~~**R277-510-2. 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, Sections 53A-6-101(1) and (2) which permit the Board to issue certificates to educators, 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 permit districts to staff small secondary schools when regularly certified teachers with endorsements in specialty areas are not available.~~

~~**R277-510-3. Requirements.**~~

~~— A. The requirements of R277-502-5(A)(3) are waived for special assignment teachers in small necessarily existent or rural secondary schools in agriculture, business, home economics, industrial arts, and driver education if:~~

~~— (1) the teacher holds a Secondary Certificate and is assigned to teach in one of the special subjects or areas designated for one-half day or less; and~~

~~— (2) the district has established an in-service plan for the teacher based on a listing by the appropriate state specialist of minimal competencies needed to ensure adequate performance in the assigned subject or area.~~

~~— B. Elementary certificated teachers with special qualifications in these or other special subjects or areas may be assigned to teach in small secondary schools as needed.~~

~~— C. Secondary certificated teachers in small secondary schools with special qualifications may be assigned to teach on the elementary level for not to exceed two hours per day.~~



~~KEY: professional competency, teacher certification  
1987  
Notice of Continuation October 18, 2002  
Art X Sec 3  
53A-6-101(1) and (2)  
53A-1-401(3)]~~



Education, Administration  
**R277-511**  
Eminence or Special Qualification  
Authorization for Teaching in the Public  
Schools

**NOTICE OF PROPOSED RULE**

(Repeal)  
DAR FILE NO.: 27213  
FILED: 06/01/2004, 15:22

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is repealed because the rule no longer reflects current state and/or federal law. Provisions and language consistent with current state and/or federal law have been incorporated into other rules.

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

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

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There are no anticipated cost or savings to state budget. Information from this rule has been incorporated into other licensing rules.
- ❖ LOCAL GOVERNMENTS: There are no anticipated cost or savings to school districts. Information from this rule has been incorporated into other licensing rules.
- ❖ OTHER PERSONS: There are no anticipated cost or savings to other persons. Information from this rule has been incorporated into other licensing rules.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Information from this rule has been incorporated into other licensing rules.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule, and I see no fiscal impact on businesses. Patrick Ogden, Interim State Superintendent of Public Instruction

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 07/15/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2004

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

**R277. Education, Administration.**

~~[R277-511. Eminence or Special Qualification Authorization for Teaching in the Public Schools.~~

~~**R277-511-1. Definitions.**~~

~~— A. "Eminence" means distinguished superiority as compared with others in rank, status, character, and attainment or superior knowledge and skill in comparison with the generally accepted standards and achievements in the area in which the authorization is sought.~~

~~— B. "Special qualification" means outstanding background in a subject or area, but not to the degree of eminence.~~

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

~~**R277-511-2. Authority and Purpose.**~~

~~— A. This rule is authorized under Article X, Section 3 of the Utah Constitution which vests general control and supervision of public education in the Board, Section 53A-1-402(1)(a), U.C.A. 1953, which directs the Board to make rules regarding personnel who provide direct student services 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 requirements which permit school districts to hire eminent and well qualified persons not holding teaching certificates to teach for a specified period in their field and receive compensation from the district.~~

~~**R277-511-3. Authorization Requirements.**~~

~~— A. Upon the recommendation of a local board of education, the Board may issue an eminence or special qualification authorization to any person who has achieved eminence or outstanding qualification in a field taught in the public schools. The authorization permits teaching in the public schools in the subject area and at the level or levels approved by the Board as designated on the letter of authorization.~~

~~— B. Eminence or special qualification authorizations are issued for a one year period and are renewed for one year periods by the Board only upon the request of the local board. There is no automatic renewal of eminence or special qualification authorizations.~~

~~— C. No more than two percent of the certificated personnel of the district shall be holders of the eminence or special qualification authorization. In small districts at least two people may be allowed to hold the eminence or special qualification authorization.~~

~~**R277-511-4. Teaching Assignments.**~~

~~—A. The local board of education shall verify that the person recommended for authorization has been given a limited assignment and responsibility in a specified field and will not teach more than two periods per day.~~

~~—B. A person holding the authorization is delegated primary responsibility for planning, conducting, and evaluating the instruction activities, and does not serve in an education role which would not require certification or authorization.~~

~~**KEY: professional competency, school personnel 1987**~~

~~**Notice of Continuation October 18, 2002**~~

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

~~**53A-1-402(1)(a)**~~

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



Education, Administration

**R277-512**

Letters of Authorization

**NOTICE OF PROPOSED RULE**

(Repeal)

DAR FILE NO.: 27209

FILED: 06/01/2004, 15:19

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is repealed because the rule no longer reflects current state and/or federal law. Provisions and language consistent with state and/or federal law has been incorporated into other rules.

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)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated cost or savings to state budget. Language from this rule has been included in other licensing rules.

❖ LOCAL GOVERNMENTS: There are no anticipated cost or savings to school districts. Language from this rule has been included in other licensing rules.

❖ OTHER PERSONS: There are no anticipated cost or savings to other persons. Language from this rule has been included in other licensing rules.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The information still applies but is integrated into other licensing rules.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule, and I see no fiscal impact on businesses. Patrick Ogden, Interim State Superintendent of Public Instruction

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 07/15/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2004

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

**R277. Education, Administration.**

~~**[R277-512. Letters of Authorization.**~~

~~**R277-512-1. Definitions.**~~

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

~~—B. "Basic Certificate" means the initial certificate issued by the Board which permits the holder to be employed as an educator in the public schools. To qualify for this certificate the person must have completed the requirements of a teacher training institution operating a program approved by the Board.~~

~~—C. "Letter of Authorization" means authorization granted a school district by the Board to employ a teacher or administrator who does not hold a proper credential for the position for which the person is being employed. The Letter of Authorization substitutes for the required certificate for the time specified in the authorization.~~

~~**R277-512-2. Authority and Purpose.**~~

~~—A. This rule is authorized under Section 53A-1-402(1), U.C.A. 1953, which permits the Board to make rules regarding the qualification of personnel providing direct student services and of ancillary personnel.~~

~~—B. The purpose of this rule is to specify an exception to the certification requirements for employment as an educator in the public schools.~~

~~**R277-512-3. Eligibility.**~~

~~—A. The person a district intends to employ under a Letter of Authorization must:~~

~~—(1) hold a bachelor's degree and lack no more than nine quarter hours or six semester hours of credit required for the Basic Certificate; or~~

~~—(2) provide an acceptable recommendation from a training institution indicating that the deficiency for graduation and recommendation for certification can be filled within one year.~~

~~—B. Under extreme circumstances, which must be substantiated in writing by the employing school district, the time limit for completion of requirements for the degree or Basic Certificate may be extended by the Board beyond one year.~~

**~~R277-512-4. Application for a Letter of Authorization; Termination of the Employment.~~**

~~— A. A school district may apply for a Letter of Authorization to employ a particular person to fill a specified position in the district after the supply of qualified, certificated teachers or administrators has been exhausted.~~

~~— B. Application to the Utah State Office of Education may be made following August 1 for the coming school year. The application shall include a written commitment from the individual to be employed stating that full requirements for the degree and the Basic Certificate will be met within the time limit specified and a detailed plan outlining the program through which the requirements are to be completed.~~

~~— C. It is the responsibility of the employing school district to make application for the Letter of Authorization within eight weeks of employing the individual. If the application is not approved, the person employed may not continue serving.~~

~~— D. If a person employed under a Letter of Authorization leaves the district before the end of the school year, the district shall notify the State Superintendent of Public Instruction of the termination date and the name of the replacement.~~

**~~R277-512-5. Penalty.~~**

~~— Districts not meeting the requirements of this rule shall be financially penalized through loss of state funds in an amount equal to the salary paid the individual for the time the individual was employed without authorization. Further, the Board shall determine whether the employing district is meeting the requirements of the minimum school program and whether state funds shall be withheld from that district.~~

~~**KEY:** professional competency, school personnel, teacher certification~~

~~1987~~

~~Notice of Continuation October 18, 2002  
53A-1-402(1)]~~



Education, Administration  
**R277-520**  
Appropriate Licensing and Assignment  
of Teachers

**NOTICE OF PROPOSED RULE**  
(Amendment)

DAR FILE NO.: 27210  
FILED: 06/01/2004, 15:19

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the amendments to this rule is to make the rule consistent with current practice and state and/or federal law.

SUMMARY OF THE RULE OR CHANGE: The amendments to this rule provide for inclusion of Teacher Education Accreditation Council (TEAC) accreditation and regional accreditation, the

addition of a subject endorsement, eligibility for State-Approved Endorsement Programs (SAEP), a shortened initial SAEP period, required progress report by teachers under letters of authorizations, and expanded eligibility for restricted endorsements.

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There could be an increasing cost to the Utah State Office of Education if numbers of individuals seeking alternative licenses require review, consultation and mentoring. The cost is very speculative at this time.

❖ LOCAL GOVERNMENTS: There are no anticipated cost or savings to school districts. Most of the changes are terminology.

❖ OTHER PERSONS: There may be some savings to individuals who previously had to qualify for teaching licenses only with college/university courses. Now, less expensive alternative routes may be available.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Persons may have some expense in course work to qualify for teaching licenses.

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 to businesses. Patrick Ogden, Interim State Superintendent of Public Instruction

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 07/15/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2004

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

**R277. Education, Administration.**

**R277-520. Appropriate Licensing and Assignment of Teachers.  
R277-520-1. Definitions.**

A. "At will employment" means employment that may be terminated for any reason or no reason with minimum notice to the employee consistent with the employer's designated payroll cycle.

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

C. "Composite major" means credits earned in two or more related subjects, as determined by an accredited higher education institution.

D. "Core academic subjects or areas" means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography under the Elementary and Secondary Education Act (ESEA), also known as the No Child Left Behind Act (NCLB), Title IX, Part A, 20 U.S.C. 7801, Section 9101(11).

E. "Demonstrated competency" means that a teacher shall demonstrate current expertise to teach a specific class or course through the use of lines of evidence which may include completed USOE-approved course work, content test(s), or years of successful experience including evidence of student performance.

F. "Eminence" means distinguished ability in rank, in attainment of superior knowledge and skill in comparison with the generally accepted standards and achievements in the area in which the authorization is sought as provided in R277-520-5.

G. "Highly qualified" means a teacher has met the specific requirements of ESEA, NCLB, Title IX, Part A, 20 U.S.C. 7801, Section 9101(23).

H. "HOUSSE" means high, objective, uniform state standard of evaluation permitted under ESEA, NCLB, Title IX, Part A, 20 U.S.C. 7801, Section 9101(23)(C)(ii).

I. J-1 Visa means a visa issued by the U.S. Department of State to an international exchange visitor who has qualified by training and experience to work in U.S. schools for a period not to exceed three years. Such international exchange visitors may qualify for "highly qualified" status under NCLB only if assigned within their subject matter competency.

[F]J. "LEA" means a school district or charter school.

[F]K. "Letter of authorization" means a designation given to an individual for one year, such as an out-of-state candidate or individual pursuing an alternative license, who has not completed the requirements for a Level 1, 2, or 3 license or who has not completed necessary endorsement requirements and who is employed by a school district [~~for one year~~]. A teacher working under a letter of authorization who is not an alternative routes to licensing (ARL) candidate, cannot be designated highly qualified under R277-520-1G.

[K]L. "Level 1 license" means a Utah professional educator license issued upon completion of an approved preparation program or an alternative preparation program, or pursuant to an agreement under the NASDTEC Interstate Contract, to candidates who have also met all ancillary requirements established by law or rule.

[L]M. "Level 2 license" means a Utah professional educator license issued after satisfaction of all requirements for a Level 1 license as well as completion of Entry Years Enhancements (EYE) for Quality Teaching - Level 1 Utah Teachers, as provided in R277-522, a minimum of three years of successful teaching in a public or accredited private school, and completion of all NCLB requirements at the time the applicant is licensed.

[M]N. "Level 3 license" means a Utah professional educator license issued to an educator who holds a current Utah Level 2 license and has also received, in the educator's field of practice, National Board certification or a doctorate in education or in a field related to a content area under R277-501-1M from an accredited institution.

[N]O. "License areas of concentration" are 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[-].

[O]P. "License endorsement (endorsement)" means a specialty field or area earned through course work equivalent to at least an academic minor (with pedagogy) or through demonstrated competency; the endorsement shall be listed on the Professional Educator License indicating the specific qualification(s) of the holder.

[P]Q. "Major equivalency" means 30 semester hours of USOE and local board-approved postsecondary education credit or CACTUS-recorded professional development in NCLB core academic subjects as appropriate to satisfy NCLB highly qualified status.

[Q]R. "No Child Left Behind Act (NCLB)" means the federal Elementary and Secondary Education Act, P.L. 107-110, Title IX, Part A, Section 9101(11).

[R]S. "Professional staff cost program funds" means funding provided to school districts based on the percentage of a district's professional staff that is appropriately licensed in the areas in which staff members teach.

[S]T. "State qualified" means that an individual has met the Board-approved requirements to teach core or non-core courses in Utah public schools.

[T]U. "SAEP" means State Approved Endorsement Program. This identifies an educator working on a professional development plan to obtain an endorsement.

[U]V. "USOE" means the Utah State Office of Education.

#### **R277-520-2. Authority and Purpose.**

A. This rule is authorized by Utah Constitution, Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-401(3) which gives the Board authority to adopt rules in accordance with its responsibilities, and Section 53A-6-104(2)(a) which authorizes the Board to rank, endorse, or classify licenses. This rule is also necessary in response to ESEA NCLB.

B. The purpose of this rule is to provide criteria for local boards to employ educators in appropriate assignments, for the Board to provide state funding to local school boards for appropriately qualified and assigned staff, and for the Board and local boards to satisfy the requirements of ESEA in order for local boards to receive federal funds.

#### **R277-520-3. Appropriate Licenses with Areas of Concentration and Endorsements.**

A. An early childhood teacher (kindergarten through 3) shall hold a Level 1, 2, or 3 license with an early childhood license area of concentration.

B. An elementary teacher (one through 8) shall hold a Level 1, 2, or 3 license with an elementary license area of concentration.

C. A secondary teacher (grades 6-12) including high school, middle-level, intermediate, and junior high schools, shall hold a Level 1, 2, or 3 license with a secondary license area of concentration with endorsements in all teaching assignment(s).

D. A teacher with a subject-specific assignment in grades 6, 7 or 8 shall hold a secondary license area of concentration with endorsement(s) for the specific teaching assignment(s) or an

elementary license area of concentration with the appropriate subject/content endorsement(s).

E. An elementary (grades 7-8), a secondary or middle-level teacher may be assigned temporarily in a core or non-core academic area for which the teacher is not endorsed if the local board requests and receives a letter of authorization from the Board and the teacher is placed on an approved SAEP.

F. Secondary educators with special education areas of concentration may add content endorsement(s) to their educator licenses consistent with R277-520-10 (SAEP).

G. Educators who have qualified for a J-1 Visa as an international visitor and have provided documentation of holding the equivalent of a bachelors degree, subject content mastery, and appropriate work/graduate training may qualify for a Utah Level 1 license. Such temporary visitors may be exempted, at the employer's discretion, from subject content testing, license renewal requirements, and EYE requirements for the duration of their visa eligibility.

#### **R277-520-4. Routes to Utah Educator Licensing.**

A. In order to receive a license, an educator shall have completed a bachelors degree at an approved higher education institution and:

- (1) completed an approved institution of higher education teacher preparation program in the desired area of concentration; or
- (2) completed an approved alternative preparation for licensing program, under alternative routes to licensing, consistent with R277-503.

B. An individual may receive a Utah license with an applied technology area of concentration following successful completion of a USOE-approved professional development program for teacher preparation in applied technology education.

C. An individual may receive a district-specific, competency-based license under Section 53A-6-104.5 and R277-520-8.

#### **R277-520-5. Eminence.**

A. The purpose of an eminence authorization is to allow individuals with exceptional training or expertise, consistent with R277-520-1F, to teach or work in the public schools on a limited basis. Documentation of the exceptional training, skill(s) or expertise may be required by the USOE prior to the approval of the eminence authorization.

B. Teachers with an eminence authorization may teach no more than 37 percent of the regular instructional load.

C. Teachers working under an eminence authorization shall never be considered highly qualified.

D. Local boards shall require an individual teaching with an eminence authorization to have a criminal background check consistent with Section 53A-3-410(1) prior to employment by the local board.

E. The local board of education that employs the teacher with an eminence authorization shall determine the amount and type of professional development required of the teacher.

F. A local board of education that employs teachers with eminence authorizations shall apply for renewal of the authorization(s) annually.

G. Eminence authorizations may apply to individuals without teaching licenses or to unusual and infrequent teacher situations where a license-holder is needed to teach in a subject area for which he is not endorsed, but in which he may be eminently qualified.

#### **R277-520-6. State Qualified Teachers (Teachers Who Satisfy HOUSSE Rules).**

A. A teacher has a Utah Level 1, 2 or 3 license or a district-specific competency-based license.

B. A teacher has an appropriate area of concentration.

C. A teacher in grades 6-12 has the required endorsement for the course(s) the teacher is teaching by means of:

(1) an academic teaching major from an accredited postsecondary institution, or a passing score on content test(s) and pedagogy test(s), if available, or USOE-approved pedagogy courses; or

(2) an academic major or minor from an accredited postsecondary institution; or

(3) completion of a personal development plan under an SAEP in the appropriate subject area(s) as explained under R277-520-10 with approval from the USOE specialist(s) in the endorsement subject areas.

D. On an annual basis, local boards/charter school boards shall request letters of authorization for teachers who are teaching classes for which they are not endorsed. [

~~(1) A qualified teacher working under an SAEP shall complete the program within two years.~~

~~(2) The district/charter school, with assistance from the USOE, shall review the progress of an individual under an SAEP annually.~~

~~(3) With written justification, the USOE may approve the continuation of an SAEP.]~~

#### **R277-520-7. Highly Qualified Teachers.**

A. A secondary teacher (7-12) is considered highly qualified if the teacher meets the requirements of R277-501-4.

B. An elementary/early childhood teacher (grades K-8) is considered highly qualified if the teacher meets the requirements of R277-501-5.

#### **R277-520-8. School District/Charter School Specific Competency-based Licensed Teachers.**

A. The following procedures and timelines apply to the employment of educators who have not completed the traditional licensing process under R277-520-5A, B, or C:

(1) A local board/charter school board may apply to the Board for a ~~letter of authorization~~ school district/charter school specific competency-based license to fill a position in the district.

(2) The employing school district shall request a ~~letter of authorization~~ school district/charter school specific competency-based license no later than 60 days after the date of the individual's first day of employment.

(3) The application for the ~~letter of authorization from the local board/charter school board~~ school district/charter school specific competency-based license for an individual to teach one or more core academic subjects shall provide documentation of:

(a) the individual's bachelors degree; and

(b) for a K-6 grade teacher, the satisfactory results of the rigorous state test including subject knowledge and teaching skills in the required core academic subjects under Section 53A-6-104.5(3)(ii) as approved by the Board; or

(c) for the teacher in grades 7-12, demonstration of a high Level of competency in each of the core academic subjects in which the teacher teaches by completion of an academic major, a graduate degree, course work equivalent to an undergraduate academic major, advanced certification or credentialing, results or scores of a

rigorous state core academic subject test in each of the core academic subjects in which the teacher teaches.

(4) The application for the ~~[letter of authorization from the local board/charter school board]~~ school district/charter school specific competency-based license for non-core teachers in grades K-12 shall provide documentation of:

(a) a bachelors degree, associates degree or skill certification; and

(b) skills, talents or abilities specific to the teaching assignment, as determined by the local board/charter school board.

(5) Following receipt of documentation, the USOE shall approve a district/charter school specific competency-based license.

(6) If an individual employed under a ~~[letter of authorization]~~ school district/charter school specific competency-based license leaves the district before the end of the employment period, the district shall notify the USOE Licensing Section regarding the end-of-employment date.

(7) The ~~[letter of authorization]~~ school district/charter school specific competency-based license for an individual's district/charter school specific competency-based license shall be valid only in the district/charter school that originally requested the ~~[letter of authorization]~~ school district/charter school specific competency-based license and for the individual originally employed under the ~~[letter of authorization]~~ school district/charter school specific competency-based license.

B. The written copy of the state-issued district-specific competency-based license shall prominently state the name of the school district/charter school followed by DISTRICT/CHARTER SCHOOL-SPECIFIC COMPETENCY-BASED LICENSE.

C. A school district/charter school may change the assignment of a school district/charter school-specific competency-based license holder but notice to USOE shall be required and additional competency-based documentation may be required for the teacher to remain qualified or highly qualified.

D. School district/charter school specific competency-based license holders are at-will employees consistent with Section 53A-8-106(5).

#### **R277-520-9. Routes to Appropriate Endorsements for Teachers.**

Teachers shall be appropriately endorsed for their teaching assignment(s).[

~~A.] To be highly qualified[=];~~

A. teachers may obtain the required endorsement(s) with a major or composite major or major equivalency consistent with their teaching assignment(s), including appropriate pedagogical competencies; or

B. ~~[F]~~teachers who have satisfactorily completed a minimum of nine semester hours of USOE-approved university level courses may complete a professional development plan under an SAEP in the appropriate subject area(s) with approval from USOE Curriculum specialists; or

C. ~~[F]~~teachers may demonstrate competency in the subject area(s) of their teaching assignment(s). In order to be endorsed through demonstrated competency, the educator shall pass designated Board-approved content knowledge and pedagogical knowledge assessments as they become available.

D. ~~[F]~~individuals shall be properly endorsed consistent with R277-520-3 or have USOE-approved SAEPs. Otherwise, the Board may withhold professional staff cost program funds.

#### **R277-520-10. ~~[State]Board-Approved Endorsement Program (SAEP).~~**

A. Teachers in any educational program who are assigned to teach out of their area(s) of endorsement and who have at least nine hours of USOE-approved university level courses shall participate in an SAEP and make satisfactory progress within the period of the SAEP as determined by USOE specialists.

B. The employing school district shall identify teachers who do not meet the state qualified definition and provide a written justification to the USOE.

C. Individuals participating in SAEPs shall demonstrate progress toward completion of the required endorsement(s) annually, as determined jointly by the school district/charter school and the USOE.

D. An SAEP may be granted for one two-year period and may be renewed by the USOE, upon written justification from the school district, for one additional two-year period.

#### **R277-520-11. Background Check Requirement and Withholding of State Funds for Non-Compliance.**

A. Educators qualified under any provision of this rule shall also satisfy the criminal background requirement of Section 53A-3-410 prior to unsupervised access to students.

~~B. If LEAs do not appropriately [identify teachers not meeting the definition of state-qualified teacher under]~~ employ and assign teachers consistent with this rule, they may have state appropriated professional staff cost program funds withheld pursuant to R277-486, Professional Staff Cost Formula.

C. Local boards/charter school boards shall report highly qualified educators in core academic subjects and educators who do not meet the requirements of highly qualified educators in core academic subjects beginning July 1, 2003.

**KEY: educator, license, assignment**

~~[February 5, ]2004~~

**Notice of Continuation July 12, 2000**

**Art X Sec 3**

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

**53A-6-104(2)(a)**

Education, Administration

## **R277-522**

Entry Years Enhancements (EYE) for  
Quality Teaching - Level 1 Utah  
Teachers

### **NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 27211

FILED: 06/01/2004, 15:20

### **RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide clarification of who is required to complete the EYE including Level 1 teachers employed or

reemployed in the state and Level 1 teachers from out-of-state entering employment into the Utah public schools. Amendments are also made in the language to establish consistency in terminology and changes to other educator licensing rules.

SUMMARY OF THE RULE OR CHANGE: The amendments provide new definitions, new language in requirements, changes in terminology for consistency, and accreditation definition is broadened.

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

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There may be some cost to the state as teachers are required to complete an induction process. The cost to the state would be minimal.
- ❖ LOCAL GOVERNMENTS: Again, perhaps some nominal costs to school districts in providing induction program and services. There may be some long-term savings in retaining teachers.
- ❖ OTHER PERSONS: There may be a cost of approximately \$80 per individual as part of institutional requirements for license applicants to take the Praxis II test and for out-of-state applicants who have not taken any Praxis test.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be a cost of approximately \$80 per individual as part of institutional requirements for license applicants to take the Praxis II test and for out-of-state applicants who have not taken any Praxis test.

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 to businesses. Patrick Ogden, Interim State Superintendent of Public Instruction

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 07/15/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2004

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

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

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

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

A. "Accredited" means a teacher preparation program accredited by the National Council for Accreditation of Teacher Education (NCATE), the Teacher Education Accreditation Council (TEAC) or one of the major regional accrediting associations as defined under R277-503-1L.

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

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

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

~~[D]E.~~ "Entry years" means the three years a beginning teacher holds a Level 1 license.

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

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

H. "Level 2 license" means a Utah professional educator license issued after satisfaction of all requirements for a Level 1 license and:

- (1) requirements established by law or rule;
- (2) three years of successful education experience within a five-year period; and
- (3) satisfaction of requirements under R277-522 for teachers employed after January 1, 2003.

I. "Level 3 license" means a Utah professional educator license issued to an educator who holds a current Utah Level 2 license and has also received National Board Certification or a doctorate in education or in a field related to a content area in a unit of the public education system or an accredited private school.

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

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

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

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

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

~~[H]~~[N]. "Working portfolio" means a collection of documents prepared by a Level 1 teacher and used as a tool for evaluation.

~~[M]~~[Q]. "USOE" means the Utah State Office of Education.

#### **R277-522-2. Authority and Purpose.**

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of the public school system under the Board; by Section 53A-9-103(5) which directs career ladder programs to include a program of evaluation and mentoring for beginning teachers designed to assist those beginning teachers in developing the skills required of capable teachers; Section 53A-6-102(2)(a)(iii) which finds that the implementation of progressive strategies regarding induction, professional development and evaluation are essential in creating successful teachers; Section 53A-6-106 which directs the Board to establish a rule for the training and experience required of license applicants for teaching; and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to outline required entry years enhancements of professional and emotional support for Level 1 teachers whose employment or reemployment in the Utah public schools began after January 1, 2003. The requirements apply to teachers during their first three years of teaching ~~[to]~~and include mentoring, testing, assessment/evaluation, and developing a professional portfolio. The purpose of these enhancements is to develop in Level 1 teachers successful teaching skills and strategies with assistance from experienced colleagues.

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

A. Level 1 teachers shall satisfactorily collaborate with a trained mentor, pass a required pedagogical exam, complete three years of employment and evaluation, and compile a working portfolio.

~~[A]~~[B]. Collaboration with an assigned mentor:

(1) ~~[Assignment of a mentor]~~A mentor shall be assigned to each Level 1 teacher in the first semester of teaching:

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

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

(2) Qualification of a mentor:

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

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

(3) A mentor shall:

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

(b) provide moral and emotional support;

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

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

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

(f) ~~[supervise]~~support Level 1 teachers on an ongoing basis;

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

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

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

~~[B]~~[C]. Passage of a pedagogical examination:

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

(a) shall be administered by ETS;

(b) ~~[require]~~shall be taken by the beginning teacher; the beginning teacher shall earn a qualifying score of at least 160;

(c) ~~[be taken only once a year]~~may be taken successive times.

(2) ~~[Scores]~~Results shall be posted on CACTUS.

~~[C]~~[D]. Successful evaluation under a school district ~~[level]~~employment and assessment/evaluation program:

(1) Teachers shall be fully employed for three years in Utah public schools or in accredited private schools.

(2) Employing school districts may, following evaluation of the individual's experience, determine that teaching experience outside of the Utah public schools satisfies the teaching/experience requirement of this rule.

(3) The school district has discretion in determining the employment or reemployment status of individuals.

~~[(1)]~~(4) Employing school districts shall be responsible for the evaluation; this duty may be assigned to the school principal.

~~[(2)]~~(5) The assessment/evaluation shall take place at least twice during the first year of teaching and at least twice during each of the following two years with a satisfactory final evaluation.

~~[D]~~[E]. Compilation of a working portfolio:

(1) The portfolio shall be ~~[received]~~reviewed and evaluated by the employing school district.

(2) ~~[and]~~the portfolio may be reviewed by USOE staff~~[-on a random sampling basis or]~~ upon request during the Level 1 teacher's second year of teaching.

~~[(2)]~~(3) the portfolio shall be based upon INTASC principles; and may:

(a) include teaching artifacts;

(b) include notations explaining the artifacts; and

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

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

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

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

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

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

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



## B. Recommendation for a Level 2 license:

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

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

C. The Board shall receive an annual report tracking the success of retention and the job satisfaction of Utah educators who complete the entry years enhancement program.

**KEY: teachers**

~~November 4, 2002~~ 2004

Art X Sec 3

53A-9-103(5)

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

53A-6-106

53A-1-401(3)

▼ ————— ▼

## Environmental Quality, Environmental Response and Remediation **R311-200** Underground Storage Tanks: Definitions

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27194

FILED: 05/29/2004, 08:53

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes in Subsection R311-200-1(b)(3) are proposed because many tanks now have electronic line leak detectors or sump sensors used as leak detectors. This change is made to assure that the yearly tests on all leak detectors are performed properly to verify that the leak detectors function correctly. The changes in Subsection R311-200-1(b)(48) are proposed because some individuals perform only specific types of underground storage tanks (UST) installations (individuals who install cathodic protection, for example) the definition of UST Installation is changed to allow for subclassifications of installer certifications, so individuals who perform testing or partial installations can be certified without having to meet all the requirements for a full certification. In Subsection R311-200-1(b)(54), added line leak detector and cathodic protection testing to the definition of UST testing, to ensure that those who perform the tests are certified and the tests are done correctly. The rule currently specify that individuals who perform UST tests must be certified, but the definition of UST testing is limited to precision tightness tests.

SUMMARY OF THE RULE OR CHANGE: Subsection R311-200-1(b)(3) defines what constitutes an automatic line leak

detector performance test. Subsection R311-200-1(b)(48) changes the definition of an UST installation to include additional operations related to the UST that are critical to the integrity of the UST system, rather than just the initial installation. UST installation would include UST repair, cathodic protection installation, internal lining and inspection, and secondary containment construction. The change will also allow for certification of individuals who perform any of these operations. Subsection R311-200-1(b)(54) this change would add cathodic protection testing and line leak detector performance testing to the definition of UST Testing. This will allow for certification of individuals who perform those tests, and help ensure that the tests are properly done. The requirement that the test method test the entire portion of the tank that could contain regulated substances is moved to Section R311-203-5, a new section that includes testing requirements.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105 and 19-6-403

#### ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Fewer than 5% of state-owned facilities have Electronic Line Leak Detector or sump sensors. Since the state currently tests all their line leak detectors or sump sensors, there will be no cost to the state budget.

❖ LOCAL GOVERNMENTS: Few, if any, local government entities have USTs with electronic line leak detectors or sump sensors. Overall aggregate cost would be minimal, and would depend on the number of tests performed. The cost would be approximately \$50 per test.

❖ OTHER PERSONS: Approximately 20% of the USTs in the state have sump sensors or Electronic line leak detectors. The owners/operators of approximately 50% of these USTs currently test their sump sensors or Electronic line leak detectors annually. Total yearly cost would be approximately \$21,000 to test about 420 sump sensors or Electronic line leak detectors.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Underground storage tank owner/operators who have electronic line leak detectors or sump sensors performing as line leak detectors would incur a yearly cost of approximately \$50 per leak detector or sump sensor for functionality testing.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed rule change will require that underground storage tank owners and operators pay for yearly testing of electronic line leak detectors and sump sensors when the sensors are used as a line leak detector. Some of these devices are currently not being tested yearly, and some are tested by the owner/operators themselves. The rule change would require that they all be tested annually and that the tests be performed by certified individuals. The tests cost approximately \$50 per test, but the benefit to the owner/operator can be much greater if the yearly testing verifies proper functionality of the leak detector and prevents a costly release of product to the environment. Dianne R. Nielson, Ph.D., Executive Director

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

ENVIRONMENTAL QUALITY  
ENVIRONMENTAL RESPONSE AND REMEDIATION  
168 N 1950 W  
SALT LAKE CITY UT 84116-3085, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gary Astin at the above address, by phone at 801-536-4103, by FAX at 801-359-8853, or by Internet E-mail at [gastin@utah.gov](mailto:gastin@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 07/15/2004

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 7/06/2004 at 1:30 PM, Department of Environmental Quality, 168 N 1950 W, Room 101, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/16/2004

AUTHORIZED BY: Dianne R. Nielson, Executive Director

### **R311. Environmental Quality, Environmental Response and Remediation.**

#### **R311-200. Underground Storage Tanks: Definitions.**

##### **R311-200-1. Definitions.**

(a) Refer to Section 19-6-402 for definitions not found in this rule.

(b) For purposes of underground storage tank rules:

(1) "Actively participated" for the purpose of the certification programs means that the individual applying for certification must have had operative experience for the entire project from start to finish, whether it be an installation or a removal.

(2) "As built drawing" (as constructed drawing, record drawing) for purpose of notification refers to a drawing to scale of newly constructed USTs. The UST shall be referenced to buildings, streets and limits of the excavation. Drawing size shall be limited to 8-1/2" x 11" if possible, but shall in no case be larger than 11" x 17".

(3) "Automatic line leak detector test" means a test that simulates a leak, and causes the leak detector to restrict or shut off the flow of regulated substance through the piping or trigger an audible or visual alarm.

([3]4) "Backfill" means any foreign material, usually pea gravel or sand, which usually differs from the native soil and is used to support or cover the underground storage tank system.

([4]5) "Burden" means the addition of the percentage of indirect costs which are added to raw labor costs.

([5]6) "Certificate" means a document that evidences certification.

([6]7) "Certification" means approval by the Executive Secretary or the Board to engage in the activity applied for by the individual.

([7]8) "Change-in-service" means the continued use of an UST to store a non-regulated substance.

([8]9) "Confirmation sample" means an environmental sample taken, excluding closure samples as outlined in Section R311-205-2,

during soil overexcavation or any other remedial or investigation activities conducted for the purpose of determining the extent and degree of contamination.

([9]10) "Customary, reasonable and legitimate expenses" means costs incurred during the investigation, abatement and corrective actions that address a release which are normally charged according to accepted industry standards, and which must be justified in an audit as an appropriate cost. The costs must be directly related to the tasks performed.

(1[0]1) "Customary, reasonable and legitimate work" means work for investigation, abatement and corrective action that is required to reduce contamination at a site to levels that are protective of human health and the environment. Acceptable levels may be established by risk-based analysis and taking into account current or probable land use as determined by the Executive Secretary following the criteria in R311-211.

(1[+]2) "Department" means the Utah Department of Environmental Quality.

(1[2]3) "Eligible exempt underground storage tank" for the purpose of eligibility for the Utah Petroleum Storage Tank Trust Fund means a tank specified in 19-6-415(1).

(1[3]4) "Environmental Consultant" or "Consultant" is an individual who provides or contracts to provide information, an opinion, or advice for a fee, or in conjunction with services for which a fee is charged, relating to underground storage tank management, release abatement, investigation, corrective action, or evaluation.

(1[4]5) "Environmental sample" is a groundwater, surface water, air, or soil sample collected, using appropriate methods, for the purpose of evaluating environmental contamination.

(1[5]6) "EPA" means the United States Environmental Protection Agency.

(1[6]7) "Expediently disposed of" means disposed of as soon as practical so as not to become a potential threat to human health or safety or the environment, whether foreseen or unforeseen as determined by the Executive Secretary.

(1[7]8) "Fiscal year" means a period beginning July 1 and ending June 30 of the following year.

(1[8]9) "Full installation" for the purposes of 19-6-411(2) means the installation of an underground storage tank.

(1[9]0) "Groundwater sample" is a sample of water from below the surface of the ground collected according to protocol established in Rule R311-205.

(2[0]1) "Groundwater and soil sampler" is the person who performs environmental sampling for compliance with Utah underground storage tank rules.

(2[+]2) "In use" means that an operational, inactive or abandoned underground storage tank contains a regulated substance, sludge, dissolved fractions, or vapor which may pose a threat to human health, safety or the environment as determined by the Executive Secretary.

(2[2]3) "Lapse" in reference to the Certificate of Compliance and coverage under the Petroleum Storage Tank Trust Fund, means to terminate automatically.

(2[3]4) "Native soil" means any soil that is not backfill material, which is naturally occurring and is most representative of the localized subsurface lithology and geology.

(2[4]5) "Notice of agency action" means any enforcement notice, notice of violation, notice of non-compliance, order, or letter issued to an individual for the purpose of obtaining compliance with underground storage tank rules and regulations.

(2[5]6) "Occurrence" in reference to Subsection R311-208-4 means a separate petroleum fuel delivery to a single tank.

(2[6]7) "Owners and operators" means either an owner or operator, or both owner and operator.

(2[7]8) "Overexcavation" means any soil removed in an effort to investigate or remediate in addition to the minimum amount required to remove the UST or take environmental samples during UST closure activities as outlined in Section R311-205-2.

(2[8]9) "Permanently closed" means underground storage tanks that are removed from service following guidelines in 40 CFR Part 280 Subpart G adopted by Section R311-202.

([29]30) "Petroleum storage tank" means a storage tank that contains petroleum as defined by Section 19-6-402(20).

(3[0]1) "Petroleum storage tank fee" means the fee which capitalizes the Petroleum Storage Tank Trust Fund as established in Section 19-6-409.

(3[1]2) "Petroleum storage tank trust fund" means the fund created by Section 19-6-409.

(3[2]3) "Registration fee" means underground storage tank registration fee.

(3[3]4) "Regulated substance" means any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act "CERCLA" of 1980, but not including any substance regulated as a hazardous waste under subtitle C, and petroleum, including crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure, 60 degrees Fahrenheit and 14.7 pounds per square inch absolute. The term "regulated substance" includes petroleum and petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading, and finishing, and includes motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

(3[4]5) "Site assessment" or "site check" is an evaluation of the level of contamination at a site which contains or has contained an UST.

(3[5]6) "Site assessment report" is a summary of relevant information describing the surface and subsurface conditions at a facility following any abatement, investigation or assessment, monitoring, remediation or corrective action activities as outlined in Rule R311-202, Subparts E and F.

(3[6]7) "Site investigation" is work performed by the owner or operator, or his designee, when gathering information for reports required for Utah underground storage tank rules.

(3[7]8) "Site plat" for purpose of notification, or reporting, refers to a drawing to scale of USTs in reference to the facility. The scale should be dimensioned appropriately. Drawing size shall be limited to 8-1/2" x 11" if possible, but shall in no case be larger than 11" x 17". The site plat should include the following: property boundaries; streets and orientation; buildings or adjacent structures surrounding the facility; present or former UST(s); extent of any excavation(s) and known contamination and location and volume of any stockpiled soil; locations and depths of all environmental samples collected; locations and total depths of monitoring wells, soil borings or other measurement or data points; type of ground-cover; utility conduits; local land use; surface water drainage; and other relevant features.

(3[8]9) "Site under control" means that the site of a release has been actively addressed by the owner or operator who has taken the following measures:

- (A) Fire and explosion hazards have been abated.
- (B) Free flow of the product out of the tank has been stopped.
- (C) Free product is being removed from the soil, groundwater or surface water according to a work plan or corrective action plan approved by the Executive Secretary.

(D) Alternative water supplies have been provided to affected parties whose original water supply has been contaminated by the release.

(E) A soil or groundwater management plan or both have been submitted for approval by the Executive Secretary.

([39]40) "Soil sample" is a sample collected following the protocol established in Rule R311-205.

(4[0]1) "Surface water sample" is a sample of water, other than a groundwater sample, collected according to protocol established in ~~Rule R311-205~~ [the "Utah Water Quality Monitoring Manual", 1986, or in "EPA Test Methods for Evaluating Solid Waste", SW-846, Vol. 2 Field Manual, Section 9.31-9.79.]

(4[1]2) "Tank" is a stationary device designed to contain an accumulation of regulated substances and constructed of non-earthen materials, such as concrete, steel, or plastic, that provide structural support.

(4[2]3) "UAPA-exempt orders" are orders that are exempt from requirements of the Utah Administrative Procedures Act under Section 63-46b-1(2)(k), Utah Code Annot.

(4[3]4) "Underground storage tank" or "UST" means any one or combination of tanks, including underground pipes connected thereto and any underground ancillary equipment and containment system, that is used to contain an accumulation of regulated substances, and the volume of which, including the volume of underground pipes connected thereto, is ten percent or more beneath the surface of the ground, regulated under Subtitle I, Resource Conservation and Recovery Act, 42 U.S.C., Section 6991c et seq.

(4[4]5) "Underground storage tank registration fee" means the fee assessed by Section 19-6-408 on tanks located in Utah.

(4[5]6) "UST inspection" is the inspection required by state and federal underground storage tank rules and regulations during the installation, testing, repairing, operation or maintenance, and removal of regulated underground storage tank.

(4[6]7) "UST inspector" is an individual who performs underground storage tank inspections for compliance with state and federal rules and regulations.

(4[7]8) "UST installation" means the installation of an underground storage tank, including construction, placing into operation, building or assembling an underground storage tank in the field. ~~It includes~~ or, the repair of an underground storage tank or any part thereof any operation that is critical to the integrity of the system and to the protection of the environment, which includes:

- (A) pre-installation tank testing, tank site preparation including anchoring, tank placement, and backfilling;
- (B) vent and product piping assembly;
- (C) cathodic protection installation, service, and repair;
- (D) internal lining;
- (E) secondary containment construction; and
- (F) UST repair and service.

(4[8]9) "UST installation permit fee" means the fee established by Section 19-6-411(2)(a)(ii).

([49]50) "UST installer" means an individual who engages in underground storage tank installation.

(5[0]1) "UST removal" means the removal of an underground storage tank system, including permanently closing and taking out of service all or part of an underground storage tank.

(5[1]2) "UST remover" means an individual who engages in underground storage tank removal.

(5[2]3) "UST tester" means an individual who engages in UST testing.

(5[3]4) "UST testing" means a testing method which can detect leaks in an underground storage tank system, or testing for compliance with corrosion protection requirements. Testing methods must meet applicable performance standards of 40 CFR [Parts]280.40(a)(3), 280.43(c), and 280.44(b)[as adopted by Section R311-202,] for tank and product piping tightness testing, 280.44(a) for automatic line leak detector testing, and 280.31(b) for cathodic protection testing. [The testing method, at a minimum, must be able to test the underground storage tank system at the maximum level that could contain regulated substances. Tanks with overfill prevention devices that prevent product from entering the upper portion of the tank may be tested at the maximum level allowed by that device.]

**KEY: hazardous substances, petroleum, underground storage tanks**<sup>[\*]</sup>

[July 14, 1997]2004

Notice of Continuation March 6, 2002

19-6-105

19-6-403



## Environmental Quality, Environmental Response and Remediation **R311-201** Underground Storage Tanks: Certification Programs

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27195

FILED: 05/29/2004, 08:54

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes in Subsections R311-201-2(c) and (e) are proposed to ensure that cathodic protection (CP) and Line Leak Detector (LLD) testing are done correctly and that LLD testing is done in some cases where the requirement is vague in the federal regulations. The industry requested that individuals who perform cathodic protection installations, interior lining of USTs, and repair and maintenance of UST systems should be certified without having to meet all the requirements for a full certification. In Subsection R311-201-3(c), when the inspector certification was first put into rule, the certification period was set to one year to ensure that the inspectors would stay current on training, the regulations, etc. Now all inspectors attend periodic training conducted by the UST section, and the DERR scientist overseeing each area trains each of the inspectors on a one-on-one basis during facility UST inspections. Since there is ample oversight and to cut down on paperwork, a two-year certification period is sufficient. In Subsection R311-201-4(a)(4), since DERR administers and grades the exam and processes the application, the need to provide documentation to individuals who pass the exam is unnecessary. In Subsection R311-201-4(a)(3)(C), the UST ACT references the Utah Professional Engineers (PE) certificate as meeting the education requirement for

certification as a Utah Certified UST Consultant. Utah Professional Geologists (PG) requested the PG license should meet the education requirement as well. The change in Subsection R311-201-4(b)(2) allows a certified individual to take advantage of alternative continuing education courses and exams to satisfy the requirements for certification. In Subsection R311-201-4(c)(2), this rule change was made to ensure that that cathodic protection (CP) testers are trained properly and that tests are done correctly. In Subsection R311-201-5(a)(3), this clarifies the implied requirement in Section R311-201-4 for a recertification exam. In Subsection R311-201-5(d), individuals whose certifications have been expired for a long period should be required to take a course to educate them to the changes in UST rules and technology related to the petroleum industry. Section R311-201-11 is added to specify that work performed under the statutory definitions of Professional Engineering (Section 58-22-102) and the Practice of Geology Before the Public (Section 58-76-102) must be performed by licensed professional engineers and geologists, and must be properly stamped and signed by the licensed individual.

SUMMARY OF THE RULE OR CHANGE: The change in Subsections R311-201-2(c) and (e) allows for issuing limited certifications for UST testers and installers, so individuals who perform certain types of testing or partial installations can be certified without having to meet all the requirements for a full certification. In Subsection R311-201-3(c), changes the inspector certification period from one year to two years. In Subsection R311-201-4(a)(4), removes the requirement that a person who passes a certification examination must provide documentation to submit with the application. In Subsection R311-201-4(a)(3)(C), wording is added to specify that an individual who holds a Utah PG certificate will meet the Education requirement for certification as a Utah Certified UST Consultant. In Subsection R311-201-4(b)(2), this change allows certified individuals to take an exam that is applicable to the certification, but not necessarily as comprehensive as the initial certification exam. In Subsection R311-201-4(c)(2), defines training requirements for cathodic protection testers. In Subsection R311-201-5(a)(3), requires that certified individuals pass an examination to re-certify. In Subsection R311-201-5(d), this change requires that people whose certification has been expired for more than two years must satisfy the training and examination requirements for initial certification before they can be certified again. The change in Section R311-201-11 specifies that work performed under the statutory definitions of Professional Engineering (Section 58-22-102) and the Practice of Geology Before the Public (Section 58-76-102) must be performed by licensed PEs and PGs, and the documents submitted must be properly stamped and signed by the licensed individual.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105, 19-6-402, and 19-6-403

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: For Subsection R311-201-2(c) and (e), none; the state does not employ Certified UST Testers or UST installers, so the costs to become certified would not apply. For Subsection R311-201-3(c), there could be minor savings

in administrative costs in processing certified inspector applications.

❖ LOCAL GOVERNMENTS: For Subsection R311-201-2(c) and (e), none, unless a local government agency chooses to employ a Certified UST Tester or UST installer. For Subsection R311-201-3(c), there could be minor savings in administrative costs in submitting certified inspector applications.

❖ OTHER PERSONS: For Subsection R311-201-2(c) and (e), costs to persons for training to meet the eligibility requirements for CP testing would be approximately \$250 to \$1,250 per person. Costs to persons to meet the training requirements for Automatic LLD testing would be approximately \$1,000 per person. Costs to persons to meet the training requirements for a limited installer certification would be approximately \$250 to \$1,000 per person. The aggregate cost would depend on the number of individuals who become certified. The majority of certified UST testers already test LLDs and meet the training requirements to test them so actual costs should be minimal. About half of the certified UST testers currently test CP systems and likely meet the eligibility requirements, so actual costs should be minimal. There are only a few CP testers who are not Certified UST Testers. It is likely that these individuals have already met the majority of the requirements to become certified, so the costs to certify should be minimal. Only a few individual may have to pay the full cost for meeting the eligibility requirements for training for CP and LLD testing. The majority of individuals who would receive a limited Installer certification already are certified as installers or already meet most of the training requirements, so the actual cost for certification would be minimal.

COMPLIANCE COSTS FOR AFFECTED PERSONS: For Subsection R311-201-2(c) and (e), the cost to an individual who wishes to perform CP Testing or LLD testing, or receive a limited Installer certification varies from approximately \$250 to \$1,250 for training and \$150 for and the State certification fee.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed changes will result in some individuals becoming certified as UST Installers or Testers, because testing of line leak detectors and cathodic protection systems will be done by certified individuals, and some additional work will fall under the definition of UST Installation. Most of the people who do this work are already certified, or already meet most of the training requirements, so it is not anticipated that the cost of becoming certified would be significant, either for individuals or in the aggregate. Dianne R. Nielson, Ph.D., Executive Director

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

ENVIRONMENTAL QUALITY  
ENVIRONMENTAL RESPONSE AND REMEDIATION  
168 N 1950 W  
SALT LAKE CITY UT 84116-3085, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gary Astin at the above address, by phone at 801-536-4103, by FAX at 801-359-8853, or by Internet E-mail at [gastin@utah.gov](mailto:gastin@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 07/15/2004

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 7/06/2004 at 1:30 PM, Department of Environmental Quality, 168 N 1950 W, Room 101, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/16/2004

AUTHORIZED BY: Dianne R. Nielson, Executive Director

### **R311. Environmental Quality, Environmental Response and Remediation.**

#### **R311-201. Underground Storage Tanks: Certification Programs.**

##### **R311-201-1. Definitions.**

Definitions are found in Rule R311-200.

##### **R311-201-2. Certification Requirement.**

(a) Certified UST Consultant. After December 31, 1995, no person shall provide or contract to provide information, opinions, or advice relating to UST release management, abatement, investigation, corrective action, or evaluation for a fee, or in connection with the services for which a fee is charged, without having certification to conduct these activities, except as outlined in Subsections 19-6-402(6)(b)(i), 19-6-402(6)(b)(ii) and R311-204-5(b). The Certified UST Consultant shall be the person directly overseeing UST release-related work. The Certified UST Consultant shall make pertinent project management decisions and be responsible for ensuring that all aspects of UST-related work are performed in an appropriate manner, and all related documentation for work performed submitted to the Executive Secretary shall contain the Certified UST Consultant's signature. After December 31, 1995, any release abatement, investigation, and corrective action work performed by a person who is not certified or who is not working under the direct supervision of a Certified UST Consultant, and is performed for compliance with Utah underground storage tank release-related rules, except as outlined in Subsections 19-6-402(6)(b)(i), 19-6-402(6)(b)(ii) and R311-204-5(b), may be rejected by the Executive Secretary.

(b) UST Inspector. After December 31, 1989, no person shall conduct underground storage tank inspection for determining compliance with Utah underground storage tank rules without having certification to conduct these activities. After December 31, 1989, no owner or operator shall allow any underground storage tank inspections for determining compliance with Utah underground storage tank rules to be conducted on a tank under their ownership or operation unless the person conducting the tank inspection is certified according to Rule R311-201.

(c) UST tester. After December 31, 1989, no person shall conduct UST testing without having certification to conduct such activities. After December 31, 1989, no owner or operator shall allow

UST testing to be conducted on an UST under their ownership or operation unless the person conducting the UST testing is certified according to Rule R311-201. Certification by the Executive Secretary under this Rule for tank, line and leak detector testing shall apply only to the specific UST testing equipment and procedures for which the UST tester has been successfully trained by the manufacturer of the equipment or by training determined by the Executive Secretary to be equivalent to the manufacturer training. The Executive Secretary may issue a limited certification restricting the type of UST testing the applicant can perform.

(d) Groundwater and soil sampler. After December 31, 1989, no person shall conduct groundwater or soil sampling for determining levels of contamination which may have occurred from regulated underground storage tanks without having certification to conduct these activities. After December 31, 1989, no owner or operator shall allow any groundwater or soil sampling for determining levels of contamination which may have occurred from regulated underground storage tanks to be conducted on a tank under their ownership or operation unless the person conducting the groundwater or soil sampling is certified according to Rule R311-201.

(e) UST Installer. After January 1, 1991, no person shall install an underground storage tank without having certification or the on-site supervision of an individual having certification to conduct these activities. After January 1, 1991, no owner or operator shall allow the installation of an underground storage tank to be conducted on a tank under their ownership or operation unless the person installing the tank is certified according to Rule R311-201. The Executive Secretary may issue a limited certification restricting the type of UST installation the applicant can perform.

(f) UST Remover. After January 1, 1991, no person shall remove an underground storage tank without having certification or the on-site supervision of an individual having certification to conduct these activities. After January 1, 1991, no owner or operator shall allow the removal of an underground storage tank to be conducted on a tank under their ownership or operation unless the person conducting the tank removal is certified according to Rule R311-201.

### **R311-201-3. Application for Certification.**

(a) Any individual may apply for certification by paying any applicable fees and by submitting an application to the Executive Secretary to demonstrate that the applicant

(1) meets applicable eligibility requirements specified in Subsection R311-201-4 and

(2) will maintain the applicable performance standards specified in Subsection R311-201-6 after receiving a certificate.

(b) Applications submitted under Subsection R311-201-3(a) shall be reviewed by the Executive Secretary for determination of eligibility for certification. If the Executive Secretary determines that the applicant meets the applicable eligibility requirements described in Subsection R311-201-4 and meets the standards described in Subsection R311-201-6, the Executive Secretary shall issue to the applicant a certificate.

(c) Certification for all certificate holders [~~except UST inspectors~~] shall be effective for a period of two years from the date of issuance, unless revoked before the expiration date pursuant to Section R311-201-9 or inactivated pursuant to Section R311-201-8. [~~Inspector certificates shall be effective for a period of one year from the date of issuance.~~] Certificates shall be subject to periodic renewal pursuant to Subsection R311-201-5.

### **R311-201-4. Eligibility for Certification.**

(a) Certified UST Consultant.

(1) Training. For initial and renewal certification, an applicant must meet Occupational Safety and Health Agency safety training requirements in accordance with 29 CFR 1910.120 and any other applicable safety training, as required by federal and state law, and within a six-month period prior to application must complete an approved training course or equivalent in a program approved by the Executive Secretary to provide training to include the following areas: state and federal statutes, rules and regulations, groundwater and soil sampling, and other applicable and related Department of Environmental Quality policies.

(2) Experience. Each applicant must provide with the application a signed statement or other evidence demonstrating three years, within the past seven years, of appropriately related experience in underground storage tank release abatement, investigation, ~~or~~ and corrective action, or an equivalent combination of appropriate education and experience, as determined by the Executive Secretary.

(3) Education. Each applicant must provide with the application college transcripts or other evidence demonstrating the following:

(A) a bachelor's or advanced degree from an accredited college or university with major study in environmental health, engineering, biological, chemical, environmental, or physical science, or a specialized or related scientific field, or equivalent education/experience as determined by the Executive Secretary; ~~or~~

(B) a professional engineering certificate licensed under Title 58, Chapter 22, of the Professional Engineers and Land Surveyors Licensing Act or equivalent certification as determined by the Executive Secretary; ~~or~~

(C) a professional geologist certificate licensed under Title 58, Chapter 76 of the Professional Geologist Licensing Act, or equivalent certification as determined by the Executive Secretary.

(4) Initial Certification Examination. Each applicant who is not certified pursuant to R311-201-3 must successfully pass an initial certification examination or equivalent administered under the direction of the Executive Secretary. The Executive Secretary shall determine the content of the initial examination based on the training requirements as outlined in Subsection R311-201-4(a)(1). ~~[An individual who successfully passes the examination will be provided with documentation to complete the application requirements.]~~

(5) Renewal Certification Examination. Certified UST Consultants seeking to renew their certification pursuant to R311-201-5 must successfully pass a renewal certification examination or equivalent administered under the direction of the Executive Secretary.

The Executive Secretary shall determine the content of the renewal examination based on the training requirements as outlined in Subsection R311-201-4(a)(1). The Executive Secretary may offer a renewal certification examination that is less comprehensive than the initial certification examination. ~~[An individual who successfully passes the renewal certification examination will be provided with documentation to complete the application requirements.]~~

(6) Examination for Revoked or Expired Certification. Any applicant who is not a Certified UST Consultant on the date the renewal certification examination is given, because the consultant's prior UST Consultant certification was revoked or expired prior to completing a renewal application, must successfully pass the initial certification examination administered under R311-201-4(a)(4).

(b) UST Inspector.

(1) Training. For initial certification, an applicant must have successfully completed an underground storage tank inspector training course or equivalent within the six month period prior to application. The training course shall be [in a program] approved by the Executive Secretary [to provide training-] and shall [to] include instruction in the following areas: corrosion, geology, hydrology, tank handling, tank testing, product piping testing, disposal, safety, sampling methodology, state site inspection protocol, state and federal statutes, rules and regulations. Renewal certification training will be established by the Executive Secretary. The applicant must provide documentation of training with the application.

(2) Certification Examination. An applicant must successfully pass a certification examination administered under the direction of the Executive Secretary. The Executive Secretary shall determine the content of the initial and [subsequent]renewal examinations, based on the training requirements as outlined in Subsection R311-201-4(b)(1), and the standards and criteria against which the applicant will be evaluated. ~~[An individual who successfully passes an examination will be provided with documentation to include with the application.]~~The Executive Secretary may offer a renewal certification examination that is less comprehensive than the initial certification examination.

(c) UST Tester.

(1) Financial Assurance. An applicant or applicant's employer shall have insurance, surety bonds, liquid company assets or other appropriate kinds of financial assurance which covers UST testing and which, in combination, represent an unencumbered value of the largest UST testing contract performed by the applicant or the applicant's employer, as appropriate, during the previous two years, or \$50,000, whichever is greater. An applicant who uses his employer's financial assurance must also provide evidence of his employer's approval of the certification application.

(2) Training.

(A) Tank and product piping tightness testing, and automatic line leak detector testing. For initial certification, an applicant must have successfully passed a training course conducted by the manufacturer of the UST testing equipment that he will be using, or a training course determined by the Executive Secretary to be equivalent to the manufacturer training, in the correct use of the necessary equipment, and testing procedures required to operate the UST test system. An applicant for renewal of certification must have successfully passed an appropriate refresher training course conducted by the manufacturer of the UST testing equipment that he will be using, or training as determined by the Executive Secretary to be equivalent to the manufacturer training, in the correct use of the necessary equipment, and testing procedures required to operate the UST test system. For renewal certification, refresher training or equivalent must be completed within one year prior to the expiration date of the certificate. In addition, an applicant must complete underground storage tank testers training within the six month period prior to application in a program approved by the Executive Secretary to provide training to include applicable and related areas of state and federal statutes, rules and regulations. Renewal certification training will be established by the Executive Secretary. The applicant must provide documentation of training with the application.

(B) Cathodic protection testing. For initial and renewal of certification, the applicant shall provide documentation of training as a "Cathodic protection tester" as defined in 40 CFR 280.12. The applicant shall provide documentation of training with the application.

(3) Performance Standards of Equipment. An applicant shall submit documentation ~~[which]that~~ demonstrates the UST testing equipment used by the applicant meets performance standards of 40

CFR Part 280.40(a)(3), 280.43(c), and 280.44(b) for tank and product piping tightness testing. This documentation shall be obtained through an independent lab, professional engineering firm, or ~~[some-]other~~ independent organization or individual approved by the Executive Secretary. The documentation shall be submitted at the time of application for certification.

(4) Certification Examination. An applicant must successfully pass a certification examination administered under the direction of the Executive Secretary. The Executive Secretary shall determine the content of the initial and [subsequent]renewal examinations, based on the training requirements as outlined in Subsection R311-201-4(c)(2), and the standards and criteria against which the applicant will be evaluated. ~~[An individual who successfully passes an examination will be provided with documentation to include with the application.]~~The Executive Secretary may offer a renewal certification examination that is less comprehensive than the initial certification examination.

(d) Groundwater and soil sampler.

(1) Training. For initial ~~[and renewal]~~ certification an applicant shall successfully complete an underground storage tank groundwater and soil sampler training course or equivalent within the six month period prior to application. The training course shall be [in a program] approved by the Executive Secretary and shall [to provide training to] include instruction in the following areas: chain of custody, decontamination, EPA testing methods, groundwater and soil sampling protocol, preservation of samples during transportation, coordination with Utah certified labs, state and federal statutes, rules and regulations. Renewal certification training will be determined by the Executive Secretary. The applicant shall provide documentation of training with the application.

(2) Certification Examination. An applicant must successfully pass a certification examination administered under the direction of the Executive Secretary. The Executive Secretary shall determine the content of the initial and subsequent examinations, based on the training requirements as outlined in Subsection R311-201-4(d)(1), and the standards and criteria against which the applicant will be evaluated. ~~[An individual who successfully passes an examination will be provided with documentation to include with the application.]~~The Executive Secretary may offer a renewal certification examination that is less comprehensive than the initial certification examination.

(e) UST Installer.

(1) Financial assurance. An applicant or the applicant's employer shall have insurance, surety bonds, liquid company assets or other appropriate kinds of financial assurance which covers underground storage tank installation and which, in combination, represents an unencumbered value of not less than the largest underground storage tank installation contract performed by the applicant or the applicant's employer, as appropriate, during the previous two years, or \$250,000, whichever is greater. Evidence of financial assurance shall be provided with the application. An applicant who uses his employer's financial assurance must also provide evidence of his employer's approval of the application.

(2) Training. For initial ~~[and renewal]~~ certification, an applicant must have successfully completed an underground storage tank installer ~~[approved]~~ training course or equivalent within the six-month period prior to the application. The training course shall be [in a program-]approved by the Executive Secretary, [to provide training to] and shall include instruction in the following areas: tank installation, preinstallation tank testing, product piping testing, excavation, anchoring, backfilling, secondary containment, leak detection methods, piping, electrical, state and federal statutes, rules and regulations. The applicant must provide documentation of training with the application.

(3) Experience. Each applicant must provide with his application a sworn statement or other evidence that he has actively participated in a minimum of three underground storage tank installations.

(4) Certification Examination. An applicant must successfully pass a certification examination administered under the direction of the Executive Secretary. The Executive Secretary shall determine the content of the initial and ~~subsequent~~ renewal examinations, based on the training requirements as outlined in Subsection R311-201-4(e)(2), and the standards and criteria against which the applicant will be evaluated. ~~[An individual who successfully passes an examination will be provided with documentation to include with the application.]~~ The Executive Secretary may offer a renewal certification examination that is less comprehensive than the initial certification examination.

(f) UST Remover.

(1) Financial assurance. An applicant or the applicant's employer shall have insurance, surety bonds, liquid company assets or other appropriate kinds of financial assurance which covers underground storage tank removal and which, in combination, represents an unencumbered value of not less than the largest underground storage tank removal contract performed by the applicant or the applicant's employer, as appropriate, during the previous two years, or \$250,000, whichever is greater. Evidence of financial assurance shall be provided with the application. An applicant who uses his employer's financial assurance must also provide evidence of his employer's approval of the application.

(2) Training. For initial ~~and renewal~~ certification, an applicant must have successfully completed an underground storage tank remover approved training course or equivalent within the six-month period prior to the application. ~~The training course shall be in a program approved by the Executive Secretary and shall to provide training to~~ include instruction in the following areas: tank removal, tank removal safety practices, state and federal statutes, rules and regulations. The applicant must provide documentation of training with the application.

(3) Experience. Each applicant must provide with his application a sworn statement or other evidence that he has actively participated in a minimum of three underground storage tank removals.

(4) Certification Examination. An applicant must successfully pass a certification examination administered under the direction of the Executive Secretary. The Executive Secretary shall determine the content of the initial and ~~subsequent~~ renewal examinations, based on the training requirements as outlined in Subsection R311-201-4(f)(2), and the standards and criteria against which the applicant will be evaluated. ~~[An individual who successfully passes an examination will be provided with documentation to include with the application.]~~ The Executive Secretary may offer a renewal certification examination that is less comprehensive than the initial certification examination.

#### **R311-201-5. Renewal.**

(a) A certificate holder may apply for certificate renewal not more than six months prior to the expiration date of the certificate by ~~submitting~~:

(1) submitting a completed application form to demonstrate that the applicant meets the applicable eligibility requirements described in R311-201-4 and meets the applicable performance standards specified in R311-201-6 ~~and~~;

(2) paying any applicable fees ~~and~~

(3) passing a certification renewal examination.

(b) If the Executive Secretary determines that the applicant meets the applicable eligibility requirements of R311-201-4 and the

applicable performance standards of R311-201-6, the Executive Secretary shall reissue the certificate to the applicant.

(c) Renewal certificates shall be issued for a period equal to the initial certification period, and shall be subject to inactivation under R311-201-8 and revocation under R311-201-9.

(d) Any applicant who has a certification which has been revoked or expired for more than two years prior to submitting a renewal application shall successfully satisfy the training and certification examination requirements for initial certification under R311-201-4 for the applicable certificate before receiving the renewal certification, except as provided in R311-201-4(a)(6) for certified UST consultants.

#### **R311-201-11. Work Performed by Licensed Engineers or Geologists.**

(a) All work that qualifies as Professional Engineering or the Practice of Engineering, as defined in Section 58-22-102, shall be performed by or under the personal direction of a licensed Professional Engineer, or as qualifying under exemptions stated in Section 58-22-305. All documents and other work products submitted to the division for work that is performed under Section 58-22-102, shall be stamped and signed by an individual licensed under Section 58-22-301.

(b) All work that qualifies as the Practice of Geology Before the Public, as defined in Section 58-76-102, shall be performed by or under the personal direction of a licensed Professional Geologist, or as qualifying under exemptions stated in Section 58-76-304. All documents and other work products submitted to the division, for work that is performed under Section 58-76-102, shall be stamped and signed by an individual licensed under Section 58-76-301.

**KEY: hazardous substances, petroleum, underground storage tanks<sup>≠</sup>**

**~~July 17, 2000~~ 2004**

**Notice of Continuation March 6, 2002**

**19-6-105**

**19-6-402**

**19-6-403**



## Environmental Quality, Environmental Response and Remediation

### **R311-203**

## Underground Storage Tanks: Notification, New Installations, and Registration Fees

### **NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 27196

FILED: 05/29/2004, 08:55

### **RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed amendment removes the requirement that certified installation companies pay a \$200 per tank installation fee in situations when the installation company does not receive any coverage under the Petroleum Storage Tank Fund; codifies the policy of the Executive Secretary (UST) regarding



payment of past-due UST registration fees for issuance of a certificate of compliance when the facility owner/operator changes; and provides requirements for UST testing.

**SUMMARY OF THE RULE OR CHANGE:** In Subsection R311-203-3(c), adds wording to specify that the \$200 per tank installation permit fee is paid only for a full UST installation and for certain work done on a tank that does not have a certificate of compliance. In Subsection R311-203-4(e), adds wording to specify that all past-due registration fees shall be paid when a certificate of compliance is issued or re-issued, and allow for enforcement discretion to decline active collection of past due fees when the tanks are closed within one year of the change of owner/operator. In Section R311-203-5, adds wording to provide requirements for tank, automatic line leak detector, containment sump, and cathodic protection testing, and to specify the information to be submitted by the tester with the test results.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 19-6-105 and 19-6-408

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** It is anticipated that the State Budget will lose approximately \$1,000 per year in UST Installation permit fees due to the reduced number of tank installation projects that require payment of the \$200 per tank installation fee. As a tank owner/operator, the State could save the \$200 per tank fee in situations where the fee would no longer be required. The aggregate amount saved would depend on the number of UST installations for which the fee would no longer be due under the change. The proposed change regarding payment of UST registration fees before a certificate of compliance is issued puts into rule a policy that is already in place. This policy has generally been applied to previously-unknown underground storage tanks that have been found and reported. In the last 3 years, approximately \$5,000 - \$8,000 per year has been collected, and approximately \$20,000 - \$30,000 per year has been considered noncollectible. The amounts collected and considered noncollectible each year depend on the number of tanks found and the specific circumstances of each situation. As an underground storage tank owner, the state could be charged past-due registration fees for previously unknown tanks that are found on state property. The amount to be paid could range from \$200 per tank to approximately \$2,000 per tank, depending on the circumstances of the situation. The aggregate amount that might be paid would depend on the number of tanks found. The proposed requirements for testing of automatic line leak detectors and containment sumps could result in a yearly cost to the State of approximately \$50 per test for electronic line leak detectors and approximately \$100 per test for containment sumps when a sump sensor is used as a leak detector. The aggregate cost would depend on the number of state-owned tanks that would have to be tested. Few state-owned facilities would be affected, because most or all are already being tested annually.

❖ **LOCAL GOVERNMENTS:** As a tank owner/operator, a local government could save the \$200 per tank fee in situations where the fee would no longer be required. The aggregate amount saved would depend on the number of UST

installations for which the fee would no longer be due under the change. As an underground storage tank owner, a local government could be charged past-due registration fees for previously unknown tanks that are found on its property. The amount to be paid could range from \$200 per tank to approximately \$2,000 per tank, depending on the circumstances of the situation. The aggregate amount that might be paid would depend on the number of tanks found. A yearly cost of approximately \$50 per test for electronic line leak detectors and cost of approximately \$100 per test for containment sumps when a sump sensor is used as a leak detector. The aggregate cost would depend on the number of local government-owned tanks that would have to be tested.

❖ **OTHER PERSONS:** Underground storage tank owner/operators would save the \$200 per tank fee in situations where the fee would no longer be required. The aggregate amount saved would depend on the number of UST installations for which the fee would no longer be due under the change. These situations currently occur infrequently, approximately three to five times per year. An underground storage tank owner could be charged past-due registration fees for previously unknown tanks that are found on the owner's property. The amount to be paid could range from \$200 per tank to approximately \$2,000 per tank, depending on the circumstances of the situation. The aggregate amount that might be paid would depend on the number of tanks found. A yearly cost of approximately \$50 per test for electronic line leak detectors and cost of approximately \$100 per test for containment sumps when a sump sensor is used as a leak detector. The aggregate cost would be approximately \$21,000 yearly to test the electronic leak detectors and sump sensors that are not currently being tested by certified individuals.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The proposed change regarding payment of UST registration fees before a certificate of compliance is issued affects previously-unknown tanks that are found and reported. The registration fees that would be due if the owner were to qualify the tank for a certificate of compliance would be up to approximately \$2000 per tank, depending on the age of the tank. If the owner were to permanently close the tank, and the Executive Secretary decided not pursue collection of the fees (generally because the cost of collection would exceed the amount to be collected), the cost to the owner would be the fees for the years he owned the tank (\$200 up to approximately \$2,000 per tank), and the cost of permanently closing the tank, approximately \$2,000 - \$3,000 per tank. The proposed testing requirements will require that all line leak detectors be tested annually. Because the interpretations of the Federal regulations regarding testing of electronic leak detectors, many of these are not currently being tested. The cost to test them would be approximately \$50 per leak detector each year.

When a containment sump sensor is used as a leak detector, the sump will also have to be tested for tightness. The cost of this test would be approximately \$100 per sump per year.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The change most likely to have a significant impact on businesses involves the payment of UST registration fees for abandoned underground tanks that

are found on property undergoing development. In almost all cases, these tanks are removed by the property owner. The cost of closure of the tanks is the principal fiscal impact, and the fees assessed are generally only for the time the current owner owned the property. The fees for previous years are generally considered non-collectible. Because the proposed change only codifies a policy already in place, no significant change in the current impact of these situations is anticipated. The proposed requirement for testing of line leak detectors and containment sumps will mean that some UST owner/operators who have not been testing the leak detectors or sumps will incur a cost to have them tested. Because most leak detectors are already tested yearly, the overall additional cost will be a small percentage of the total cost for testing all the leak detectors and containment sumps. Dianne R. Nielson, Ph.D., Executive Director

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

ENVIRONMENTAL QUALITY  
ENVIRONMENTAL RESPONSE AND REMEDIATION  
168 N 1950 W  
SALT LAKE CITY UT 84116-3085, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gary Astin at the above address, by phone at 801-536-4103, by FAX at 801-359-8853, or by Internet E-mail at [gastin@utah.gov](mailto:gastin@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 07/15/2004

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 7/06/2004 at 1:30 PM, Department of Environmental Quality, 168 N 1950 W, Room 101, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/16/2004

AUTHORIZED BY: Dianne R. Nielson, Executive Director

### **R311. Environmental Quality, Environmental Response and Remediation.**

#### **R311-203. Underground Storage Tanks: Notification, New Installations, ~~and~~ Registration Fees, and Testing Requirements.**

##### **R311-203-1. Definitions.**

Definitions are found in Section R311-200.

##### **R311-203-2. Notification.**

(a) The owner or operator of an underground storage tank shall notify the Executive Secretary whenever:

- (1) new USTs are brought into use; ~~or~~
- (2) the owner or operator changes; ~~or~~
- (3) changes are made to the tank or piping system; or
- (4) release detection, corrosion protection, or spill or overfill ~~protection~~ prevention systems are installed, changed or upgraded.

(b) All notifications shall be submitted on the current approved notification form within 30 days of the completion of the work or the change of ownership.

(c) Notifications shall include the latitude and longitude of the facility.

(d) To satisfy the requirement of Subsection 19-6-407(1)(c) the certified installer shall:

(1) complete the appropriate section of the notification form to be submitted by the owner or operator, and ensure that the notification form is submitted by the owner or operator within 30 days of completion of the installation; or

(2) provide separate notification to the Executive Secretary within 60 days of the completion of the installation.

##### **R311-203-3. New Installations, Permits.**

(a) Certified UST installers who intend to perform any of the activities listed in R311-203-3(c) or R311-203-3(d)(1) through (4) shall notify the Executive Secretary at least 30 days before commencing the activity.

(b) The fees assessed under 19-6-411(2)(a)(i) shall be determined based on the number of full UST installations performed by the installation company in the 12 months previous to the fee due date. Installations for which the fee assessed under 19-6-411(2)(a)(ii) and R311-203-3(c) is charged shall count toward the total installations for the 12-month period.

(c) The UST installation company shall submit to the Executive Secretary an UST installation permit fee of \$200 ~~for~~ when the following work is performed on an UST system that has not qualified for a certificate of compliance before the commencement of the work:

- (1) each full UST system installation;
- (2) the installation of underground product piping for one or more tanks at a facility, separate from the installation of one or more tanks at a facility;
- (3) the internal lining of a previously-existing tank;
- (4) the installation of a cathodic protection system on one or more previously-existing tanks at a facility where the structural integrity of the UST was required to be assessed, or there is no documentation of a properly working cathodic protection system on the UST within 10 years of the proposed upgrade;
- (5) the installation of a bladder in a tank, or any other retro-fit, replacement, or installation that requires the cutting of a manway into the tank, or
- (6) installation of other UST system components as determined by the Executive Secretary.

(d) The UST installation permit fee shall not be required when the following activities are performed separately from the activities listed in R311-203-3(c):

- (1) installation of spill prevention devices;
- (2) installation of overfill prevention devices;
- (3) installation of a leak detection monitoring system;
- (4) installation of an automatic line leak detector; or
- (5) replacement or repair of valves, dispensers, or leak detection system components.

(e) When a new ~~tank~~ UST system, tank only, or product piping only is installed, the owner or operator shall submit to the Executive Secretary a site plat or an as-built drawing, to scale, which shall include: the excavation, buildings, tanks, product lines, vent lines, cathodic protection systems, tank leak detection systems, and product line leak detection systems.

(f) For the purposes of Sections 19-6-411(2)(a)(ii), 19-6-407(1)(c), and R311-203-2(d), an installation shall be considered complete when:

(1) in the case of installation of a new UST system, tank only, or product piping only, the new installation first holds a regulated substance; or

(2) in the case of installation of the components listed in Section R311-203-3(c)(3) through R311-203-3(c)(6), the new installation is functional and the UST holds a regulated substance and is operational.

(g) If, before completion of an installation for which an UST installation permit fee is required, the owner or operator decides to install additional UST system components, the installer shall notify the Executive Secretary of the change. When additions are made, the UST installation permit fee shall not be increased unless the original UST installation permit fee would have been higher had the addition been considered at the time the original fee was determined.

(h) The number of UST installation companies performing work on a particular installation shall not be a factor in determining the UST installation permit fee for that installation. However, each installation company shall identify itself at the time the UST installation permit fee is paid.

#### **R311-203-4. Underground Storage Tank Registration Fee.**

(a) Registration fees shall be assessed by the Department against all tanks which are not permanently closed for the entire fiscal year, and shall be billed per facility.

(b) Registration fees shall be due on July 1 of the fiscal year for which the assessment is ~~being~~ made, or, for underground storage tanks brought into use after the beginning of the fiscal year, underground storage tank registration fees shall be due when the tanks are brought into use, as a requirement for receiving a certificate of compliance.

(c) The Executive Secretary may waive all or part of the penalty assessed under Subsection 19-6-408(5) if no fuel has been dispensed from the tank on or after July 1, 1991 and if the tank has been properly closed according to Sections R311-204 and R311-205, or in other circumstances as approved by the Executive Secretary.

(d) The Executive Secretary shall issue a certificate of registration to owners or operators for individual underground storage tanks at a facility if:

(1) the tanks are in use or are temporarily closed according to 40 CFR Part 280 Subpart G ~~adopted by Section R311-202~~; and,

(2) the underground storage tank registration fee has been paid.

(e) Pursuant to 19-6-408(5)(c), all past due registration fees, late payment penalties and interest must be paid before the Executive Secretary may issue or re-issue a certificate of compliance regardless of whether there is a new owner or operator at the facility. However, the Executive Secretary may decline active collection of past due registration fees, late payment penalties and interest if a certificate of compliance is not issued and the new owner or new operator properly closes the underground storage tanks within one year of becoming the new owner or operator of the facility.

#### **R311-203-5. UST Testing Requirements.**

(a) Tank tightness testing. The testing method must be able to test the UST system at the maximum level that could contain regulated substances. Tanks with overfill prevention devices that prevent product from entering the upper portion of the tank may be tested at the maximum level allowed by the overfill device.

(b) Automatic line leak detector testing. Line leak detectors shall be tested annually for functionality according to 40 CFR 280.44(a) and

R311-200-1(b)(3). An equivalent test may be approved by the Executive Secretary. The test shall simulate a leak and provide a determination based on the test whether the leak detector functions properly and meets the requirements of 40 CFR 280.44(a). If a sump sensor is used as an automatic line leak detector, the sensor shall be located as close as is practical to the lowest portion of the sump.

(c) Containment sump testing. When a sump sensor is used as a leak detector, the secondary containment sump shall be tested for tightness annually according to the manufacturer's guidelines or standards, or by another method approved by the Executive Secretary.

(d) Cathodic protection testing. Cathodic protection tests shall meet the inspection criteria outlined in 40 CFR 280.31(b)(2), or other criteria approved by the Executive Secretary. The tester who performs the test shall provide the following information: location of test points, test results in volts or millivolts, pass/fail determination for each tank, line, flex connector, or other UST system component tested, the criteria by which the pass/fail determination is made, and a site plat showing locations of test points.

(e) UST testers performing tank and line tightness testing shall include the following as part of the test report: pass/fail determination for each tank or line tested, the measured leak rate, the test duration, the product level for tank tests, the pressure used for pressure tests, the type of test, and the test equipment used.

**KEY: fees, hazardous substances, petroleum, underground storage tanks<sup>[#]</sup>**

**[July 14, 1997]2004**

**Notice of Continuation March 6, 2002**

**19-6-105**

**19-6-408**

## Environmental Quality, Environmental Response and Remediation

### **R311-204**

## Underground Storage Tanks: Closure and Remediation

### **NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 27197

FILED: 05/29/2004, 08:55

### **RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed amendment improves grammar and punctuation to make the rule more easy to understand; and provides for submittal of a closure notice for temporary closure of Underground Storage Tanks (USTs).

SUMMARY OF THE RULE OR CHANGE: This amendment makes various changes to the rule wording to make the rule easier to understand, and correct legal citation format; and adds wording to require the owner/operator to submit a temporary closure notice within 120 days of the beginning of temporary closure, if the tank is temporarily closed for a period longer than 3 months.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-105, 19-6-402, and 19-6-403

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--The changes improve and clarify the wording of the rule, and add a requirement that underground storage tank owner/operators complete and submit a form when USTs are temporarily closed.

❖ LOCAL GOVERNMENTS: None--The changes improve and clarify the wording of the rule, and add a requirement that underground storage tank owner/operators complete and submit a form when USTs are temporarily closed.

❖ OTHER PERSONS: None--The changes improve and clarify the wording of the rule, and add a requirement that underground storage tank owner/operators complete and submit a form when USTs are temporarily closed.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only anticipated cost would be the minimal cost of completing and submitting a form when USTs are temporarily closed for longer than three months.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These changes would not have any fiscal impact on businesses. The changes only add a requirement for completing and submitting a form when underground storage tanks are taken out of service temporarily. Dianne R. Nielson, Ph.D., Executive Director

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

ENVIRONMENTAL QUALITY  
ENVIRONMENTAL RESPONSE AND REMEDIATION  
168 N 1950 W  
SALT LAKE CITY UT 84116-3085, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gary Astin at the above address, by phone at 801-536-4103, by FAX at 801-359-8853, or by Internet E-mail at [gastin@utah.gov](mailto:gastin@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 07/15/2004

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 7/06/2004 at 1:30 PM, Department of Environmental Quality, 168 N 1950 W, Room 101, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/16/2004

AUTHORIZED BY: Dianne R. Nielson, Executive Director

### **R311. Environmental Quality, Environmental Response and Remediation.**

#### **R311-204. Underground Storage Tanks: Closure and Remediation.**

##### **R311-204-1. Definitions.**

Definitions ~~[for this rule]~~ are found in Section R311-200.

##### **R311-204-2. Underground Storage Tank Closure Plan.**

(a) Owners or operators of all underground storage tanks or any portion thereof which are to be permanently closed or undergo change-in-service shall submit a permanent closure plan to the Executive Secretary of the Utah Solid and Hazardous Waste Control Board. The permanent closure plan shall be submitted by the owner or operator as fulfillment of the 30-day permanent closure notification requirement in accordance with 40 CFR 280 Subpart G.

(b) ~~[Tanks which are]~~ If a tank is to be removed as part of corrective action as allowed by 40 CFR 280 Subpart G, ~~the owner or operator is [are]~~ not required to submit a closure plan, but must meet the requirements of 40 CFR 280.66(d) before any removal activity takes place, and must submit a corrective action plan as required by 40 CFR 280.66.

(c) The closure plan ~~[must]~~ shall address applicable issues involved with permanent closure or change-in-service, including ~~which includes~~: tank disposal handling and final disposal site, product removal, sludge disposal, vapor purging or inerting, removing or securing ~~[or]~~ and capping product piping, removing vent lines or securing vent lines open, tank cleaning, environmental sampling, contaminated soil and water management, in-place tank disposal or tank removal, transportation of tank, permanent disposal and other disposal activities which may affect human health, human safety or the environment.

(d) No underground storage tank shall be permanently closed or undergo change-in-service prior to the owner[s] or operator receiving final approval of the submitted permanent tank closure plan by the Executive Secretary, except as outlined in Subsection R311-204-2(b). Closure plan approval shall be effective for a period of one year. If the underground storage tank has not been permanently closed or undergone change in service as proposed within one year following approval from the Executive Secretary, the plan must be re-submitted for approval, unless otherwise approved by the Executive Secretary.

(e) Permanent closure plans shall be prepared using the current approved form[s] according to guidance furnished by the Executive Secretary.

(f) ~~[Approved permanent closure plans shall be on site during the entire closure activity. It is the responsibility of t]~~ The owner or operator ~~[to assure]~~ shall ensure that the approved permanent closure plan and approval letter are on site during all closure activities.

(g) Any deviation[s] from or modification[s] to an approved closure plan must be approved by the Executive Secretary prior to implementation, and must be submitted in writing to the Executive Secretary.

(h) The Executive Secretary shall be notified at least 72 hours prior to the start of closure activities.

**R311-204-3. Disposal.**

(a) Tank labeling. All tanks which are permanently closed by removal must be labeled immediately after being ~~pulled~~ removed from the ground with the facility identification number and information about previously contained substances.

(1) Removed tanks which have contained motor fuels or other regulated products, except leaded motor fuels, must be labeled with letters at least two inches high which read:

"CONTAINED (UNLEADED GASOLINE, DIESEL OR OTHER AS APPROPRIATE), FLAMMABLE. REMOVED: MONTH/DAY/YEAR."

(2) Removed tanks which have contained leaded motor fuel, or whose service history is unknown, must be labeled with letters at least two inches high which read:

"CONTAINED LEADED GASOLINE. HEATING RELEASES LEAD VAPORS, FLAMMABLE. REMOVED: MONTH/DAY/YEAR."

(b) Removed tanks shall be expeditiously disposed of as regulated underground storage tanks by the following methods:

(1) The tank may be cut up after the interior atmosphere is first purged or inerted.

(2) The tank may be crushed after the interior atmosphere is first purged or inerted.

(3) The tank may not be used to store food or liquid intended for human or animal consumption.

(4) The tank may be disposed of in a manner approved by the Executive Secretary.

(c) Tank transportation. Used tanks which are transported on roads of the State of Utah must be cleaned inside the tank prior to transportation, and be free of all product, free of all vapors, or rendered inert during transport.

**R311-204-4. Closure Notice.**

(a) Owners or operators of underground storage tanks which ~~have been~~ were permanently closed or had a change-in-service prior to December 22, 1988 shall submit a completed closure notice, unless the tanks were properly closed on or before January 1, 1974.

(b) ~~The closure notice shall be submitted on the current approved closure notice form.~~

~~(c)~~ Owners or operators of underground storage tanks which ~~have been~~ are permanently closed ~~or had~~ or have a change-in-service ~~or temporarily closed over 12 months duration,~~ after December 22, 1988 shall submit a completed closure notice form and the following information within 90 days after tank closure:

(1) All results from the closure site assessment conducted in accordance with Section R311-205, including analytical laboratory results and chain of custody forms.

(2) Effective January 1, 1993, a site plat displaying depths and distances such that the sample locations can be determined solely from the site plat. The site plat ~~should~~ shall include: scale, north arrow, streets, property boundaries, building structures, utilities, underground storage tank system location, location of any contamination observed or suspected during sampling, location and volume of any stockpiled soil, the extent of the excavation zone, and any other relevant features. All sample identification numbers used on the site plat ~~must~~ shall correspond to the chain of custody form~~s~~ and the lab analysis report.

(c) Owners and operators of underground storage tanks that are temporarily closed for a period greater than three months shall submit a completed temporary closure notice within 120 days after the beginning of the temporary closure.

(d) All closure notices for permanent and temporary closure shall be submitted on the current approved forms.

**R311-204-5. Remediation.**

(a) Any UST release management, abatement, investigation, corrective action or evaluation activities performed for a fee, or in connection with services for which a fee is charged, must be performed under the supervision of a Certified UST Consultant, except as outlined in sections 19-6-402(6)(b)(i), 19-6-402(6)(b)(ii), and R311-204-5-(b).

(b) ~~At the time of UST closure,~~ a certified UST Remover may overexcavate and properly dispose of up to 50 cubic yards of contaminated soil per facility, or another volume approved by the Executive Secretary, in addition to the minimum amount required for ~~removal~~ closure of the UST ~~at the time of tank removal~~. This overexcavation may be performed without the ~~approval~~ supervision of a certified UST Consultant. Appropriate confirmation samples must be taken by a certified groundwater and soil sampler in accordance with R311-201 for the purpose of determining the extent and degree of contamination.

**KEY: hazardous substances, petroleum, underground storage tanks[~~§~~]**

**~~October 9, 1998~~ 2004**

**Notice of Continuation March 6, 2002**

**19-6-105**

**19-6-402**

**19-6-403**



## Environmental Quality, Environmental Response and Remediation

### R311-205

#### Underground Storage Tanks: Site Assessment Protocol

##### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27198

FILED: 05/29/2004, 08:56

##### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is being amended to reduce redundancy, and to clarify the requirements for conducting a proper site assessment for underground storage tank (UST) closures and leaking underground storage tank (LUST) site investigations.

**SUMMARY OF THE RULE OR CHANGE:** Section R311-205-2 is being modified to clarify appropriate laboratory analytical methods to be used when testing environmental samples for contaminant levels, and to simplify the redundant language used throughout the text. Similar site assessment requirements for tanks, piping, and dispenser islands have been consolidated to reduce redundancy. Some nonsubstantive language has been added or deleted to make

the requirements easier to understand. Subsection R311-205-2(c) is being modified to simplify redundant language used throughout the text. Some nonsubstantive language has been added or deleted to make the requirements easier to understand. In Subsection R311-205-2(d), analytical requirements have been expanded for testing of an "unknown" product type. Typically, property transactions involving lending institutions are increasingly becoming more concerned with long-term liability, environmental cleanup costs and regulatory site closure. Therefore, it is important to determine the characteristics of the contaminants where it is not known what type of petroleum product was released. To assist prospective purchasers, current landowners, and lending institutions in minimizing their long-term liability concerns, the Division is requiring an unknown substance to be fully analyzed for the entire spectrum of possible petroleum-related contaminants.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-6-205 and 19-6-413

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Analytical Methods for Environmental Sampling at Underground Storage Tanks Sites in Utah (July 2004); and EPA Compendium of ERT Surface Water and Sediment Sampling Procedures, January 1991

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Since this rule simply streamlines an existing program, there are no anticipated increases in staff time or administrative expenditures, and as such, there is no cost or savings anticipated at the state level for continued administration of the program.

❖ LOCAL GOVERNMENTS: Since this rule simply streamlines an existing program, there are no anticipated increases in staff time or administrative expenditures, and as such, there is no cost or savings anticipated at the local level for continued administration of the program.

❖ OTHER PERSONS: The aggregate cost on a per year basis is approximately \$3,000 (e.g., 10 unknown tanks found at \$300 per tank for the additional laboratory analytical testing) for sampling for additional petroleum products when it is an "unknown" tank. However, unknown tanks are rarely found and when they are, a full analytical screening up-front will reduce later costs for remobilizing to the site to collect additional samples to test for the complete spectrum of contaminants as they are currently doing at the request of prospective purchasers or lending institutions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be an initial increase in costs by approximately \$130 - \$150 per sample or \$260 - \$300 per tank for persons sampling for additional petroleum products when it is an "unknown" tank. However, unknown tanks are rarely found and when they are, a full analytical screening up-front will reduce later costs for remobilizing to the site to collect additional samples to test for the complete spectrum of contaminants as they are currently doing at the request of prospective purchasers or lending institutions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amended rule will help clarify the minimum requirements for conducting proper sampling methodologies at both UST and leaking underground storage tank sites by reducing redundant language and being more specific on analytical requirements for testing at UST sites where the prior usage is unknown or unclear. Dianne R. Nielson, Ph.D., Executive Director

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

ENVIRONMENTAL QUALITY  
ENVIRONMENTAL RESPONSE AND REMEDIATION  
168 N 1950 W  
SALT LAKE CITY UT 84116-3085, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gary Astin at the above address, by phone at 801-536-4103, by FAX at 801-359-8853, or by Internet E-mail at [gastin@utah.gov](mailto:gastin@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 07/15/2004

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 7/06/2004 at 1:30 PM, Department of Environmental Quality, 168 N 1950 W, Room 101, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/16/2004

AUTHORIZED BY: Dianne R. Nielson, Executive Director

### **R311. Environmental Quality, Environmental Response and Remediation.**

#### **R311-205. Underground Storage Tanks: Site Assessment Protocol.**

##### **R311-205-1. Definitions.**

Definitions are found in ~~[Section]~~Rule R311-200.

##### **R311-205-2. Site Assessment Protocol.**

(a) General Requirements.

(1) ~~[For all locations that have underground storage tanks regulated by 40 CFR 280, and require a]~~When a site assessment or site check is required, pursuant to 40 CFR 280~~[, Subparts E, F, or G] or Subsection 19-6-428(3), owners or operators shall perform or commission to be performed a site assessment or a site check according to the protocol outlined in [Section]Rule R311-205 or equivalent, as approved by the Executive Secretary. [This protocol is a minimum requirement which does not prohibit the collecting of additional samples when needed and is intended to support and supplement requirements of 40 CFR 280, Parts 280.52 and 280.72.]~~Additional environmental samples must be collected when contamination is found, suspected, or as requested by the Executive Secretary. ~~[Samples shall be collected in a manner that will detect a release from any portion of the UST.]~~

(2) Groundwater samples shall be collected in accordance with the "EPA RCRA Ground-water Monitoring Technical Enforcement Guidance Document" (OSWER Directive 9950.1), 1986 or as determined by the Executive Secretary. Surface water samples shall be collected in accordance with protocol established in the [~~"Utah Water Quality Monitoring Manual", 1986, or in "EPA Test Methods for Evaluating Solid Waste", SW 846, Vol. 2 Field Manual, Section 9.31-9.79]"EPA Compendium of ERT Surface Water and Sediment Sampling Procedures" January 1991, or as determined by the Executive Secretary.~~ Soil samples shall be collected in accordance with the "EPA Description and Sampling of Contaminated Soils, A Field Pocket Guide", November 1991 or as determined by the Executive Secretary.

(~~2~~3) Owners and operators must document and report to the Executive Secretary sample types, sample locations and depths, field and sampling measurement methods, the nature of the stored substance, the type of backfill and native soil, the depth to groundwater, and other factors appropriate for identifying the [~~presence, the~~]source area and the degree and extent of subsurface soil and groundwater contamination. [~~This documentation and reporting is required for UST closures pursuant to 40 CFR 280, Subpart G, and for any abatement, investigation or assessment, monitoring, remediation or corrective action activities performed to fulfill release response and remediation requirements of 40 CFR 280, Subparts E and F.~~

(3) Owners and operators must comply with site assessment protocols, documentation and reporting requirements stipulated in Sections R311-205-2(a)(1) and (2) and with the testing and site check requirements in R311-205-2(c) when applying to participate in the Petroleum Storage Tank Trust Fund Program following a period of lapse or non-participation in the Fund. This site assessment, documentation and reporting is required for sites re-applying for fund participation pursuant to Section 19-6-428(3)(a).

(4) The owner or operator shall report the discovery of any release or suspected release to the Executive Secretary within twenty-four hours. Owners or operators shall begin release investigation and confirmation steps in accordance with 40 CFR 280, Subpart E upon suspecting a release. Owners or operators shall begin release response and corrective action in accordance with 40 CFR 280, Subpart F upon confirming a release.

(5) All environmental samples shall be collected by a certified groundwater and soil sampler who meets the requirements of [Section]Rule R311-201. The certified groundwater and soil sampler shall record the depth below grade and location of each sample collected to within one foot.

(6) All environmental samples [~~must~~]shall be analyzed within the time frame allowed, in accordance with Table 4.1 of the "EPA RCRA Ground-water Monitoring Technical Enforcement Guidance Document" (OSWER Directive 9950.1), by a Utah Certified Environmental Laboratory approved by the Executive Secretary. Soil samples must be corrected for moisture, if necessary, with percent moisture reported to accurately represent the level of contamination.

(7) Environmental samples for UST permanent closure or change in service shall be collected according to the protocol outlined in Subsection R311-205-2(b), after the UST system is emptied and cleaned and after the closure plan has been approved.

(8) Environmental confirmation samples are required following overexcavation of soils. Confirmation samples shall be taken at locations and depths sufficient to detect the presence, extent and degree of a release from any portion of the UST in accordance with 40 CFR 280, Subparts E, F and G. Additional confirmation samples may be required as determined by the Executive Secretary.

(9) Upon confirming a release, a site assessment report, an updated site plat, analytical laboratory results, chain of custody forms, and all other applicable documentation required by 40 CFR 280, Subparts E and F, following any abatement, investigation or assessment, monitoring, remediation or corrective action activities, shall be submitted to the Executive Secretary within the specified time frames as outlined in compliance schedules.

(10) When conducting environmental sampling to satisfy the requirements of 40 CFR 280, subparts E and F, soil classification samples to determine native soil type shall be collected at locations and depths as outlined in compliance schedules, or as determined by the Executive Secretary. Techniques of the Unified Soil Classification such as a sieve analysis or laboratory classification, or a field description from a qualified individual as determined by the Executive Secretary, may be used to satisfy requirements of determining native soil type.

(~~9~~11) Other types of environmental or quality assurance samples may be required as determined by the Executive Secretary.

(b) Site Assessment Protocol for UST Closure.

(1) When UST testing is required, the owner or operator shall test the underground storage tanks and product piping for tightness according to standards established in 40 CFR 280, Subpart D. If the test indicates a release has occurred from the tank or product piping, then the tank or product piping shall be closed in compliance with 40 CFR 280, Subpart G, and R311-204, or repaired, or replaced. Tanks and product piping which are repaired or replaced shall be retested to demonstrate that the tanks or product piping are no longer releasing product. Owners or operators shall begin release investigation and confirmation steps in accordance with 40 CFR 280, Subpart E upon suspecting a release, and release response and corrective action in accordance with 40 CFR 280, Subpart F upon confirming a release.

(~~2~~) Tank excavation.]

(~~A~~1) [~~In-place evaluations. For facilities undergoing in-place evaluations with one tank, a minimum of two soil samples, one from each end of the tank,]The appropriate number of environmental samples, as described in Subsection R311-205-2(b)(4) shall be collected in native soils, below the [~~tank~~]backfill material, and as close as technically feasible to [~~each end of~~]the tank, piping or dispenser island. Any other samples required by Subsection R311-205-2(a)(4) must also be collected. [~~For facilities undergoing in-place evaluations with two or more tanks adjacent to one another, a minimum of four soil samples shall be collected in native soils, below the tank backfill material, one at each corner of the tank area, and as close to the tank ends as is technically feasible. Any other samples required by Section R311-205-2(a)(1) must also be collected.~~]Soil samples shall be collected from a depth of zero to two feet below the [~~tank~~] backfill and native soil interface. If groundwater is contacted in the process of collecting the soil samples, [~~then a minimum of one groundwater sample and one soil sample,]the soil samples required by Subsection R311-205-2(b)(4) shall be collected from the unsaturated zone immediately above the capillary fringe, [~~shall be collected at each end of the tank area.~~] Groundwater samples shall be collected using proper surface water collection techniques, [~~or~~]from a properly installed groundwater monitoring well, or as [~~established~~]determined by the Executive Secretary. All environmental samples shall be analyzed using [~~methodologies~~]the appropriate analytical methods outlined in Subsection R311-205-2(d).~~~~

(2) One soil classification sample to determine native soil type shall be collected at the same depth as indicated for environmental samples, at each tank and product piping area. For all dispenser islands, only one representative sample to determine native soil type is

~~required [as indicated for environmental samples to determine native soil type]. Techniques of the Unified Soil Classification such as a sieve analysis or laboratory classification [may] shall be used to satisfy requirements of determining native soil type when taking samples for UST closure.~~

~~(3) For purposes of complying with Rule R311-205, for tanks or piping to be removed, closed in-place or that undergo a change in service, a tank or product piping area is considered to be an excavation zone or equivalent volume of material containing one, or more than one immediately adjacent, UST or piping run.~~

~~(4) Environmental Sampling Protocol for UST closures:~~

~~(A) For a tank area containing one UST, one soil sample shall be collected at each end of the tank. If groundwater is contacted during the process of collecting soil samples, a minimum of one groundwater and one soil sample shall be collected from each end of the tank.~~

~~(B) For a tank area containing more than one UST, one soil sample shall be collected from each corner of the tank area. If groundwater is contacted during the process of collecting soil samples, a minimum of one groundwater and one soil sample shall be collected from each end of the tank area.~~

~~(C) Product piping samples shall be collected from each product piping area, at locations where leaking is most likely to occur, such as joints, connections and fittings, at intervals which do not allow more than 50 linear feet of piping in a single piping area to go unsampled. If groundwater is contacted during the process of collecting soil samples, a minimum of one groundwater and one soil sample shall be collected from each piping area where groundwater was encountered.~~

~~(D) For dispenser islands, environmental samples shall be collected from the middle of each dispenser island. Additional environmental samples shall be collected at intervals which do not allow more than 25 linear feet of dispenser island piping to go unsampled. If groundwater is contacted during the process of collecting soil samples, a minimum of one groundwater and one soil sample shall be collected from each dispenser island where groundwater was encountered.~~

~~(B) Closure by removal evaluations. For facilities which have excavation zones with one tank, a minimum of two soil samples, one from each end of the tank, shall be collected in native soils, below the tank backfill material, and as close as technically feasible to each end of the tank. Any other samples required by Section R311-205-2(a)(1) must also be collected. For facilities which have excavation zones with two or more tanks adjacent to one another, a minimum of four soil samples shall be collected in native soils, below the tank backfill material, one at each corner of the tank excavation, and as close to the tank ends as is technically feasible. Any other samples required by Section R311-205-2(a)(1) must also be collected. Soil samples shall be collected from a depth of zero to two feet below the tank backfill and native soil interface. If groundwater is contacted in the process of collecting the soil samples, then a minimum of one groundwater sample and one soil sample, collected from the unsaturated zone immediately above the capillary fringe, shall be collected at each end of the tank excavation. Groundwater samples shall be collected using proper surface water collection techniques or from a properly installed groundwater monitoring well as established by the Executive Secretary. All environmental samples shall be analyzed using methodologies outlined in Section R311-205-2(d). One soil sample shall be collected at the same depth as indicated for environmental samples to determine native soil type. Techniques of the Unified Soil Classification such as a sieve analysis or laboratory classification may be used to satisfy requirements of determining soil type.~~

~~(3) Dispenser islands.~~

~~(A) In-place evaluations. Environmental samples shall be collected at locations as close to where the piping enters the dispenser islands as is possible. An environmental sample shall be collected at each dispenser island in a location as to never allow more than 25 linear feet of piping in a single excavation to go unsampled. Any other samples required by Section R311-205-2(a)(1) must also be collected. Soil samples shall be collected from a depth of zero to two feet beneath the product piping backfill material and native soil interface or as close to the product piping as is technically feasible in native soils. If groundwater is contacted in the process of collecting the soil samples, then a minimum of one groundwater sample and one soil sample, collected from the unsaturated zone immediately above the capillary fringe, shall be collected. Groundwater samples shall be collected using proper surface water collection techniques or from a properly installed groundwater monitoring well as established by the Executive Secretary. All environmental samples shall be analyzed using methodologies outlined in Section R311-205-2(d). One soil sample shall be collected at the same depth as indicated for environmental samples to determine native soil type. Techniques of the Unified Soil Classification such as a sieve analysis or laboratory classification may be used to satisfy requirements of determining soil type.~~

~~(B) Closure by removal evaluations. Environmental samples shall be collected at locations as close to where the piping enters the dispenser islands as is possible. An environmental sample shall be collected at each dispenser island in a location as to never allow more than 25 linear feet of piping in a single excavation to go unsampled. Any other samples required by Section R311-205-2(a)(1) must also be collected. Soil samples shall be collected from a depth of zero to two feet beneath the product piping backfill material and native soil interface or as close to the product piping as is technically feasible in native soils. If groundwater is contacted in the process of collecting the soil samples, then a minimum of one groundwater sample and one soil sample, collected from the unsaturated zone immediately above the capillary fringe, shall be collected. Groundwater samples shall be collected using proper surface water collection techniques or from a properly installed groundwater monitoring well as established by the Executive Secretary. All environmental samples shall be analyzed using methodologies outlined in Section R311-205-2(d). One soil sample shall be collected at the same depth as indicated for environmental samples to determine native soil type. Techniques of the Unified Soil Classification such as a sieve analysis or laboratory classification may be used to satisfy requirements of determining soil type.~~

~~(1) Product piping.~~

~~(A) In-place evaluations. One product piping soil sample shall be collected at each piping excavation in an area where leaking is most likely to occur such as joints, connections and fittings, and at intervals to never allow more than 50 linear feet of piping in a single excavation to go unsampled. Any other samples required by Section R311-205-2(a)(1) must also be collected. Soil samples shall be collected from a depth of zero to two feet beneath the product piping backfill material and native soil interface or as close to the product piping as is technically feasible in native soil. If groundwater is contacted in the process of collecting the soil samples, then a minimum of one groundwater sample and one soil sample, collected from the unsaturated zone immediately above the capillary fringe, shall be collected. Groundwater samples shall be collected using proper surface water collection techniques or from a properly installed groundwater monitoring well as established by the Executive Secretary. All environmental samples shall be analyzed using methodologies outlined in Section R311-205-2(d). One soil sample shall be collected at the~~



same depth as indicated for environmental samples to determine native soil type. Techniques of the Unified Soil Classification such as a sieve analysis or laboratory classification may be used to satisfy requirements of determining soil type.

(B) Closure by removal evaluations. One product piping soil sample shall be collected at each piping excavation in an area where leaking is most likely to occur such as joints, connections and fittings, and at intervals to never allow more than 50 linear feet of piping in a single excavation to go unsampled. Any other samples as required by Section R311-205-2(a)(1) must also be collected. Soil samples shall be collected from a depth of zero to two feet beneath the product piping backfill material and native soil interface or as close to the product piping as is technically feasible in native soils. If groundwater is contacted in the process of collecting the soil samples, then a minimum of one groundwater sample and one soil sample, collected from the unsaturated zone immediately above the capillary fringe, shall be collected. Groundwater samples shall be collected using proper surface water collection techniques or from a properly installed groundwater monitoring well as established by the Executive Secretary. All environmental samples shall be analyzed using methodologies outlined in Section R311-205-2(d). One soil sample shall be collected at the same depth as indicated for environmental samples to determine native soil type. Techniques of the Unified Soil Classification such as a sieve analysis or laboratory classification may be used to satisfy requirements of determining soil type.]

(c) [Testing and] Site Check Requirements for Re-applying to Participate in the Petroleum Storage Tank Trust Fund Program [following a Period of Non-participation or Applying for Reinstatement in the Fund Program following a Period of Lapse].

(1) Owners or operators [of sites] wishing to re-apply for participation in the Petroleum Storage Tank Trust Fund Program following a period of lapse or non-participation[, must] shall perform a tank tightness test and site check pursuant to Subsection 19-6-428(3)(a). The tank tightness test and site check [must] shall be consistent with requirements for testing and site assessment as defined under 40 CFR 280, Subparts D and E.

[(A) The owner or operator shall test the underground storage tanks and product piping for tightness according to standards established in 40 CFR 280, Subpart D. If the test indicates a release has occurred from the tank or product piping, then the tank or product piping shall be closed in compliance with 40 CFR 280, Subpart G, and R311-204, or repaired, or replaced. Tanks and product piping which are repaired or replaced shall be retested to demonstrate that the tanks or product piping are no longer releasing product. Owners or operators shall begin release investigation and confirmation steps in accordance with 40 CFR 280, Subpart E upon suspecting a release, and release response and corrective action in accordance with 40 CFR 280, Subpart F upon confirming a release.

(B) A site check, consistent with the site assessment standards defined in 40 CFR 280, Subpart E, must be performed.]

[(i)2] The owner or operator shall develop or commission to have developed a site check plan outlining the intended sampling program. The Executive Secretary [must] shall review and approve the site check plan prior to its implementation. [At a minimum, the site check must evaluate soils around and beneath all elements of the underground storage tank systems, including tanks, piping and dispensers, for potential evidence of contamination from petroleum releases. A sufficient number of soil samples shall be collected to be representative of soil conditions around the underground storage tank systems, and to assure, within practical limitations, that contamination is discovered, if present. In addition to soil samples, groundwater samples must be

collected when groundwater is encountered during the process of soil sampling. Soil and groundwater sampling protocols, documentation and reporting requirements must conform to 40 CFR 280, Subparts E and F.

(ii) The site check [must] shall meet the [provisions for minimum] sampling requirements for USTs, dispensers and piping as defined [for in-place closures.] in Subsection[s] R311-205-2(b)(2)(A), R311-205-2(b)(3)(A), and R311-205-2(b)(4)(A), respectively], or as determined by the Executive Secretary on a site-specific basis. Additional sampling may be required by the Executive Secretary based on review of the proposed site check plan and site specific conditions.]

(2) All technical services for tank tightness testing and site checks provided under Section R311-205-2(e) must be performed by appropriately qualified and certified individuals as defined in Section R311-201-2.]

(d) Laboratory Analyses of Environmental Samples.

(1) Environmental samples which have been collected to determine levels of contamination from underground storage tanks shall be analyzed using appropriate laboratory analytical methods as referenced in the [March 31, 1999 "Table of Analytical Methods for Sampling"] "Analytical Methods for Environmental Sampling at Underground Storage Tank Sites in Utah (July 2004)", or as determined by the Executive Secretary.

(2) Environmental samples which have been collected to determine levels of contamination by gasoline shall be analyzed for total petroleum hydrocarbons (purgeable TPH as gasoline range organics C<sub>6</sub> - C<sub>10</sub>), benzene, toluene, ethylbenzene, [and] xylenes and naphthalene (BTEXN), and for methyl tertiary butyl ether (MTBE).

(3) Environmental samples which have been collected to determine levels of contamination by diesel fuel shall be analyzed for total petroleum hydrocarbons (extractable TPH as diesel range organics C<sub>10</sub> - C<sub>28</sub>), benzene, toluene, ethylbenzene, xylenes and naphthalene (BTEXN).

(4) Environmental samples which have been collected to determine levels of contamination by used oil shall be analyzed for oil and grease (O and G) or total recoverable petroleum hydrocarbons (TRPH); and for benzene, toluene, ethylbenzene, xylenes, naphthalene (BTEXN); methyl tertiary butyl ether (MTBE); and halogenated volatile organic compounds (VOX).

(5) Environmental samples which have been collected to determine levels of contamination by new oil shall be analyzed for oil and grease (O and G) or total recoverable petroleum hydrocarbons (TRPH).

(6) Environmental samples which have been collected to determine levels of contamination from underground storage tanks which contain substances other than or in addition to petroleum shall be analyzed for appropriate constituents as determined by the Executive Secretary.

(7) Environmental samples which have been collected to determine levels of contamination for an unknown petroleum product type shall be analyzed for total petroleum hydrocarbons (purgeable TPH as gasoline range organics C<sub>6</sub> - C<sub>10</sub>); total petroleum hydrocarbons (extractable TPH as diesel range organics C<sub>10</sub> - C<sub>28</sub>); oil and grease (O and G) or total recoverable petroleum hydrocarbons (TRPH); benzene, toluene, ethylbenzene, xylenes and naphthalene (BTEXN) and methyl tertiary butyl ether (MTBE); and for halogenated volatile organic compounds (VOX).

[(7)8] All original laboratory sample results must be returned to the certified groundwater and soil sampler or certified UST consultant to verify all chain of custody protocols, including holding times and analytical procedures, were properly followed. Environmental samples

shall be collected and transported under chain of custody according to EPA methods as approved by the Executive Secretary.

([8]2) Reporting limits used by laboratories analyzing environmental samples taken under this rule shall be below recommended cleanup levels for the contaminated media under study. Environmental samples shall be analyzed with the least possible dilution to ensure reporting limits are below recommended cleanup levels to the extent possible. If more than one determinative analysis is performed on any given environmental sample, the final dilution factor used and the reporting limit must be reported by the laboratory. As an alternative to diluting environmental samples, the laboratory shall consider using appropriate analytical cleanup methods and describe which analytical cleanup methods were used to eliminate or minimize matrix interference. Any analytical cleanup method used must not eliminate the contaminant of concern or target analyte. [

~~—(e) Recordkeeping.~~

~~—(1) The certified groundwater and soil sampler shall record the approximate depth below grade and location of each and every sample collected to within one foot.~~

~~—(2) A copy of the site plat, analytical laboratory results, chain of custody forms, and the closure notice as outlined in Section R311-204-4 shall be submitted to the Executive Secretary within 90 days after tank closure.~~

~~—(3) Upon confirming a release, a site assessment report, an updated site plat, additional analytical laboratory results, chain of custody and any other applicable documentation required by 40 CFR 280, Subparts E and F, following any abatement, investigation or assessment, monitoring, remediation or corrective action activities, shall be submitted to the Executive Secretary within the specified time frames as outlined in compliance schedules.]~~

**KEY: hazardous substances, petroleum, underground storage tank[<sup>±</sup>]**

**[October 4, 1999]2004**

Notice of Continuation March 6, 2002

19-6-205

19-6-413



## Environmental Quality, Environmental Response and Remediation

# R311-206

## Underground Storage Tanks: Financial Assurance Mechanisms

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27199

FILED: 05/29/2004, 08:57

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed amendment: 1) improves grammar and punctuation to make the rule more easy to understand; 2) corrects legal citation format; removes requirements that have been found to be unnecessary: declaration of the name of the individual responsible to show financial responsibility, inclusion of certain statements in the document required for underground

storage tank (UST) owner/operators using insurance as their financial responsibility method, and the requirement to have the current certificate of compliance posted on site; 3) specifies the documents that the owner/operator must submit to show financial responsibility, so the Division can ensure that owner/operators have acceptable financial responsibility; 4) specifies the due date for the yearly financial responsibility fees, because the UST act does not specify a due date; and 5) updates references to the fire code for above-ground tanks participating in the Petroleum Storage Tank (PST) Fund, because Utah now has adopted a different fire code.

SUMMARY OF THE RULE OR CHANGE: In Subsection R311-206-2(d), this requirement is removed because the financial assurance documents submitted by the owner/operator generally include the name of the individual responsible for showing financial responsibility. Subsection R311-206-5(a) adds wording to specify the financial assurance documents that are to be submitted by owner/operators using financial responsibility methods other than the PST Fund. 40 CFR 280.111 requires that the owner/operator keep certain documents to show acceptable financial responsibility, but does not require that the owner/operator submit these documents to the implementing agency on a regular basis. In Subsection R311-206-5(b), wording is added to specify when the yearly processing fee payments are due, July 1 of each fiscal year. No due date for the fee is given in the UST Act. Subsection R311-206-5(c)(2)(B) currently requires that the owner/operator using an insurance policy for financial assurance submit a policy endorsement or certificate of insurance that includes two provisions: 1) that the insurance covers a release that is found at the time it occurs by a functioning leak detection method, or is found later by closure or other evidence of contamination on or near the UST site, and 2) that the insurance provider notify the Executive Secretary if the policy is cancelled. The insurance industry has interpreted the first provision as meaning that they must cover the release no matter when it is found, even if it is found several years after the policy is no longer in effect. Because of this interpretation, the industry has indicated it would stop issuing policies in Utah for UST financial assurance. Policies generally cover releases that occur and are reported within the coverage period or within six months of the end of the coverage period. Because this level of coverage is specified in the federal regulations, the requirement to submit a document with the current wording is considered to be unnecessary and is removed. The second provision is kept, but is worded as a requirement that the insurance company must meet, rather than something that must be included in the endorsement or certificate of insurance. In Subsections R311-206-5(c)(2)(E), (F), and (H) wording is added to specify the financial responsibility documents that the owner/operator must submit for guarantees, surety bonds, and the local government financial assurance mechanisms. Subsection R311-206-6(b)(2) requires that owner/operators of above-ground storage tanks show compliance with applicable sections of the fire code if they want those tanks to be covered by the PST Fund. Because Utah has now adopted the International Fire Code, references to the Uniform Fire code are replaced with references to the applicable sections of the International Fire Code. Subsection R311-206-8(a) removes

the requirement that the certificate of compliance be visible on site at each UST facility. Documentation of compliance is achieved by tank tags, and the requirement that the certificate of compliance be on site is unnecessary.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: No anticipated cost or savings--the proposed changes deal generally with administrative or procedural items and do not impose new requirements that would result in cost or savings to the State Budget. The provisions regarding financial assurance mechanisms other than the PST Fund do not apply to state-owned underground storage tanks, because the UST Act requires that state-owned tanks participate in the Fund.

❖ LOCAL GOVERNMENTS: No anticipated cost or savings--the proposed changes deal generally with administrative or procedural items and do not impose new requirements that would result in cost or savings to local governments.

❖ OTHER PERSONS: No anticipated cost or savings--the proposed changes deal generally with administrative or procedural items and do not impose new requirements that would result in a cost or savings to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No significant costs are anticipated--the proposed changes remove or add administrative and procedural requirements that do not result in significant changes in the requirements that an affected person would have to meet. The most significant cost would be the cost of copying and submitting documents that are already required to be produced, but may not be required to be submitted. Those costs should be minimal.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Removing the requirement that UST insurance policies cover releases whenever they are discovered will allow UST owners and operators to continue to use Insurance as a financial responsibility mechanism if they choose. The decision to use Insurance or participate in the PST Fund has a fiscal impact on the UST owner/operator, but this proposed rule change does not affect the fiscal nature of the decision; it only removes a roadblock to the continued availability of Insurance as a financial responsibility method. The other proposed changes deal with payment dates, document submittal, and other procedural changes that do not have a significant impact. Dianne R. Nielson, Ph.D., Executive Director

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

ENVIRONMENTAL QUALITY  
ENVIRONMENTAL RESPONSE AND REMEDIATION  
168 N 1950 W  
SALT LAKE CITY UT 84116-3085, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gary Astin at the above address, by phone at 801-536-4103, by FAX at 801-359-8853, or by Internet E-mail at [gastin@utah.gov](mailto:gastin@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 07/15/2004

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 7/06/2004 at 1:30 PM, Department of Environmental Quality, 168 N 1950 W, Room 101, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/16/2004

AUTHORIZED BY: Dianne R. Nielson, Executive Director

### **R311. Environmental Quality, Environmental Response and Remediation.**

#### **R311-206. Underground Storage Tanks: Financial Assurance Mechanisms.**

##### **R311-206-1. Definitions.**

Definitions are found in ~~Section~~ Rule R311-200.

##### **R311-206-2. Declaration of Financial Assurance Mechanism.**

(a) To demonstrate financial assurance, as required by 40 CFR 280, subpart H, owners ~~and~~ or operators of petroleum storage tanks shall:

(1) meet all requirements for participation in the ~~e~~ Environmental ~~a~~ Assurance ~~p~~ Program, or

(2) demonstrate financial assurance by an allowable method specified in 40 CFR 280, subpart H.

(b) As specified in Subsections 19-6-428(1) and (2), owners ~~and~~ or operators shall submit a completed Financial Responsibility Declaration to declare whether they will participate in the Environmental Assurance Program under Section 19-6-410.5, or show financial assurance by another method.

(c) For the purposes of Subsection 19-6-412(6), all tanks at a facility shall be covered by the same financial assurance mechanism, and shall be considered to be in one area, unless the Executive Secretary determines there is sufficient information so that releases from different tanks at the facility could be accurately differentiated. [

~~(d) Owners and operators who show financial assurance by a method other than the Environmental Assurance Program shall submit with the Financial Responsibility Declaration, the name of the person authorized by the owner or operator to demonstrate financial responsibility.]~~

##### **R311-206-3. Requirements for Issuance of Certificates of Compliance.**

(a) The Executive Secretary shall issue a certificate of compliance to an owner[s] or operator[s] participating in the ~~e~~ Environmental ~~a~~ Assurance ~~p~~ Program for individual petroleum storage tanks at a facility if:

- (1) the owner or operator has a certificate of registration;
  - (2) the petroleum storage tank fee has been paid;
  - (3) the tank is substantially in compliance with all state and federal statutes, rules and regulations;
  - (4) the UST test, conducted within 6 months before the tank was registered or within 60 days after the date the tank was registered, indicates that each individual UST is not leaking;
  - (5) the owner or operator has submitted a letter to the Executive Secretary stating that based on customary business inventory practices standards there has been no release from the tank; and[;]
  - (6) the owner or operator has submitted a completed application according to a form provided and approved by the Executive Secretary.
- (b) The Executive Secretary shall issue a certificate of compliance to ~~an owner[s and] or operator[s]~~ who elects to demonstrate financial assurance by a method other than the ~~[e]Environmental [a]Assurance [p]Program~~ for individual petroleum storage tanks at a facility if:
- (1) the owner or operator has a certificate of registration;
  - (2) the processing fee assessed by Subsection 19-6-408(2) has been paid;
  - (3) the tank is substantially in compliance with all state and federal statutes, rules and regulations;
  - (4) the UST test, conducted within 6 months before the tank was registered or within 60 days after the date the tank was registered, indicates that each individual UST is not leaking;
  - (5) the owner or operator has submitted a letter to the Executive Secretary stating that based on customary business inventory practices standards there has been no release from the tank; and[;]
  - (6) the owner or operator has met the requirements of 40 CFR 280, subpart H and has demonstrated acceptable financial assurance. The Certificate of Compliance shall not be issued until the financial assurance documents submitted for review have been approved.

#### **R311-206-4. Requirements for Environmental Assurance Program participants.**

- (a) To meet the requirements of Subsections 19-6-411(1)(a)(ii) and ~~[Section]19-6-411(1)(b)(ii)~~ the owner or operator shall submit:
- (1) A letter to the Executive Secretary stating that the facility is not engaged in petroleum production, refining, or marketing, and
  - (2) Evidence, each fiscal year, of average annual throughput less than 10,000 gallons per month based on current inventory records.
- (b) In accordance with Subsection 19-6-411(1)(c), the annual facility throughput rate, if reported, shall be reported to the Executive Secretary as a specific number of gallons, based on the throughput for the previous calendar year.
- (c) In accordance with Subsection 19-6-411(1)(d), when a petroleum storage tank is initially registered with the Executive Secretary, any Petroleum Storage Tank fee for that tank for the current fiscal year shall be due when the tank is brought into use, as a requirement for receiving a Certificate of Compliance.
- (d) In accordance with Subsection 19-6-411(6), the Executive Secretary may waive all or part of the fees required to be paid on or before May 5, 1997 under Section 19-6-411 if no fuel has been dispensed from the tank on or after July 1, 1991, and if the tank has been properly closed according to Rules R311-204 and R311-205, or in other circumstances as approved by the Executive Secretary.
- (e) In accordance with Subsection 19-6-411(2)(a)(i), if an installation company receives its ~~[initial]annual~~ permit after the beginning of the fiscal year, the annual fee must be paid for the entire year.
- (f) Auditing of UST facility throughput records for fiscal year 1998.

(1) Owners and operators shall retain for seven years the monthly tank throughput records of the facility for the months of July 1997 through June 1998. Tank throughput records shall include all financial and product documentation for receipts, dispositions and inventories.

(2) The executive secretary may audit or order an audit, by an independent auditor, of records which support the amount of throughput, for each tank at a participant's facility.

(A) Records shall be made available at the Department for inspection within 30 calendar days after receiving notice from the Executive Secretary.

(B) Audits may be determined by random selection or for particular reasons, including suspicion or discovery of inaccuracies in throughput reports, aggregating throughput reports, having a release, or filing a claim.

(C) Auditing tank throughput may be accomplished by any method approved by the Executive Secretary.

(D) All costs of an independent audit shall be paid by the owner or operator.

(g) Owners or operators eligible for coverage by the Fund shall demonstrate financial assurance for the difference between coverage provided by the Fund and coverage amounts required by 40 CFR 280 Subpart H. If the owner or operator chooses self insurance as the mechanism for demonstrating financial assurance for the difference, the owner or operator must document a tangible net worth of \$10,000 upon request and to the satisfaction of the Executive Secretary. An owner or operator may also select and document another mechanism specified in 40 CFR 280.94 to demonstrate financial assurance for the difference. The processing fee requirement referenced in Subsection R311-206-5(b) is not applicable because the administrative cost is covered by the PST fund fee. However, the Executive Secretary may require the owner or operator to submit an independent audit to demonstrate net worth for self insurance. The owner or operator shall bear the expense for the audit. The criteria for an audit are the same as set forth in Subsection R311-206-4(f)(2).

#### **R311-206-5. Requirements for Owners and Operators Demonstrating Financial Assurance by Other Methods.**

(a) Owners and operators who elect to utilize an alternate form of financial assurance shall use one or a combination of mechanisms specified in 40 CFR 280.94. Owners and operators shall submit to the Executive Secretary the documents required by 40 CFR 280.111 to be kept and maintained for the mechanism used.

(1) Formats, calculations, letters, reporting, and record keeping shall be done in accordance with each applicable financial assurance mechanism specified in 40 CFR 280 subpart H.

(2) If the financial assurance documentation submitted to the Executive Secretary is not in accordance with 40 CFR 280 subpart H, it shall be rejected and ~~[will]shall~~ be invalid.

(b) The processing fee established in Subsection 19-6-408(2)(a) for each new or changed financial assurance document submitted for approval shall be included with the financial assurance document and shall be payable to the Department. Processing fees for subsequent yearly review of a financial assurance document shall be due on July 1 annually.

(1) Pursuant to 40 CFR 280.97, if the financial assurance mechanism is an insurance policy, the insurer is liable for payment of amounts within any deductible applicable to the policy to the provider of corrective action or a damaged third party, with right of reimbursement by the insured for such payment made by the insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another

mechanism or combination of mechanisms as specified in 40 CFR 280.95-280.10[2]7. A showing of financial assurance for the deductible, if such a showing is made, shall be treated as a separate financial assurance mechanism subject to the processing fee requirement referenced in [Subpart] Subsection R311-206-5(b) above.

(2) If an owner or operator desires to make any material change to the financial assurance document, the change shall be approved by the [e]Executive [s]Secretary, and an additional processing fee shall be paid in circumstances as determined by the Executive Secretary.

(c) Evidence of a current and approved financial assurance mechanism shall be reported to the Executive Secretary [at least once yearly as determined by the annual anniversary date or as required by changing to other forms of financial assurance.] as follows:

(1) For State fiscal year 1998 evidence of financial assurance for all mechanisms shall be due to the Executive Secretary by June 15, 1997.

(2) Thereafter, proof of [continued] financial assurance shall be reported to the Executive Secretary and shall [minimally] include:

(A) Owners and operators using [either] the financial test of self insurance shall [report] submit the "Letter from Chief Financial Officer" to the Executive Secretary within the maximum 120 day period specified in 40 CFR 280.95.

(B) Owners and Operators using insurance and risk retention group coverage for financial assurance shall [report] submit the coverage policy in its entirety, with the current Certificate of Insurance or Endorsement specified in 40 CFR 280.97(b), to the Executive Secretary within 30 days of acceptance of such policy by the insurer or risk retention group. [~~Each insurance policy must be amended by an endorsement or certificate of insurance that includes the following provisions as additions to the endorsement and certificate of insurance requirements specified in 40 CFR 280.97.~~

~~(i) The insurance covers claims for the cost of corrective action and for compensating third parties for bodily injury and property damage caused by either sudden accidental releases or nonsudden accidental releases or accidental releases which are discovered during the coverage period. For purposes of this rule only, a release is discovered:~~

~~(I) When a leak detection method under 40 CFR 280, subpart 280.43 or 280.44 indicates a release or suspected release, or~~

~~(II) On the date when contamination is revealed at the UST site or in the surrounding area due to UST closure or environmental impacts from the contamination attributable to the UST.]~~

~~(i) If the insurance policy or risk retention group coverage is cancelled, t[F]he insurer or risk retention group shall provide written notice of cancellation or other termination of coverage required by 40 CFR 280.97(b)(1)2.d. and 40 CFR 280.97(b)(2)2.d. to the Executive Secretary as well as the insured.~~

~~(ii) The insurer shall have a rating of A- or greater by A.M. Best Co.~~

(C) Owners and operators using an irrevocable letter of credit [must] shall submit [provide] proof of the letter of credit, standby trust fund, and formal certification of acknowledgement to the Executive Secretary within 30 days of issuance from the issuing institution.

(D) Owners and operators using a fully funded trust fund for financial assurance shall [report] submit proof of the trust fund and formal certification of acknowledgement to the Executive Secretary within 30 days after implementation of the trust fund.

(E) Owners and operators using a guarantee for financial assurance shall submit the Guarantee document, standby trust fund, and certification of acknowledgement to the Executive Secretary within 30 days of issuance. The owner or operator shall also submit the

guarantor's letter from chief financial officer within the 120-day period specified in 40 CFR 280.95.

(F) Owners and operators using a surety bond for financial assurance shall submit the surety bond document, standby trust fund, and certification of acknowledgement to the Executive Secretary within 30 days of issuance.

~~(3)G~~ Guarantees and surety bonds may be used as financial assurance mechanisms in Utah only if the requirement of 40 CFR Part 280.94(b) is met.

(H) Owners and operators using one of the local government methods specified in 40 CFR 280.104 through 107 shall submit the letter from chief financial officer and associated documents to the Executive Secretary within 120 days of the end of the owner/operator's or guarantor's fiscal year.

~~—(4) If the alternate financial assurance mechanism is an insurance policy, the insurer shall have a rating of A- or greater by A.M. Best Co.~~

(d) The Executive Secretary may require reports of financial condition or any other information relative to justification of the financial assurance mechanism from the owner or operator at any time. Information requested shall be reported to the Executive Secretary within 30 calendar days after receiving the request.

(1) Owners and operators shall maintain evidence of all financial assurance mechanisms as specified in 40 CFR 280.1[07]11.

(2) Owners and operators shall keep records of all financial assurance mechanisms for a period of three years.

(3) The Executive Secretary may audit or order an audit of records supporting the financial assurance mechanism at any time.

(A) Audits may be determined by random selection or for specific reasons, including the occurrence of a release or suspected release, deficiencies in complying with regulations or orders, or the suspicion or discovery of inaccuracies.

(B) Auditing of financial assurance methods may be accomplished by any method approved by the Executive Secretary.

(e) Any and all costs of securing a selected financial assurance mechanism and generating and providing the necessary reporting evidence of an assurance mechanism to the Executive Secretary shall be the sole responsibility of the owner or operator.

(f) Processing of the alternate financial assurance mechanism documents may be accomplished utilizing any method approved by the Executive Secretary.

### **R311-206-6. Voluntary Admission of Eligible Exempt Underground Storage Tanks and above-ground storage tanks to the Environmental Assurance Program.**

(a) Owners or operators of eligible exempt underground storage tanks specified in Subsection 19-6-415(1)(a) may voluntarily participate in the Environmental Assurance Program by:

(1) meeting the requirements of Subsection 19-6-415(1) and Subsection R311-206-3(a)[;];

(2) properly performing release detection according to the requirements of 40 CFR Part 280 Subpart D[;] and

(3) meeting the upgrade requirements in 40 CFR 280[; subpart 280]21 or the new tank requirements in 40 CFR 280[; subpart 280]20, as applicable.

(b) Owners or operators of above-ground storage tanks may voluntarily participate in the Environmental Assurance Program by:

(1) meeting the requirements of Subsection 19-6-415(2) and Subsection R311-206-3(a)[;];

(2) meeting applicable requirements of the [1997 Uniform Fire Code]2000 International Fire Code, [Articles 52 and 79] Chapters 22

and 34, published by the International ~~[Fire Code Institute]~~Code Council, Inc.[.];

(3) performing an annual line tightness test of all underground product piping, or documenting monthly monitoring of sensor-equipped double-walled underground product piping[.]; and

(4) performing a tightness test of all above-ground tanks every five years, using a tightness test method capable of properly testing the tank.

#### **R311-206-7. Revocation and Lapsing of Certificates.**

(a) The Executive Secretary shall revoke a certificate[s] of compliance or registration if he determines that ~~[any]~~the owner or operator has willfully submitted a fraudulent application or is not in compliance with any requirement pertaining to the certificate.

(b) A ~~[ny]~~ petroleum storage tank owner or operator who has had a certificate of compliance revoked under Section 19-6-414 or Subsection R311-206-7(a) may have the certificate reissued by the Executive Secretary after the owner or operator demonstrates compliance with Subsection 19-6-412[-](2), Subsection 19-6-428(3), and Section R311-206-3.

(c) A ~~[ny]~~ petroleum storage tank owner or operator who has had a certificate of compliance lapse under Subsection 19-6-408(5)(c) may have the certificate reissued by the Executive Secretary after the owner or operator demonstrates compliance with Subsection 19-6-412(2) and Section R311-206-3.

(d) A ~~[ny]~~ petroleum storage tank owner or operator who has had eligibility to receive payments for claims against the fund lapse under Section 19-6-411(3)(c)(ii) shall meet the requirements of Subsection 19-6-428(3) and pay all fees, interest, and penalties due to reinstate eligibility.

(e) Upon permanent closure of a tank which is covered by the Fund, the eligibility to make a claim against the Fund shall terminate as specified in Section R311-207-2. Permanently closed tanks are not eligible to be reissued a certificate of compliance.

(f) In accordance with Section 19-6-414, the Executive Secretary may revoke a certificate of compliance for the owner's or operator's failure to comply with 40 CFR 280, which requires release reporting, abatement, investigation, corrective action, or other measures to bring the release site under control.

#### **R311-206-8. Proof of Certification.**

(a) ~~[A valid certificate of compliance shall be at each tank facility. Where this is not possible, other methods may be approved by the Executive Secretary.]~~

~~—(b)—~~In accordance with Subsection 19-6-411(7), a tag or other means of identification shall be issued to each petroleum storage tank or underground storage tank which has demonstrated current compliance with Section 19-6-412 and Section R311-206-3 or Section R311-206-6. The tag or other means of identification shall ~~[be issued annually and shall]~~ be displayed for view of the person delivering or placing petroleum product into an underground storage tank for which the tag was issued.

(e)[b] A tank shall not be issued a tag or other means of identification if the owner or operator has not satisfied the requirements of Section 19-6-412. An owner or operator shall not allow a tag to be displayed on a tank for which the Certificate of Compliance has been revoked or has lapsed, or on a tank for which the eligibility to receive payment for claims against the fund has lapsed unless the owner or operator has demonstrated compliance with financial assurance requirements.

#### **R311-206-9. Removing Participating Tanks from the Environmental Assurance Program.**

(a) At any time after May 1, 1997, owners and operators of petroleum storage tanks who have voluntarily elected to participate in the Environmental Assurance Program may cease participation in the program and be exempted from the requirements described in Section R311-206-4 by:

(1) permanently closing tanks as outlined in 40 CFR 280, subpart G, ~~[Section]~~Rule R311-204, and ~~[Section]~~Rule R311-205, or

(2) meeting the following requirements:

(i) demonstrating compliance with ~~Section~~ R311-206-5, and[.]

(ii) notifying the Executive Secretary at least 60 days before the date of cessation in the program, and specifying the date of cessation.

(b) The fund will not give pro-rata refunds.

(c) For tanks being removed voluntarily from the program, the date of cessation in the program shall be the date on which coverage under the program ends. Subsequent claims for payments from the fund must be made in accordance with Section 19-6-424 and Section R311-207-2.

(d) Owners and operators who voluntarily remove participating tanks from the program shall comply with the requirements of 19-6-428(3) before any subsequent participation in the program.

**KEY: hazardous substances, petroleum, underground storage tanks[<sup>±</sup>]**

~~[October 9, 1998]~~2004

Notice of Continuation March 6, 2002

19-6-105



## Environmental Quality, Environmental Response and Remediation **R311-212** Administration of the Petroleum Storage Tank Loan Fund

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27200

FILED: 05/29/2004, 08:58

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed amendment makes the loan application process easier and faster by changing to a one-step review process from a two-step process; helps applicants who have difficulty providing adequate security by allowing for smaller loans to be made without security; brings loan servicing process into line with State Financial policies; and removes redundancy, clarifies rule language, and improves grammar and punctuation.

SUMMARY OF THE RULE OR CHANGE: This amendment: 1) removes references to the loan eligibility and financial applications and the two-step approval process, and revise

wording to provide for a single-step loan review process; 2) removes a redundant reference to loan application prioritization; 3) adds wording to specify that an applicant must submit a complete application within 60 days of the eligibility approval, or the application will be terminated; 4) modifies a reference to re-application in the next application period when an applicant fails to close the loan within 30 days of final approval, to allow for re-application in the same application period; 5) specifies that security will be required only for loans of \$15,000 or more; 6) allows for a current county tax assessment notice to be acceptable as documentation of the value of the property pledged as security; 7) removes the wording that allows the loan proceeds to be distributed jointly to the applicant and the contractor who did the work; 8) adds a reference to the service charge that is assessed for loan payment checks that are returned due to insufficient funds; 9) removes the incorporation by reference of the eligibility and financial applications, and replaces them with a single loan application; and 10) changes the version date for the Balance Sheet form, which is revised.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-405.3

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Loan Eligibility Application, version 12/08/94 (deleted); Financial Application, version 06/15/95 (deleted); Loan Application, version 04/02/04 (added); and Balance Sheet, version 04/02/04 replaces version 06/15/95

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no anticipated cost or savings to the State Budget, as this rule is being revised merely to simplify the application process for the individual applying for the loan.

❖ LOCAL GOVERNMENTS: There is no anticipated cost or savings for local governments, as this rule is being revised merely to simplify the application process for the individual applying for the loan.

❖ OTHER PERSONS: There is an anticipated savings of \$300 - \$400 for each appraisal not needed in situations where the applicant does not have to provide security or may use a tax assessment notice instead of an appraisal. The aggregate amount saved depends on the number of applications received, and the number for which this situation applies.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated compliance costs. The proposed change makes the loan process easier for applicants and allows smaller loans to be made without security.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It is anticipated that these changes will make Petroleum Storage Tank loan funds available to more underground storage tank owners who wish to upgrade their tank systems, allowing them to achieve compliance more readily and in turn prevent releases to the environment. Dianne R. Nielson, Ph.D., Executive Director

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

ENVIRONMENTAL QUALITY  
ENVIRONMENTAL RESPONSE AND REMEDIATION  
168 N 1950 W  
SALT LAKE CITY UT 84116-3085, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gary Astin at the above address, by phone at 801-536-4103, by FAX at 801-359-8853, or by Internet E-mail at [gastin@utah.gov](mailto:gastin@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 07/15/2004

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 7/06/2004 at 1:30 PM, Department of Environmental Quality, 168 N 1950 W, Room 101, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/16/2004

AUTHORIZED BY: Dianne R. Nielson, Executive Director

### **R311. Environmental Quality, Environmental Response and Remediation.**

#### **R311-212. Administration of the Petroleum Storage Tank Loan Fund.**

##### **R311-212-1. Definitions.**

Definitions are found in Section R311-200.

##### **R311-212-2. Loan Application Submittal.**

(a) Application for a loan shall be made on forms incorporated in Section R311-212-10, in accordance with Subsection 19-6-405.3(7). Loan ~~[eligibility]~~ applications shall be accepted during application periods designated by the Executive Secretary. ~~[To receive a loan the applicant shall complete the following steps:~~

~~— (1) Submit and receive approval from the Executive Secretary of a loan eligibility application; and~~

~~— (2) Submit and receive approval from the Executive Secretary of a financial application.]~~

(b) As long as loan funds are available at least one application period shall be designated each fiscal year. Additional funds available through repayment of existing loans shall be loaned according to priorities from the most recent application period.

(c) ~~[Valid loan eligibility applications received during an application period shall be prioritized before review according to R311-212-4.]~~ Applications must be received by the Executive Secretary by 5:00 p.m. on the last day of a given application period.

(d) Loan ~~[eligibility]~~ applications received outside the application period shall be invalid.

##### **R311-212-3. ~~[Loan]Eligibility [Application]Review.~~**

(a) The Executive Secretary shall ~~[review the eligibility application to]~~ determine if the applicant meets the eligibility criteria stated in Subsections 19-6-405.3(3), 19-6-405.3(4), 19-6-405.3(5) and 19-6-405.3(6).

(b) To meet the eligibility requirements of 19-6-405.3(4) the applicant must, for all facilities for which the applicant requests a loan, demonstrate current compliance with all state and federal UST laws, rules and regulations, including compliance with all requirements for remediation of facilities with leaking underground storage tanks, or must be able to achieve compliance with the loan proceeds.

(c) To meet the eligibility requirements of 19-6-405.3(4) the applicant must meet the following for all facilities owned or operated by the applicant for which the applicant does not request a loan:

(1) The applicant has demonstrated current compliance with all state and federal UST laws, rules and regulations, including compliance with all requirements for remediation of facilities with leaking underground storage tanks;

(2) All regulated underground petroleum storage tanks owned by the applicant have met the requirements of Section 19-6-412(2) and have a current certificate of compliance;

(3) The applicant has paid all underground storage tank registration fees, interest and penalties which have been assessed; and

(4) The applicant has paid all applicable petroleum storage tank fees, interest and penalties which have been assessed.

(d) To meet the requirements of Section 19-6-405.3(3), the loan request must be for the purpose of:

(1) Upgrading or replacing existing petroleum USTs to meet requirements of 40 CFR 280.21;

(2) Installing a leak detection monitoring system; or

(3) Permanently closing USTs. If an applicant requests a loan for closing USTs which will be replaced by above-ground storage tanks, the loan, if approved, will be only for closing the USTs. The security pledged by the applicant for a loan to replace USTs with above-ground storage tanks shall be subject to the limitations in R311-212-6.

(e) The Executive Secretary shall notify the applicant in writing of the status of the ~~[loan]~~ ~~[eligibility]~~ ~~[application]~~ ~~[review]~~. ~~[-If the loan eligibility application is approved, the applicant may submit a financial application.]~~

#### **R311-212-4. Prioritization of Loan ~~[Eligibility]~~ Applications.**

(a) When determined by the Executive Secretary to be necessary, all applications received during a designated application period shall be prioritized by total points assigned. Ten points shall be given for each item that applies to the applicant or the facility for which the loan is requested:

(1) The applicant has less than \$1,000,000 annual gross income and fewer than five full-time employee equivalents and is not owned or operated by any person not meeting the income and employee criteria.

(2) The applicant's income is derived solely from operations at UST facilities.

(3) The applicant owns or operates no more than two facilities.

(4) The facility is located in a U.S. Census Bureau population unit containing fewer than 5,000 people.

(5) There are no more than three operating retail outlets selling motor fuel within 15 miles road distance in all directions.

(6) Loan proceeds will be used solely for replacing or upgrading USTs.

(7) All USTs at the facility are greater than 15 years old.

(b) One point shall be given for each road mile of distance from the facility to the nearest operating retail outlet selling motor fuel, to a maximum of 30 points.

(c) Applications which receive the same number of points shall be sub-prioritized according to the date postmarked or the date delivered to the Executive Secretary by any other method.

(d) Applications shall remain in priority order regardless of availability of funds until a new application period is declared. When a new application period begins, priority order of ~~[eligibility]~~ applications which have not been reviewed terminates. An applicant whose ~~[eligibility]~~ application has not been reviewed or an applicant whose ~~[eligibility]~~ application has not been approved because the applicant has not satisfied the requirements of Subsections 19-6-405.3(3) through (6), loses eligibility to apply for a loan and must submit a new ~~[eligibility]~~ application in the subsequent period to be considered for a loan in that period.

#### **R311-212-5. ~~[Financial]~~ Loan Application Review.**

(a) ~~[The applicant shall file a financial application with the Executive Secretary within 60 days after the Executive Secretary mails written notice of approval of the applicant's loan eligibility application.]~~ The applicant shall ensure that the loan application is complete. The completed application with supporting documents shall contain all information required by the ~~[financial]~~ application. If the ~~[financial application is not received by the Executive Secretary]~~ application does not submit a complete application within 60 days of eligibility approval, the applicant's eligibility ~~[application]~~ approval shall be forfeited, and the applicant must re-apply.

(b) All costs incurred in processing the ~~[financial]~~ application including appraisals, title reports, or UCC-1 releases shall be the responsibility of and paid for by the applicant. The Executive Secretary may require payment of costs in advance. The Executive Secretary shall not reimburse costs which have been expended, even if the loan fails to close, regardless of the reason.

(c) ~~[Financial applications shall be reviewed in the order in which they are received.]~~ The review and approval of the ~~[financial]~~ application shall be based on information provided by the applicant, and:

(1) review of any and all records and documents on file;

(2) verification of any and all information provided by the applicant;

(3) review of credit worthiness and security pledged; and

(4) review of a site construction work plan.

(d) The Executive Secretary shall notify the applicant in writing of the status of the application when the review is complete.

(e) The applicant must close the loan within 30 days after the Executive Secretary mails the loan documents for the applicant's signature. If the applicant fails to close the loan within this time period, the approval is forfeited and the applicant must ~~[wait until the next application period]~~ re-apply. ~~[Any subsequent application must start with an eligibility application.]~~ An exception to the 30 day period may be granted by the Executive Secretary if the closing is delayed due to circumstances beyond the applicant's control.

#### **R311-212-6. Security for Loans.**

(a) ~~When an applicant applies for a loan of \$15,000 or more,~~ ~~[T]he loan applicant must pledge for security personal or real property which meets or exceeds the following criteria:~~

(1) The loan amount may not be greater than 80 percent of the value of the applicant's equity in the security for cases where the Department obtains a first mortgage position~~[-]~~, or

(2) The loan amount may not be greater than 60 percent of the value of the applicant's equity in the security for cases where the Department obtains a second mortgage position.



~~(3)b~~ ~~[A current written appraisal on the property to be used as security must be submitted to the Executive Secretary. All appraisals must be performed by State of Utah certified appraisers.]~~ The applicant shall provide acceptable documentation of the value of the property to be used as security using:

(1) a current written appraisal, performed by a State of Utah certified appraiser;

(2) a current county tax assessment notice, or

(3) other documentation acceptable to the Executive Secretary.

~~(4) Personal property, unless the personal property security interest accompanies a real property security interest, shall be used as security only on loans of less than \$15,000 and for a loan period of a maximum of 5 years. Personal properties shall be lien free.]~~

~~(b)c~~ A title report on all real property and a UCC-1 clearance on all personal property used as security shall be submitted to the Executive Secretary by a title company or appropriate professional person approved by the Executive Secretary.

~~(e)d~~ When the title report indicates an existing lien or encumbrance on real property to be used as security, the existing lien holders may subordinate their interest in favor of the Department. The Department shall accept no less than a second mortgage position on real property pledged for loan security.

~~(d)e~~ Whenever a corporation seeks a loan, its principals must guarantee the loan personally.

~~(e)f~~ The applicant must provide a complete financial statement with cash flow projections for debt service.

~~(f)g~~ Above ground storage tanks and real property on which they are located shall not be acceptable as security.

~~(g)h~~ Underground storage tanks and the real property on which they are located shall not be acceptable as security unless:

(1) The UST facility offered for security has not had a petroleum release which has not been properly remediated; and

(2) The applicant provides documentation to demonstrate the UST facility is currently in compliance with the loan eligibility requirements set forth in R311-212-3.

(i) If a loan is made without security, the maximum loan repayment period shall be five years.

#### **R311-212-7. Procedure for Making Loans.**

(a) Loan funds shall be obligated after all documents to secure a loan are complete, processed, and appropriately signed by the applicant and the Executive Secretary.

(b) Loan proceeds shall be disbursed to the applicant after closing documents are processed, work at the site is completed, and all paperwork and notifications have been received by the Executive Secretary. ~~[The loan proceeds may be disbursed jointly to the applicant and the contractor who completed the work.]~~ If the loan amount exceeds the allowable project costs, the Executive Secretary may credit any difference to the applicant's account rather than disbursing excess proceeds to the applicant.

(c) Loan proceeds shall not be used to pay underground storage tank registration fees, penalties, or interest assessed under Section 19-6-408 or petroleum storage tank fees, penalties, or interest assessed under Section 19-6-411.

(d) Loans shall not be made for work which is performed before the applicant's ~~[eligibility and financial]~~ loan application[s-are] is approved and the loan is closed.

#### **R311-212-8. Servicing the Loans.**

(a) The Executive Secretary shall establish a loan repayment schedule for each borrower based on the financial situation and income

circumstances of the borrower and within the term of loans allowed by Subsection 19-6-405.3(6)(e). Loans shall be amortized with equal payment amounts and payments shall be of such amount to pay all interest and principal in full.

(b) The initial installment payment is due on a date established by the Executive Secretary. Subsequent installment payments are due on the first day of each month. A notice of payment and due date shall be sent for each subsequent payment. Non-receipt of the statement of account or notice of payment shall not be a defense for non-payment or late payment.

(c) The Executive Secretary shall apply loan payments received first to penalty, next to interest and then to principal.

(d) Loan payments may be made in advance or the remaining principal balance of the loan may be paid in full at any time without penalty.

(e) Notices of late payment penalty assessed with amounts of penalty and the total payment due shall be sent to the borrower.

(f) The penalty for late loan payments shall be 10 percent of the payment due. The penalty shall be assessed and payable on payments received by the Executive Secretary more than five days after the due date. A penalty shall be assessed only once on a given late payment. Payments shall be considered received the day of the U.S. Postal Service post mark date or receipted date for payments delivered to the Executive Secretary by methods other than the U.S. Postal Service. If a loan payment check is returned due to insufficient funds, a service charge in the amount allowed by law shall be added to the payment amount due.

(g) Notice of loans paid in full shall be sent after all penalties, interest and principal have been paid.

(h) Releases of the Executive Secretary's interest in security shall be prepared and sent to the borrower or filed for public notice as applicable.

#### **R311-212-9. Recovering on Defaulted Loans.**

(a) Loans may be considered in default when two consecutive payments are past due by 30 days or more, when the applicant's ability to receive payments for claims against the fund lapses, or if the certificate of compliance lapses or is revoked. Lapsing under section R311-206-7(e) shall not be considered as grounds for default for USTs which are permanently closed.

(b) The Executive Secretary may declare the full amount of the defaulted loan, penalty, and interest immediately due.

(c) The Executive Secretary need not give notice of default prior to declaring the full amount due and payable.

(d) The borrower shall be liable for attorney's fees and collection costs for defaulted loans whether incurred before or after court action.

#### **R311-212-10. Forms.**

(a) The forms dated and listed below, on file with the Department, are incorporated by reference as part of Section R311-212, and shall be used by the Executive Secretary for making loans.

(1) Loan ~~[Eligibility]~~ Application version ~~[12/08/94]~~ 04/02/04

~~—~~ (2) Financial Application version 06/15/95

~~]~~ (3) ~~2~~ Balance Sheet version ~~[06/15/95]~~ 04/02/04

(4) ~~3~~ Loan Commitment Agreement version 06/15/95

(5) ~~4~~ Corporate Authorization version 06/15/95

(6) ~~5~~ Promissory Note version 06/15/95

(7) ~~6~~ Extension and Modification Agreement version 06/15/95

(8) ~~7~~ Security Agreement version 06/15/95

(9) ~~8~~ Hypothecation Agreement 06/15/95

(10) ~~9~~ General Pledge Agreement 06/15/95

- (1[+]0) Assignment 06/15/95  
 (1[2]1) Assignment of Account 06/15/95  
 (1[3]2) Trust Deed  
 (i) property with underground storage tanks version 06/15/95; or  
 (ii) property without underground storage tanks version 06/15/95.  
 (b) The Executive Secretary may require or allow the use of other forms that are consistent with these rules as necessary for the loan approval process. The Executive Secretary may change these forms for administrative purposes provided the revised forms remain consistent with the substantive provisions of the adopted forms.

**R311-212-11. Rules in Effect.**

- (a) The rules in effect on the closing date of the loan and the forms signed by the parties shall govern the parties.

**KEY: hazardous substances, petroleum, underground storage tanks**

~~October 9, 1998~~ 2004

Notice of Continuation March 6, 2002

19-6-405.3



**Health, Health Care Financing,  
 Coverage and Reimbursement Policy  
 R414-1-14  
 Utilization Control**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 27189

FILED: 05/26/2004, 12:17

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rulemaking is necessary to be in compliance with H.B. 126 (2003), which eliminated the ability to implement the Medicaid program by policy and required that Medicaid policies be put into rule. Utilization control methods that safeguard against unnecessary or inappropriate use of Medicaid services are Medicaid policies that are now set forth by rule. (DAR NOTE: H.B. 126 (2003) is found at UT L 2003 Ch 324, and was effective 05/05/2003.)

**SUMMARY OF THE RULE OR CHANGE:** Subsection R414-1-14(3) is added to this rule. This subsection states the responsibility of the agency to put requests for records in writing and to identify the records to be reviewed. It also describes the 30-day requirement for providers to respond to the agency with a complete record that supports claims for payment. Also, Subsection R414-1-14(4) is included in this rule. This subsection describes the refund policy of the Department for services that are not in compliance with state or federal policies and regulations. It also mentions the appeal process for refund determinations. Finally, Subsection R414-1-14(5) is added. This subsection states the Department policy that requires verification of services through adequate records and requires providers to grant access to records. It also mentions

the rights of the state when providers do not comply with this requirement.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-1-5 and 26-18-3; and 42 CFR Part 456

**ANTICIPATED COST OR SAVINGS TO:**

- ❖ **THE STATE BUDGET:** There is no impact to the state budget associated with this rulemaking because it implements existing policy provisions that the state Medicaid statute previously allowed to be implemented by policy.
- ❖ **LOCAL GOVERNMENTS:** There is no impact to local governments associated with this rulemaking because it implements existing policy provisions that the state Medicaid statute previously allowed to be implemented by policy.
- ❖ **OTHER PERSONS:** There is no impact to other persons associated with this rulemaking because it implements existing policy provisions that the state Medicaid statute previously allowed to be implemented by policy.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There is no impact for affected persons associated with this rulemaking because it implements existing policy provisions that the state Medicaid statute previously allowed to be implemented by policy.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rulemaking is necessary to be in compliance with H.B. 126 (2003), which eliminated the ability to implement the Medicaid program by policy and required that Medicaid policies be put into rule. Utilization control methods that safeguard against unnecessary or inappropriate use of Medicaid services are added to this rule. This does not represent a change in practice and therefore should have no fiscal impact on businesses interacting with Medicaid. Scott D. Williams, MD

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

HEALTH  
 HEALTH CARE FINANCING,  
 COVERAGE AND REIMBURSEMENT POLICY  
 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:**

Craig Devashrayee at the above address, by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@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 07/15/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2004

AUTHORIZED BY: Scott D. Williams, Executive Director

**R414. Health, Health Care Financing, Coverage and Reimbursement Policy.****R414-1. Utah Medicaid Program.****R414-1-14. Utilization Control.**

(1) The Medicaid agency has implemented a statewide program of surveillance and utilization control that safeguards against unnecessary or inappropriate use of Medicaid services available under the plan. The plan also safeguards against excess payments, assesses the quality of services, and provides for control and utilization of inpatient services as outlined in the Superior Utilization Waiver state implementation plan. The program meets the requirements of 42 CFR Part 456.

(2) In order to control utilization, and in accordance with 42 CFR 440.230(d), services, equipment, or supplies not specifically identified by the Department as covered services under the Medicaid program, are not a covered benefit.

(3) The Medicaid agency may request records that support provider claims for payment under programs funded through the agency. Such requests must be in writing and identify the records to be reviewed. Responses to requests must be returned within 30 days of the date of the request. Responses must include the complete record of all services for which reimbursement is claimed and all supporting services. If there is no response within the 30 day period, the agency will close the record and will evaluate the payment based on the records available.

(4) If Medicaid pays for a service which is later determined not to be a benefit of the Utah Medicaid program or is not in compliance with state or federal policies and regulations, Medicaid will make a written request for a refund of the payment. Unless appealed, the refund must be made to Medicaid within 30 days of written notification. An appeal of this determination must be filed within 30 days of written notification as specified in R410-14-6.

(5) Reimbursement for services provided through the Medicaid program must be verified by adequate records. If these services cannot be properly verified, or when a provider refuses to provide or grant access to records, either the provider must promptly refund to the state any payments received for the undocumented services, or the state may elect to deduct an equal amount from future reimbursements. If the Department suspects fraud, it may refer cases for which records are not provided to the Medicaid Fraud Control Unit for additional investigation and possible action.

**KEY: Medicaid**~~May 19, 2004~~ July 16, 2004

Notice of Continuation April 30, 2002

26-1-5

26-18-1



Health, Health Care Financing,  
Coverage and Reimbursement Policy

**R414-306**  
Program Benefits

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 27216

FILED: 06/01/2004, 16:53

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This amendment is necessary to remove language concerning the Qualifying Individuals Group 2 program because that program ended as required by federal statute. It is also necessary to modify the requirements on medical transportation, make certain clarifications about who can receive medical transportation, clarify when overnight expenses may be paid, and add provisions about the reimbursements for contracted medical transportation providers. It is also necessary to make certain changes to the effective date of eligibility provisions to make it clear that eligibility cannot begin before an individual meets the eligibility criteria. Some citations are also being updated.

**SUMMARY OF THE RULE OR CHANGE:** Section R414-306-2 removes language about the QI-2 program. Section R414-306-4 has the following changes: 1) a clarification that coverage in the retroactive period cannot begin before the individual meets all the eligibility criteria; 2) a modification that eligibility in the month of application will begin on the first day of that month unless the person did not become a state resident until after the first, or the individual was a qualified alien subject to the five-year bar for receipt of Medicaid services and that bar had not expired until some time after the first, or the individual became a qualified alien after the first and is not subject to the five-year bar; 3) a clarification of when a person approved for coverage may request coverage for the retroactive period associated with the approved application; and 4) QI language is referred to as QI-1 instead of QI. Section R414-306-6 has various changes to clarify the medical transportation provisions. These include: 1) a clarification of when non-emergency medical transportation is available; 2) a clarification that individuals who meet the criteria for specialized transportation can receive such services from the Medicaid transportation contractor, and that those who can use public para-transit services must use those services; 3) a limitation in transportation to pick up prescriptions to only when en route to or from a medical appointment; 4) a clarification of some of the provisions and requirements for receiving reimbursement for use of a personal vehicle and for overnight stay costs and a clarification that the amount of reimbursement is limited to the cost to go to the nearest appropriate provider; and 5) an addition of provisions for payments to Medicaid transportation contractors, and the requirements and limitations for using contracted services.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-18-3 and 42 CFR 435.914

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 42 CFR 440.240, 441.56, 431.625, 435.914, 431.52, 431.53, 2001 ed.; Subsection 1905(p), Section 1933, Subsection 1902(e)(8), and Subsection 1616(a) through (d) of the Social Security Act, 2001 ed.

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is a total savings of \$372,000 to the state budget; \$104,000 is saved in the general fund while \$268,000 is saved in federal dollars.

❖ LOCAL GOVERNMENTS: There is no budget impact to local governments because only eligibility groups under Medicaid are impacted.

❖ OTHER PERSONS: There is a total cost of \$372,000 to Medicaid recipients as a result of this rulemaking because the retroactive period has been reduced for some eligibility groups.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The average client that does not receive Medicaid back to the first day of the month will incur an approximate one-time cost of \$744.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Limiting retroactive eligibility to the day when a person meets eligibility criteria is fiscally appropriate for state funds. Scott D. Williams, MD

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

HEALTH  
HEALTH CARE FINANCING,  
COVERAGE AND REIMBURSEMENT POLICY  
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:

Craig Devashrayee at the above address, by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@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 07/15/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2004

AUTHORIZED BY: Scott D. Williams, Executive Director

**R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**

**R414-306. Program Benefits.**

**R414-306-1. Medicaid Benefits.**

(1) The Department adopts 42 CFR 440.240, 441.56, and 431.625, 1999 ed., which are incorporated by reference.

(2) The Department elects to coordinate Medicaid with Medicare Part B for all Medicaid recipients.

(3) The Department ~~[of Health]~~ is responsible for defining emergency services which will be paid for by Medicaid for aliens who do not meet citizenship requirements for full Medicaid coverage. Emergency services include medical services given to prevent death or permanent disability. Emergency services do not include prenatal or postpartum services, prolonged medical support, long term care, or organ transplants. Prior authorization is required if the client applies for medical assistance before receiving medical services.

(4) Workers must inform applicants about the Child Health Evaluation and Care (CHEC) program. By signing the application form the client acknowledges receipt of CHEC program information.

**R414-306-2. QMB, SLMB, and QI-1 Benefits.**

(1) The ~~[d]~~ Department adopts Subsection 1905(p) and Section 1933 of the Compilation of the Social Security Laws, ~~[1999]~~2001 ed., U.S. Government Printing Office, Washington, D.C., which is incorporated by reference.

(2) The Department ~~[elects]~~ does not ~~[to]~~ cover premiums for enrollment with any health insurance plans except for Medicare. ~~[~~

~~(3) Benefits covered by the Qualifying Individuals Group 2 program will be received in the form of a refund check to the individual selected for coverage.]~~

**R414-306-3. QMB and SLMB Date of Entitlement.**

The Department adopts Subsection 1902(e)(8) of the Compilation of the Social Security Laws, ~~[1999]~~2001 ed., U.S. Government Printing Office, Washington, D.C., which is incorporated by reference.

**R414-306-4. Effective Date of Eligibility.**

(1) The Department adopts 42 CFR 435.914, ~~[2000]~~2001 ed., which is incorporated by reference.

(2) Eligibility for any Medicaid program, or the SLMB or QI-1 program, shall begin no earlier than the date that is three months before the date of application for benefits. Coverage shall not be effective on the first day of a month if that date is more than three months before the application date. Coverage in the months before the application month cannot begin before the date the applicant met the eligibility criteria.

(a) Institutional Medicaid shall begin on the date that the Department receives verification of nursing home admission from the nursing home, but no earlier than the date that is three months before the date of application for nursing home services.

(b) Eligibility under a Home and Community Based (HCB) Services waiver shall begin on the date the client is determined to meet the level-of-care criteria and home and community based services are scheduled to begin within the month, but no earlier than the date that is three months before the date of application for HCB services.

(c) Eligibility for benefits as a Qualifying Individual-Group 1 can begin no earlier than the date that is three months before the date of application and in no case before January 1, 1998. An individual selected to receive QI-1 benefits in a month of the year is entitled to receive such assistance for the remainder of the calendar year if the individual continues to be a qualifying individual and the program still exists. Receipt of QI-1 benefits in one calendar year does not entitle the individual to continued assistance in any succeeding year.

(3) Eligibility in the application month and on-going months shall begin on the first day of such month, except for

~~(a) an individual who just moved to Utah, in which case the effective date of eligibility of such individual cannot be earlier than the date that the individual meets the state residency requirement defined in R414-302-2; and~~

~~(b) an individual who is a qualified alien subject to the five-year bar on receiving regular Medicaid services, in which case eligibility cannot begin earlier than the date that is five years after the date the person became a qualified alien, or the date the five-year bar ends due to other events defined in statute.~~

~~(c) an individual who is a qualified alien not subject to the five-year bar on receiving regular Medicaid services, in which case eligibility cannot begin earlier than the date the individual's qualified alien status began.~~

~~(3)4 There is no provision for retroactive QMB assistance.~~

~~(4) Institutional Medicaid shall begin on the date that the Department of Health receives verification of nursing home admission from the nursing home, but no earlier than the date that is three months before the date of application for nursing home services. Coverage shall not be effective on the first day of a month if that date is more than three months before the application date.~~

~~(5) Eligibility under a Home and Community Based Services waiver shall begin on the first day of the month in which the client meets the level of care criteria and home and community based services begin, but no earlier than the date that is three months before the date of application for waiver Medicaid services. Coverage for waiver Medicaid shall not be effective on the first day of a month if that date is more than three months before the application date.~~

~~(6) Eligibility for benefits as a Qualifying Individual can begin no more than the date that is three months before the date of application, and in no case before January 1, 1998. An individual selected to receive QI benefits in a month of the year is entitled to receive such assistance for the remainder of the calendar year if the individual continues to be a qualifying individual. Receipt of benefits as a qualifying individual in one calendar year does not entitle the individual to continued assistance in any succeeding year.~~  
~~(5) After being approved for Medicaid, a client may request retroactive coverage based on the date of the approved application, but only if the client had not previously requested the retroactive coverage, and had either been denied for such time period or had failed to meet a spenddown for such time period. The recipient must provide verifications needed to establish eligibility for the retroactive period being requested.~~

#### **R414-306-5. Availability of Medical Services.**

(1) The Department adopts 42 CFR 431.52, [1999]2001 ed., which is incorporated by reference.

(2) A person may receive medical services from an out-of-state provider if that provider accepts the Utah Medicaid reimbursement rate for the service.

(3) If a medical service requires prior approval for reimbursement in-state, the medical service will require prior approval if received out-of-state.

(4) If a person has a primary care provider, the person shall receive medical services from that provider, or obtain authorization from the primary care provider to receive medical services from another medical provider.

(5) If a person [has]is enrolled in a Medicaid Health [Maintenance Organization]Plan[ as a primary care provider], the person shall receive medical services from a provider within the Medicaid Health [Maintenance Organization]Plan's network, or

obtain authorization from the Medicaid Health [Maintenance Organization]Plan or Utah Medicaid to receive medical services from an[other]out-of-network medical provider.

#### **R414-306-6. Medical Transportation.**

(1) The Department adopts 42 CFR 431.53, [1999]2001 ed., which is incorporated by reference.

(2) The following applies to all forms of non-emergency medical transportation including services provided by a contracted medical transportation provider and reimbursement for use of personal transportation.

(a) Non-emergency medical transportation is limited to transportation expenses to go to and from [a]the nearest appropriate Medicaid provider to obtain a Medicaid covered service that is medically necessary. If the recipient chooses to travel to a Medicaid provider that is not the nearest appropriate provider, reimbursement of mileage is limited to the distance to go to the nearest appropriate provider. The Department will not cover transportation expenses to go to non-Medicaid providers, or to obtain services not covered by the Medicaid plan.

(b) Non-emergency medical transportation is limited to individuals who are covered under the Traditional Medicaid benefit plan. Individuals covered by the Non-Traditional Medicaid plan, the Primary Care Network, the Covered-At-Work program, and Medicare Cost-Sharing programs are not eligible for non-emergency medical transportation.

(3)c If transportation is available to a Traditional Medicaid recipient without cost to the recipient, the recipient[s] shall use this transportation. A Traditional Medicaid recipient who needs specialized transportation and who meets the criteria for the Medicaid transportation contractor services found in subsection (13) may receive transportation from the Medicaid transportation contractor. [Other modes of non-emergency medical transportation include bus passes, special bus services, personal transportation reimbursement, taxi service, non-specialized van transportation, and specialized van transportation. Recipients must use the most reasonable and economical mode of transportation available, or transportation shall not be reimbursed.

(a) Prior authorization is required for special bus services, taxi service, non-specialized van transportation, and specialized van transportation.

(b) Taxi service shall not be authorized for recipients who own a licensed vehicle, or who live in a household with a family member who owns a licensed vehicle, unless the recipient verifies that the nature of the recipient's medical condition or disability makes driving inadvisable and there is no household member who can drive the recipient to and from medical appointments. In the case of an urgent medical care need, if the recipient has no other way of getting needed care, Department staff may authorize taxi service when it is a reasonable and safe mode of transportation.]

(d) A Traditional Medicaid recipient who has access to and is able to use public transportation to get to medical appointments may receive a bus pass upon request. The bus pass may be used to pay the fare for an attendant who accompanies a recipient under age 18 or a recipient who has a medical need for an attendant. A recipient who has access to and is capable of using public paratransit services can request authorization to use such transportation. The recipient must follow procedures and meet criteria required by the paratransit provider.

(e) Transportation for picking up prescriptions is not covered unless en route to or from a medical appointment.

~~(f) The Department will not provide non-emergency medical transportation to nursing home residents because the nursing home must provide the transportation as part of its contracted rate.~~

~~(g) The Department will not provide non-emergency medical transportation to and from mental health appointments for recipients covered by a prepaid Mental Health Plan because the prepaid Mental Health Plan must provide transportation, as part of its contracted rate, to recipients to obtain covered mental health services.~~

~~(h) If medical services are not available in-state, a Traditional Medicaid recipient must receive prior authorization from the Department for the services and the transportation. If the services and the transportation are approved, the Department shall determine, at its discretion, the most cost effective and appropriate transportation, and method of payment for the transportation.~~

~~([e]3) [When] If personal transportation is used[;] and it is the most reasonable and economical mode of transportation available, the local office shall reimburse actual mileage at the rate of \$0.18 per mile. The Department may deny reimbursement for multiple trips in a day unless the client can demonstrate why multiple trips were necessary. Total reimbursement for mileage must not exceed \$150.00 a month per household, unless:~~

~~([i]a) an eligibility worker determines that higher reimbursement is necessary because a recipient's medical condition requires frequent travel to a Medicaid provider to obtain Medicaid covered services that are medically necessary; or~~

~~([i]b) an eligibility worker or supervisor determines that higher reimbursement is necessary because a recipient had an unusual medical need in a given month that required frequent or long-distance travel to a Medicaid provider to obtain Medicaid covered services that were medically necessary.~~

~~([d]4) The local office supervisor can authorize advance payment for use of personal transportation, overnight stay costs, or both, if the provider verifies the medical appointment, and the client would be unable to obtain the necessary medical services without an advance. The recipient is responsible to repay an advance if the recipient does not provide verification of travel expenses equal to or greater than the amount of funds advanced within 10 days after returning from the scheduled appointment.[~~

~~(4) If a State agency or non-profit organization provides transportation, the only reimbursement will be for actual costs or billed charges.]~~

~~(5) Transportation reimbursement for use of a personal vehicle may be made to the recipient, to a second party, or to the recipient and second party jointly.~~

~~(6) If more than one Traditional Medicaid recipients travel together in a personal vehicle, reimbursement shall be made to only one recipient, or to the driver, and only for the actual miles traveled.[~~

~~(7) The Department will not provide non-emergency medical transportation to nursing home residents because the nursing home must provide the transportation as part of its contracted rate.~~

~~(8) The Department will not provide non-emergency medical transportation to and from mental health appointments for recipients covered by a prepaid Mental Health Plan because the prepaid Mental Health Plan must provide transportation, as part of its contracted rate, to recipients to obtain covered mental health services.]~~

~~(9)7) If medical services are not available locally, a Traditional Medicaid recipient may be reimbursed for transportation to obtain medical services outside of the recipient's local area. If the closest medical provider is out-of-state, a recipient may be~~

reimbursed for transportation to the out-of-state provider if this travel is more cost effective than traveling to an in-state provider. The medical provider's office must verify that the recipient needs to travel outside the local area for medical services, unless:

(a) there are no Medicaid providers in the local area who can provide the services; or

(b) it is the custom in the local area to obtain medical services outside the local area or in neighboring states.[

~~(10) If medical services are not available in state, a recipient must receive prior authorization from Department to be reimbursed for transportation to obtain the medical services out of state.]~~

~~([14]8) A Traditional Medicaid recipient who receives medical treatment outside of the recipient's local area may receive reimbursement for lodging costs when staying overnight, if:~~

(a) the recipient is obtaining a Medicaid covered service that is medically necessary from the nearest Medicaid provider that can treat the recipient's medical condition; and

(b) the recipient must travel over 100 miles to obtain the medical treatment and would not arrive home before 8:00 p.m. due to the drive time; ~~[or]~~

~~(c) the recipient must travel over 100 miles to obtain the medical treatment and would have to leave home before 6:30 a.m. due to drive time to arrive at the scheduled appointment; or~~

~~([e]d) the medical treatment requires an overnight stay.~~

~~([12]9) The Department shall reimburse actual lodging and food costs or \$50.00 per night, whichever is less. Reimbursement for food costs shall be no more than \$25 of the \$50 overnight reimbursement rate.~~

~~(10) If a recipient has a medical need to stay more than two nights to receive medical services, the recipient must obtain approval from the Department before expenses for additional nights can be reimbursed.~~

~~([13]11) If a recipient has a medical need for a companion or attendant when traveling outside of the recipient's local area, and the recipient is not staying in a medical facility, lodging costs for the companion or attendant may be reimbursed according to the rate specified in subsection ([12]9). The reimbursement may also include salary if the attendant is not a member of the recipient's family, but not for standby time. One parent or guardian may qualify as an attendant if the parent or guardian must receive medical instructions to meet the recipient's needs, or the recipient is a minor child.~~

~~([14]12) Reimbursements for personal transportation shall not be made for trips made more than 12 months before the month the client requests reimbursement, with one exception. If a client is granted coverage for months more than one year prior to the eligibility decision, the client may request reimbursement and provide verification for personal transportation costs incurred during those months. In this case, the client must make the request and provide verification within three months after receiving the eligibility decision.~~

~~(13) Reimbursement for fee-for-service providers:~~

~~(a) Payments for Medical transportation are based on the established fee schedule unless a lower amount is billed. The amount billed cannot exceed usual and customary charges to private pay patients.~~

~~(b) Fees are established using the methodology as described in the State Plan, Attachment 4.19-B Section R, Transportation.~~

(14) Medical Transportation under a Section 1915(b) waiver using a transportation contractor:

(a) Non-emergency medical transportation will be provided by a contracted transportation provider. The contractor provides non-emergency medical transportation services statewide, either as the primary provider or through a subcontractor. Transportation services under the waiver do not include bus passes and paratransit services by a public carrier, such as Flextrans.

(b) Prior authorization is required for all transportation services provided through the contractor.

(c) If the medical service is not available within the state, or the nearest Medicaid provider is outside the state, medical transportation to services outside of Utah is covered up to 120 ground travel miles one-way outside of the Utah border. The ride must originate or end within Utah borders. Non-emergency transportation originating and ending outside of Utah is not covered.

(d) A recipient is not eligible for non-emergency medical transportation services if the recipient owns a licensed vehicle or lives in a residence with a family member who owns a licensed vehicle, unless a physician verifies that the nature of the recipient's medical condition or disability makes driving inadvisable and there is no family member physically able to drive the recipient to and from medical appointments.

(e) A recipient is not eligible for non-emergency medical transportation services if public transportation is available in the recipient's area, unless the public transportation is inappropriate for the recipient's medical or mental condition as certified by a physician.

(f) A recipient is not eligible for non-emergency medical transportation services if paratransit services such as Flextrans are available in the recipient's area, unless the recipient's medical condition requires door to door services due to physical inability to get from the curb or parking lot to the medical provider's facility. This inability must be certified by a physician. To be eligible for transportation under the waiver, the recipient must receive a denial of services letter from Flextrans or other paratransit services.

(g) Transportation for urgent care services is provided under the provisions of items (d), (e) and (f) above and will be provided within 24 hours of request. Urgent care is defined as non-emergency medical care which is considered by the prudent lay person as medically safe to wait for medical attention within the next 24 hours.

#### **R414-306-7. State Supplemental Payments for Institutionalized SSI Recipients.**

(1) The Department adopts Subsection 1616(a) through (d) of the Compilation of the Social Security Laws, [1993]2001 ed., U.S. Government Printing Office, Washington, D.C., which is incorporated by reference.

(2) A State Supplemental payment equal to \$15 shall be paid to a resident of a medical institution who receives a Supplemental Security Income (SSI) payment.

(3) Recipients must be eligible for Medicaid benefits to receive the State Supplemental payment.

(4) Recipients are eligible to receive the \$15 State Supplemental payment beginning with the first month that their SSI assistance is reduced to \$30 a month because they stay in an institution and they are eligible for Medicaid.

(5) The State Supplemental payment terminates effective the month the recipient no longer meets the eligibility criteria for receiving such supplemental payment.

**KEY: program benefits, medical transportation**

**[November 1, 2001]2004**

**Notice of Continuation January 31, 2003**

**26-18**



## Health, Health Systems Improvement, Licensing **R432-100-17** Perinatal Services

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27186

FILED: 05/24/2004, 09:52

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change updates the incorporation by reference of the Guideline for Perinatal Services, Fifth Edition and the Guidelines for Construction and Equipment of Hospital and Medical Facilities, 2001 Edition. This amendment corrects language submitted in the first filing. (DAR NOTE: This filing supersedes that first filing on Section R432-100-17 that was published in the 03/15/2004 issue of the Bulletin on page 51 under DAR No. 26954.)

SUMMARY OF THE RULE OR CHANGE: The change requires support personnel to be available according to the designated level and equipment for oxygen and resuscitation to be available for both mother and newborn. The section is also reorganized for consistency and clarity.

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Guidelines for Perinatal Care, Fifth Edition; and Guidelines for Construction and Equipment of Hospital and Medical Facilities, 2001 ed.

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There should be a minimum impact to adopt the current guidelines for state owned and operated facility since the Fifth Edition reflects the current practice. The Department will have an approximate \$350 cost to mail the revised rule to the affected parties.

❖ LOCAL GOVERNMENTS: There should be a minimum impact to adopt the current guidelines for local government owned and operated facility since the Fifth Edition reflects the current practice and the smaller hospitals typically do not operate an intensive care unit for newborns.

❖ OTHER PERSONS: There should be a minimum impact to adopt the current guidelines for privately owned and operated facility since the Fifth Edition reflects the current practice and the majority of the hospitals are accredited by the Joint Commission that requires the standard of care.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The hospital cost should be cost neutral since each hospital is allowed to self-designate their level of nursery service staff accordingly.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rule describes the standards for hospitals who provide perinatal services and adopts the new Guidelines for Perinatal Care, Fifth Edition. This is already the standard of care in most regulated facilities. Fiscal impact on regulated facilities 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 07/15/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2004

AUTHORIZED BY: Scott D. Williams, Executive Director

## **R432. Health, Health Systems Improvement, Licensing.**

### **R432-100. General Hospital Standards.**

#### **R432-100-17. Perinatal Services.**

(1) Each hospital shall comply with the requirements of this section and shall designate its capability to provide perinatal (antepartum, labor, delivery, postpartum and nursery) care in accordance with Level I basic, Level II specialty, or Level III sub-specialty or tertiary care as described in the Guidelines for Perinatal Care, Fifth Edition and the Guidelines for Design and Construction of Hospital and Health Care Facilities, 2001 Edition, which is incorporated by reference.

(a) A qualified member of the hospital staff shall provide [A]administrative, medical and nursing direction and oversight for[~~of~~] perinatal services [shall be provided by a person appointed and authorized by the hospital administrator]according to each hospital's designated level of care, Level I, II or III.

(b) [Medical direction for perinatal services shall be provided by a qualified member of the medical staff.

~~(c) Each hospital shall establish and implement security protocols for perinatal patients.~~

~~(d)~~[A qualified registered nurse shall be immediately available at all hours of the day and as well as sufficient numbers of trained competent staff to meet the designated level.

(c) Support personnel shall be available to the perinatal care service according to each hospital's designated level of care.

(2) Each hospital shall establish and implement security protocols for perinatal patients.

~~(3)~~ The perinatal department shall include facilities and equipment for antepartum, labor and delivery, nursery, postpartum, and optional birthing rooms.

(a) Perinatal areas shall be located and arranged to avoid non-related traffic to and from other areas.

(b) The hospital shall isolate patients with infections or other communicable conditions. The use of maternity rooms for patients other than maternity patients shall be restricted according to hospital policy.

~~(3)~~(c) Each hospital shall have [access to]at least one surgical suite for operative delivery.

~~(a)~~(d) Equipment and supplies shall be immediately available and maintained for the mother and newborn, including:

(i) furnishings suitable for labor, birth, and recovery;

(ii) oxygen with flow meters and masks or equivalent;

(iii) mechanical suction and bulb suction[~~immediately available~~];

(iv) resuscitation equipment;

(v) emergency medications, intravenous fluids, and related supplies and equipment;

(vi) a device to assess fetal heart rate;

(vii) equipment to monitor and maintain the optimum body temperature of the newborn;

(viii) a clock capable of showing seconds;

(ix) an adjustable examination light; and

(x) a newborn warming unit with temperature controls that comply with Underwriters' Laboratories requirements. The unit must be capable of administering oxygen and suctioning.

~~(b)~~(e) The hospital shall maintain a delivery room record keeping system for cross referencing information with other departments.

(4) If birthing rooms are provided, they shall be equipped in accordance with 100-17(3)[~~(a)~~(d)].

(5) [Each hospital shall comply with the following provisions:

~~(a) No attempt shall be made to delay the imminent, normal birth of a child.~~

~~(b) A prophylactic solution approved by the Department of Health shall be instilled in the eyes of the infant within three hours of birth in accordance with R386-702-9.~~

~~(c) Metabolic screening shall be performed in accordance with State Health Laboratory rules developed pursuant to Section 26-10-6.~~

~~(6) Each hospital shall designate its capability to provide nursery care in accordance with the following levels of nursery care as described in the Guidelines for Perinatal Care, Fourth Edition and The Guidelines for Construction and Equipment of Hospital and Medical Facilities, 1992-1993 Edition.]The nursery shall include facilities and equipment according to its designated level of care: Level I - Basic Newborn Care; Level II - Specialty Continuing Care; and Level III - Sub-specialty or Tertiary Newborn Intensive Care including an individual bassinet for each infant; with space between bassinets as follows:~~

(a) Level I Basic: Full Term or Well Baby Nursery 24 inches between bassinets;

(b) Level II Specialty: Continuous Care Nursery 50 square feet per bassinet and four feet between bassinets for Continuing Care nurseries;

(c) Level III Sub-specialty: Newborn Intensive Care Nursery 100 square feet per bassinet and four feet between bassinets.



~~[(7) The nursery area shall provide each infant with separate equipment and supplies for bathing, dressing, and handling.~~

~~— (a) There shall be equipment and supplies in or near the nursery that include:~~

~~— (i) an individual bassinet for each infant;~~

~~— (ii) (d) accurate scales; and~~

~~— (iii) (c) a [reliable] wall thermometer;[-~~

~~— (b) Temperatures between 70-80 degrees F. shall be maintained in the nursery.]~~

~~[(e)6] The following equipment and supplies shall be available:~~

~~— (a) [There shall be] an individual thermometer, or one with disposable tips, for each infant[-];~~

~~[(d)1] [A] a supply of medication shall be immediately available for emergencies[-];~~

~~[(e) The following equipment and supplies shall be available:~~

~~— (i) (c) a covered soiled-diaper container with removable lining;~~

~~[(ii) (d) a linen hamper with removable bag for soiled linen other than diapers;~~

~~[(iii) (e) a newborn warming unit with temperature controls that comply with Underwriters' Laboratories requirements;~~

~~[(iv) (f) oxygen, oxygen equipment, and suction equipment; and~~

~~[(v) (g) an oxygen concentration monitoring device.~~

(7) Temperature shall be maintained between 70-80 degrees Fahrenheit in the nursery area.

~~— (8) (f) Infant formula storage space shall be available that conforms to the manufacturer's recommendations.[-~~

~~— (g) Only single-use bottles shall be used for newborn feeding.~~

(8) (2) A suspect nursery or isolation area shall be available. Equipment and supplies shall be provided for the isolation area.

(a) Isolation facilities shall be used for any infant who:

(i) has a communicable disease;

(ii) is delivered of an ill mother infected with a communicable disease;

(iii) is readmitted after discharge from a hospital; or

(iv) is delivered outside the hospital.

(b) There shall be separate hand washing facilities for the isolation area.

(10) Each hospital shall comply with the following provisions:

— (a) No attempt shall be made to delay the imminent, normal birth of a child;

— (b) A prophylactic solution in accordance with R386-702-9 shall be instilled in the eyes of the infant within three hours of birth;

— (c) Metabolic screening shall be performed in accordance with Section 26-10-6 and R398-1; and

— (d) A newborn hearing screening shall be performed in accordance with R398-2.

**KEY: health facilities**

**[2003]2004**

**Notice of Continuation October 16, 2002**

**26-21-2.1**

**26-21-5**

**26-21-20**



Human Services, Recovery Services

**R527-475**

State Tax Refund Intercept

## NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27182

FILED: 05/20/2004, 08:59

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for the change is to provide a way to determine a spouse's portion of the income when W-2s are not available.

SUMMARY OF THE RULE OR CHANGE: This change allows agents to determine a spouse's income using the joint tax return when W-2s are not available, for example, self-employed individuals. After the spouse's portion of the income is determined, it is refunded to the spouse by our office.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-10-529 and 78-45-9.3

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: No change--The parties already provide a copy of the tax return.

❖ LOCAL GOVERNMENTS: Administrative rules of the Office of Recovery Services do not apply to local government. Therefore, there are no costs or savings to local government.

❖ OTHER PERSONS: No change--The parties already provide a copy of the tax return.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No cost is associated with this change because a copy of the tax return is already requested.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on businesses.

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

HUMAN SERVICES

RECOVERY SERVICES

515 E 100 S

SALT LAKE CITY UT 84102-4211, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kristen Lowe at the above address, by phone at 801-536-0347, by FAX at 801-536-8833, or by Internet E-mail at [klowe@utah.gov](mailto:klowe@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 07/15/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2004

AUTHORIZED BY: Emma Chacon, Director

**R527. Human Services, Recovery Services.**

**R527-475. State Tax Refund Intercept.**

**R527-475-1. State Tax Refund Intercept.**

1. Pursuant to Section 59-10-529(1), the Office of Recovery Services/Child Support Services (ORS/CSS) may intercept a state tax refund to recover delinquent child support. For a state tax refund to be intercepted, there must be an administrative or judicial judgment with a balance owing. An installment of child support is considered a judgment for purposes of Section 59-10-529 on and after the date it becomes due as provided in Section 78-45-9.3.

2. State tax refunds intercepted will first be applied to current support, second to Non-IV-A arrearages, and third to satisfy obligations owed to the state and collected by ORS/CSS.

3. ORS/CSS shall mail prior written notice to the obligor who owes past-due support and the unobligated spouse that the state tax refund may be intercepted. The notice shall advise the unobligated spouse of his/her right to receive a portion of the tax refund if the unobligated spouse has earnings and files jointly with the obligor. If the unobligated spouse does not want his/her share of the tax refund to be applied to the obligated spouse's child support debt, the unobligated spouse shall make a written request and submit a copy of the tax return and W-2's to ORS/CSS at any time after prior notice, but in no case later than 25 days after the date ORS/CSS intercepts the tax refund. If W-2s are unavailable, ORS/CSS may use amounts of incomes as reported on the joint tax return. The unobligated spouse's portion of the joint tax refund will be prorated according to the percentage of income reported on the W-2 forms or the joint tax return for the tax year. If the unobligated spouse does not make a written request to ORS/CSS to obtain his share of the tax refund within the specified time limit, ORS/CSS shall not be required to pay any portion of the tax refund to the unobligated spouse.

**KEY: child support**  
**[January 10, 2000]2004**  
**Notice of Continuation March 24, 2000**  
**59-10-529**  
**78-45-9.3**



**Insurance, Administration**  
**R590-204**  
**Adoption Indemnity Benefit**

**NOTICE OF PROPOSED RULE**

(Repeal)  
 DAR FILE NO.: 27191  
 FILED: 05/28/2004, 12:40

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Due to a change in the law, this rule is no longer needed. H.B. 85, Health Insurance Mandate Amendments, passed in the 2004 Legislative Session, set the benefit amount and eliminated the requirement for the department to have a rule or determine if the benefit amount should be changed every other year. (DAR NOTE: H.B. 85 (2004) is found at UT L 2004 Ch 98, and was effective 05/03/2004.)

SUMMARY OF THE RULE OR CHANGE: Due to a change in the law, this rule is no longer needed. H.B. 85 set the benefit amount and eliminated the requirement for the department to have a rule or determine if the benefit amount should be changed every other year. This rule is repealed in its entirety.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201 and 31A-22-610.1

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The elimination of this rule will have no financial impact on the insurance industry or the public since the law supercedes the rule and therefore has left the rule powerless.
- ❖ LOCAL GOVERNMENTS: This rule has no effect on local government since it deals only with the relationship between the department, and their licensees, health insurers, and the benefits provided in their insurance policies that we regulate.
- ❖ OTHER PERSONS: The elimination of this rule will have no financial impact on the insurance industry or the public since the law supercedes the rule and therefore has left the rule powerless.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The elimination of this rule will have no financial impact on the insurance industry or the public since the law supercedes the rule and therefore has left the rule powerless.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The elimination of this rule will have no financial impact on the insurance industry in Utah.

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](mailto: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 07/15/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2004

AUTHORIZED BY: Jilene Whitby, Information Specialist

**R590. Insurance, Administration.**  
~~**R590-204. Adoption Indemnity Benefit.**~~  
~~**R590-204-1. Authority.**~~

~~The requirements of this rule are authorized under Subsections 31A-2-201(3) and 31A-22-610.1(1)(c).~~

**R590-204-2. Purpose.**

— The purpose of this rule is to:

- (1) provides for the establishment and review of the adoption indemnity benefit amount; and
- (2) provide reasonable adjustment every two years, taking into account all available data, including the average insurance cost of an uncomplicated birth.

**R590-204-3. Scope and Applicability.**

— This rule shall apply to all insurance policies governed by the Utah Insurance Code that provide coverage for maternity benefits to any insured on the date of any adoptive placement.

**R590-204-4. Definitions.**

— Terms used in this rule are defined in Sections 31A-1-301 and 31A-22-610.1.

**R590-204-5. Current Level of Indemnity Benefit.**

— Considering all relevant factors, the current amount of the adoption indemnity benefit is set at \$3,155.

**R590-204-6. Severability.**

— If any provision or clause of this rule or its application to any person or situation is held to be invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

**KEY: insurance benefits**

~~February 9, 2001~~

~~31A-2-201~~

~~31A-22-610.1~~



Natural Resources, Parks and  
Recreation  
**R651-411**  
OHV Use in State Parks

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 27183

FILED: 05/20/2004, 13:10

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: For safety and definition, the division is putting restrictions on where the use of snowmobiles and all terrain vehicles (ATVs) are allowed. Off-highway vehicles (OHVs) are to be used only in designated areas as indicated by signs posted by the division. Responsibility for any accidents or problems while using OHVs in state parks rests with the user.

SUMMARY OF THE RULE OR CHANGE: The Division recommends that designated ice areas for OHV use are only those ice areas that are accessed via the board ramps to the public ice fishing areas.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 41-22-10 and 63-11-17

## ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: Since this is a safety issue and provides direction for use of OHVs in areas of state parks, there is no anticipated cost of savings to the state budget.
- ❖ LOCAL GOVERNMENTS: Local government is not involved as this rule refers to only "state" lands and OHVs. Therefore, there is no anticipated cost or savings to local government.
- ❖ OTHER PERSONS: If other persons go beyond the designated areas for OHV use, they can be cited according to the Utah Off-Highway Vehicle Laws and Rules, Title 41, Chapter 22. Any fine would be in accordance to the laws and fees of the state code.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Any fine imposed would be by laws of the state and there is no way to know how many fines would be imposed or people cited.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No significant fiscal impact to businesses is anticipated. It is possible that some users may consider alternative recreation venues if their favored sites become restricted. This could have a minor impact on businesses that traditionally serve those users.

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

NATURAL RESOURCES  
PARKS AND RECREATION  
Room 116  
1594 W NORTH TEMPLE  
SALT LAKE CITY UT 84116-3154, or  
at the Division of Administrative Rules.

## DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at [deeguess@utah.gov](mailto:deeguess@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 07/15/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2004

AUTHORIZED BY: Gordon Topham, Deputy Director

**R651. Natural Resources, Parks and Recreation.****R651-411. OHV Use in State Parks.****R651-411-1. Definitions.**

(1) "OHV" means "off-highway vehicle" and includes the following vehicle types:

- (a) Four-wheel drive automobiles or trucks;
- (b) All-terrain vehicles (ATVs) designed to carry one or two passengers; and
- (c) Snowmobiles.

**R651-411-2. OHV Use-Restrictions.**

- (1) OHVs are to be used only in designated areas.
- (2) Designated ice areas for OHV use are only those ice areas that are accessed via the board ramps to public ice fishing areas. These areas are at Bear Lake, East Canyon, Escalante, Hyrum, Jordanelle, Millsite, Otter Creek, Palisade, Piute, Red Fleet, Rockport, Scofield, Starvation, Steinaker and Yuba state parks.
- (3) Responsibility for any accidents or problems while using OHVs in state parks rests with the user.

**KEY: off-highway vehicles**  
**2004**  
**41-22-10**  
**63-11-17**



Natural Resources, Parks and  
 Recreation  
**R651-601-17**  
 Definitions

**NOTICE OF PROPOSED RULE**  
 (Amendment)  
 DAR FILE No.: 27181  
 FILED: 05/18/2004, 12:12

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for the change is to add a definitions section (Section R651-601-17) for "Motorized Transportation Devices" (MTDs) and what devices are included under this definition.

SUMMARY OF THE RULE OR CHANGE: There have been a lot of questions as to what constitutes a motorized transportation device since the addition of motorized skateboards, bicycles, etc. This rule amendment clarifies the meaning of MTDs for the public by rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63-11-17

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: Since this is an addition to the definitions for State Parks and Recreation, there is no anticipated cost or savings to the state budget.
- ❖ LOCAL GOVERNMENTS: Local government is not impacted by this rule amendment as it is for definition to a state rule when used in state park areas.
- ❖ OTHER PERSONS: The use of MTDs in the state parks will now be listed under the definitions section (R651-601-17) and therefore is applicable to the rest of the rules that pertain to motorized transportation devices while recreating/visiting state parks in Utah. There is no anticipated cost or savings as this is a definition being added to clarify what is meant by "MTDs".

COMPLIANCE COSTS FOR AFFECTED PERSONS: MTDs is being defined to accurately list what is considered an MTD under that category and complies with Section 41-6-1. There is no anticipated compliance cost, only a definition of what is a "MTD", and where they can operate.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to businesses is anticipated.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 NATURAL RESOURCES  
 PARKS AND RECREATION  
 Room 116  
 1594 W NORTH TEMPLE  
 SALT LAKE CITY UT 84116-3154, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@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 07/15/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2004

AUTHORIZED BY: Gordon Topham, Deputy Director

**R651. Natural Resources, Parks and Recreation.**  
**R651-601. Definitions as Used in These Rules.**  
**R651-601-17. Definitions.**

(1) "Motorized Transportation Device" means any motorized device used as a mode of transportation that includes: "Electric assisted bicycles", "Mopeds", "Motor Assisted scooters", "motorcycles", "motor-driven cycle", and "personal motorized mobility device" as defined in Utah State Code 41-6-1. "Motorized wheelchairs" are also included under this definition.

**KEY: parks, off-highway vehicles**  
**[June 15, 2004]2004**  
**Notice of Continuation October 23, 2003**  
**41-22-10**  
**63-11-3**  
**63-11-17**



Natural Resources, Parks and  
 Recreation  
**R651-611**  
 Fee Schedule

**NOTICE OF PROPOSED RULE**  
 (Amendment)  
 DAR FILE No.: 27184  
 FILED: 05/20/2004, 13:14

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: With the opening of the new Utah Field House of Natural History in Vernal, UT, the Division of Parks and Recreation will offer a number of amenities not currently offered at the present facility. The board has authorized fees for the use of portions of the building, or the whole museum, in return for rental payments in accordance with Parks' current fee schedule. Absent from the fees was one for the outside area of the Dinosaur Garden. It also defines the word "child" to mean those persons between the ages of 6 and 12.

SUMMARY OF THE RULE OR CHANGE: This amendment adds a new facility with amenities that the public may utilize and requires that a fee be set for such use of the building and/or surrounding area. It also defines "child" to mean a person between the ages of 6 and 12.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63-11-17(8)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The age definition may generate more revenue because of the age being defined. Depending on the number of rentals of the Garden or the area around the Dinosaur Garden, the revenue should increase. Since we have no data at the current time, we do not know how much that will be and will have to measure it after the season.
- ❖ LOCAL GOVERNMENTS: There will be no anticipated costs or savings to local government as this is a term defining a child and a new fee for a particular state park in Vernal, UT.
- ❖ OTHER PERSONS: Those desiring to use the Dinosaur Gardens at the Utah Field House of Natural History will pay the fee of \$1,000 as stated in this rule and in our fee schedule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: If the fee of \$1,000 as stated in our fee schedule is not paid, the person or persons will not be allowed entrance into the park. Fees must be paid in advance for use of the Dinosaur Gardens and that should eliminate the problem.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to businesses is anticipated.

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

NATURAL RESOURCES  
 PARKS AND RECREATION  
 Room 116  
 1594 W NORTH TEMPLE  
 SALT LAKE CITY UT 84116-3154, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@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 07/15/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2004

AUTHORIZED BY: Gordon Topham, Deputy Director

**R651. Natural Resources, Parks and Recreation.**

**R651-611. Fee Schedule.**

**R651-611-2. Day Use Entrance Fees.**

Permits the use of all day activity areas in a state park. These fees do not include overnight camping facilities or special use fees.

A. Annual Permits

1. \$70.00 Multiple Park Permit (good for all parks)
2. \$35.00 Senior Multiple Park Permit (good for all parks)
3. Snow Canyon Specialty Permits
  - a. \$15.00 Family Pedestrian Permit
  - b. \$5.00 Commuter Permit
4. Duplicate Annual Permits may be purchased if originals are lost, destroyed, or stolen, upon payment of a \$10.00 fee and the submittal of a signed affidavit to the Division office. Only one duplicate is allowed.

B. Special Fun Tag - Available free to Utah residents, who are disabled, as defined by the Special Fun Tag permit affidavit.

C. Daily Permit - Allows access to a specific state park on the date of purchase.

1. \$9.00 (\$5.00 for seniors) per private motor vehicle or \$5.00 per person (\$3.00 for seniors), for pedestrians or bicycles at the following parks:

TABLE 1

Deer Creek	Jordanelle - Hailstone
Utah Lake	Willard Bay

2. \$7.00 (\$4.00 for seniors) per private motor vehicle or \$4.00 per person (\$2.00 for seniors) for pedestrians or bicycles at the following parks:

TABLE 2

Bear Lake - Marina	Bear Lake - Rendezvous
Dead Horse Point	East Canyon
Jordanelle - Rockcliff	Quail Creek
Rockport	Sand Hollow
Yuba	

3. \$6.00 per adult, \$3.00 ~~for children~~ per child (a child is defined as any person between the ages of six (6) and twelve (12) years old inclusively), and \$3.00 for seniors at Utah Field House State Park.

4. \$2.00 per person (\$1.00 for seniors), or \$6.00 per family (up to eight (8) individuals (\$3.00 for seniors), at the following parks:

TABLE 3

Anasazi	Camp Floyd
Edge of the Cedars	Great Salt Lake
Fremont	Territorial
Iron Mission	

5. \$5.00 (\$3.00 for seniors) per private motor vehicle or \$3.00 per person (\$2.00 for seniors), for pedestrians or bicycles at the parks not identified above, including the east side of Bear Lake.

6. \$10.00 per OHV rider at the Jordan River OHV Center.

7. \$2.00 per person for commercial groups or vehicles with nine (9) or more occupants (\$15.00 per group at Great Salt Lake).

D. Group Site Day Use Fee - Advance reservation only. \$2.00 per person, age six (6) and over, for sites with basic facilities. Minimum \$50.00 fee established for each facility.

E. Educational Groups - No charge for group visits by Utah public or parochial schools with advance notice to park. When special arrangements or interpretive talks are provided, a fee of \$.50 per person may be charged at the park manager's discretion.

F. Antelope Island Wildlife Management Program: A \$1.00 fee will be added to the entrance fee at Antelope Island. This additional fee will be used by the Division to fund the Wildlife Management Program on the Island.

#### R651-611-4. Special Fees.

##### A. Golf Course Fees

##### 1. Palisade rental and green fees.

a. Nine holes general public - weekends and holidays - \$10.00

b. Nine holes weekdays (except holidays) - \$9.00

c. Nine holes Jr/Sr weekdays (except holidays) \$8.00

d. 20 round card pass - \$140.00

e. 20 round card pass (Jr only)- \$100.00

f. Promotional pass - single person (any day) - \$400.00

g. Promotional pass - single person (weekdays only) - \$275.00

h. Promotional pass - couples (any day) - \$650.00

i. Promotional pass - family (any day) - \$850.00

j. Companion fee - walking, non -player - \$4.00

k. Motorized cart (9 holes) - \$8.00

l. Motorized cart (9 holes single rider) - \$4.00

m. Pull carts (9 holes) - \$2.00

n. Club rental (9 holes) - \$5.00

o. School teams - No fee for practice rounds with coach and team roster. Tournaments are \$3.00 per player.

p. Driving range - small bucket - \$2.50

q. Driving range - large bucket - \$3.50

##### 2. Wasatch Mountain and Soldier Hollow rental and green fees.

a. Nine holes general public - \$12.00

b. Nine holes general public (weekends and holidays) - 13.00

c. Nine holes Jr/Sr weekdays (except holidays) - \$11.00

d. 20 round card pass - \$220.00 - no holidays or weekends

e. Companion fee - walking, non-player - \$4.00

f. Motorized cart (9 holes - mandatory on Mt. course) - \$12.00

g. Motorized cart (9 holes single rider - \$6.00)

h. Pull carts (9 holes) - \$2.25

i. Club rental (9 holes) - \$6.00

j. School teams - No fee for practice rounds with coach and team roster (Wasatch County only).

Tournaments are \$3.00 per player.

k. Tournament fee (per player) - \$5.00

l. Driving range - small bucket - \$2.50

m. Driving range - large bucket - \$5.00

n. Advance tee time booking surcharge - \$15.00

##### 3. Green River rental and green fees.

a. Nine holes general public - \$9.00

b. Nine holes Jr/Sr weekdays (except holidays) - \$8.00

c. Eighteen holes general public - \$16.00

d. 20 round card pass - \$140.00

e. Promotional pass - single person (any day) - \$350.00

f. Promotional pass - personal golf cart - \$350.00

g. Promotional pass - single person (Jr/Sr weekdays) - \$275.00

h. Promotional pass - couple (any day) - \$600.00

[F]i. Promotional pass - family (any day) - \$750.00

j. Companion fee - walking, non-player - \$4.00

k. Motorized cart (9 holes) - \$8.00

l. Motorized cart (9 holes single rider) - \$4.00

m. Pull carts (9 holes) - \$2.25

n. Club rental (9 holes) - \$5.00

o. School teams - No fee for practice rounds with coach and team roster. Tournaments are \$3.00 per player.

4. Golf course hours are daylight to dark

5. No private, motorized golf carts are allowed, except where authorized by existing contractual agreement.

6. Jr golfers are 17 years and under. Sr golfers are 62 and older.

##### B. Boat Mooring and Dry Storage

##### 1. Mooring Fees:

a. Day Use - \$5.00

b. Overnight Boat Parking - \$7.00 (until 8:00 a.m.)

c. Overnight Boat Camping - \$15.00 (until 2:00 p.m.)

d. Monthly - \$4.00/ft.

e. Monthly with Utilities - (Bear Lake) \$6.00/ft.

f. Monthly with Utilities - (Other Parks) \$5.00/ft.

g. Monthly Off Season - \$2.00/ft

h. Monthly (Off Season with utilities) - \$3.00/ft

##### 2. Dry Storage Fees:

a. Overnight (until 2:00 p.m.) - \$5.00

b. Monthly During Season - \$75.00

c. Monthly Off Season - \$50.00

d. Monthly (unsecured) - \$25.00

##### C. Meeting Rooms and Buildings

1. Day Use: 1-4 hours between 8:00 a.m. and 6:00 p.m.

a. Up to 50 persons - \$50.00

b. 51 to 100 persons - \$70.00

c. 101 to 150 persons - \$90.00

d. Add 50% for after 6:00 p.m.

e. Fees include day use fee

2. Overnight Use 2:00 p.m. until 2:00 p.m., up to 100 people.

Minimum Fee \$250.00

##### 3. Territorial Statehouse

a. Legislative Hall (per hour) - \$30.00

b. School or Grounds (per hour) - \$20.00

##### 4. Utah Field House of Natural History

a. Training room per session - \$75.00

b. Theater per session - \$100.00

c. Lobby area per session - \$500.00

d. Dinosaur garden per session - \$1,000.00

[d]e. Entire museum per day - \$2,000.00

##### D. Roller Skating Fees:

1. Adults - \$2.00

2. Children 6 through 11 - \$1.00

3. Skate Rental - \$1.00

4. Ice Skate Sharpening

5. Group Reservations

a. First Hour - \$30.00

- b. Every Hour Thereafter - \$20.00
- E. Other Miscellaneous Fees
  - 1. Canoe Rental (includes safety equipment).
    - a. Up to one (1) hour - \$ 5.00
    - b. Up to four (4) hours - \$10.00
    - c. All day to 6:00 p.m. \$20.00
  - 2. Paddle boat Rental (includes safety equipment).
    - a. Up to one (1) hour \$10.00
    - b. Up to four (4) hours \$20.00
    - c. All day to 6:00 p.m. \$30.00
  - 3. Cross Country Skiing Trails.
    - a. \$4.00 per person, twelve (12) and older.
    - b. \$2.00 per person, six (6) through eleven (11).
  - 4. Pavilion - 8:00 a.m. - 10:00 p.m. (non -fee areas).
    - a. \$10.00 per day - (single unit).
    - b. \$30.00 per day - (group unit).
  - 5. Wagon Rental per day - \$50.00
  - 6. Recreation Field (non-fee areas) - \$25.00.
  - 7. Sports Equipment Rental - \$10.00.
  - 8. Life Jacket Rental - \$1.00
  - 9. Day Use Shower Fee - \$2.00.  
(where facilities can accommodate)
  - 10. Cleaning Deposit (where applicable) - \$100.00
  - 11. Application Fees - Non -refundable PLUS Negotiated Costs.
    - a. Grazing Permit - \$20.00
    - b. Easement - \$ 200.00
    - c. Construction/Maintenance - \$50.00
    - d. Special Use Permit - \$50.00
    - e. Commercial Filming - \$50.00
    - f. Waiting List - \$10.00
  - 12. Assessment and Assignment Fees.
    - a. Duplicate Document - \$10.00
    - b. Contract Assignment - \$20.00
    - c. Returned checks - \$20.00
    - d. Staff time - \$40.00/hour
    - e. Equipment - \$30.00/hour
    - f. Vehicle - \$20.00/hour
    - g. Researcher - \$5.00/hour
    - h. Photo copy - \$.10/each
    - i. Fee collection - \$10.00
  - 13. Curation Fees.
    - a. Annual curation agreement \$75.00
    - b. Curation storage Edge of Cedars \$400.00/cubic foot.
    - c. Curation storage other parks \$350.00/cubic foot
    - d. All curation storage fees are one time only.
  - 14. Snowmobile Parking Fee - Monte Cristo Trail head.
    - a. Day use (6:00 a.m. to 10:00 p.m.) - \$5.00
    - b. Overnight (10:00 p.m. to 10:00 p.m.) - \$5.00
    - c. Season Pass (Day use only) - \$30.00
    - d. Season Pass (Overnight) - \$50.00

**KEY: parks, fees****[April 1, 2004]****Notice of Continuation August 7, 2001****63-11-17(2)**

Natural Resources, Parks and  
Recreation  
**R651-615-7**  
Motorized Transportation Devices

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 27185

FILED: 05/20/2004, 13:19

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule amendment is to define where Motorized Transportation Devices (MTDs) that are now part of Rule R651-626 may operate within state parks.

**SUMMARY OF THE RULE OR CHANGE:** MTDs that are powered by electric motors may be used for transportation to and from facilities and structures within state parks.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 41-22-10 and 63-11-17

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** Since this is a definition of where an MTD may travel, there are no anticipated costs or savings to the State budget.

❖ **LOCAL GOVERNMENTS:** Local government will have no aggregated anticipated costs or savings as this is a definition within state parks that will not affect local government.

❖ **OTHER PERSONS:** This new section allows the recreating public to access facilities and structures within the state parks by using an MTD (electric motor) within state parks. There are no anticipated costs or savings to other persons because it is a definition.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** This amendment gives more freedom to those needing MTDs to get around and defines where they may use them and that they are powered by electricity.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** No negative fiscal impact on businesses is anticipated. It is possible that the clarification of the rules surrounding MTD use within state parks will lead to a modest broadening of the user base for these facilities, a result that would benefit local businesses.

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

NATURAL RESOURCES  
PARKS AND RECREATION  
Room 116  
1594 W NORTH TEMPLE  
SALT LAKE CITY UT 84116-3154, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@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 07/15/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2004

AUTHORIZED BY: Gordon Topham, Deputy Director

**R651. Natural Resources, Parks and Recreation.**

**R651-615. Motor Vehicle Use.**

**R651-615-7. Motorized Transportation Devices.**

Motorized Transportation Devices (MTD) that are powered by electric motors may be used for transportation to and from facilities and structures within the state parks.

**KEY: parks, off-highway vehicles**

~~[October 4, 1999]~~2004

Notice of Continuation October 23, 2003

63-11-17(2)(b)

41-22-10

63-11-17



**Tax Commission, Property Tax**

**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**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 27190

FILED: 05/26/2004, 12:25

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 59-2-913 was amended by H.B. 252 (2004) to include all calculations in the tax rate formula. Previously, some elements of the calculation were only found in rule. Since the codification, the language is no longer necessary in rule.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment deletes language that was codified in 2004 legislation.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-2-918 through 59-2-924

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--Any fiscal impact was taken into account by H.B. 252 (2004).

❖ LOCAL GOVERNMENTS: None--Any fiscal impact was taken into account by H.B. 252 (2004).

❖ OTHER PERSONS: None--Any fiscal impact was taken into account by H.B. 252 (2004).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The codified language matches commission practice.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact.

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

TAX COMMISSION

PROPERTY TAX

210 N 1950 W

SALT LAKE CITY UT 84134, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at cleec@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 07/15/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2004

AUTHORIZED BY: Pam Hendrickson, Commissioner

**R884. Tax Commission, Property Tax.**

**R884-24P. Property Tax.**

**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.**

A. The county auditor must notify all real property owners of property valuation and tax changes on the Notice of Property Valuation and Tax Changes form.

1. If a county desires to use a modified version of the Notice of Property Valuation and Tax Changes, a copy of the proposed modification must be submitted for approval to the Property Tax Division of the Tax Commission no later than March 1.

a) Within 15 days of receipt, the Property Tax Division will issue a written decision, including justifications, on the use of the modified Notice of Property Valuation and Tax changes.

b) If a county is not satisfied with the decision, it may petition for a hearing before the Tax Commission as provided in R861-1A-22.

2. The Notice of Property Valuation and Tax Changes, however modified, must contain the same information as the unmodified version. A property description may be included at the option of the county.



B. The Notice of Property Valuation and Tax Changes must be completed by the county auditor in its entirety, except in the following circumstances:

1. New property is created by a new legal description; or
2. The status of the improvements on the property has changed.

3. In instances where partial completion is allowed, the term nonapplicable will be entered in the appropriate sections of the Notice of Property Valuation and Tax Changes.

4. If the county auditor determines that conditions other than those outlined in this section merit deletion, the auditor may enter the term "nonapplicable" in appropriate sections of the Notice of Property Valuation and Tax Changes only after receiving approval from the Property Tax Division in the manner described in A.

C. Real estate assessed under the Farmland Assessment Act of 1969 must be reported at full market value, with the value based upon Farmland Assessment Act rates shown parenthetically.

D. All completion dates specified for the disclosure of property tax information must be strictly observed.

1. Requests for deviation from the statutory completion dates must be submitted in writing on or before June 1, and receive the approval of the Property Tax Division in the manner described in A.

E. If the proposed rate exceeds the certified rate, jurisdictions in which the fiscal year is the calendar year are required to hold public hearings even if budget hearings have already been held for that fiscal year.

F. If the cost of public notice required under Sections 59-2-918 and 59-2-919 is greater than one percent of the property tax revenues to be received, an entity may combine its advertisement with other entities, or use direct mail notification.

G. Calculation of the amount and percentage increase in property tax revenues required by Sections 59-2-918 and 59-2-919, shall be computed by comparing property taxes levied for the current year with property taxes collected the prior year, without adjusting for revenues attributable to new growth.

H. If a taxing district has not completed the tax rate setting process as prescribed in Sections 59-2-919 and 59-2-920 by August 17, the county auditor must seek approval from the Tax Commission to use the certified rate in calculating taxes levied.

I. The value of property subject to the uniform fee under Section 59-2-405 is excluded from taxable value for purposes of calculating new growth, the certified tax rate, and the proposed tax rate.

J. The value and taxes of property subject to the uniform fee under Section 59-2-405, as well as tax increment distributions and related taxable values of redevelopment agencies, are excluded when calculating the percentage of property taxes collected as provided in Section 59-2-913.

K. The following formulas and definitions shall be used in determining new growth:

1. Actual new growth shall be computed as follows:

- a) the taxable value for the current year adjusted for redevelopment minus year-end taxable value for the previous year adjusted for redevelopment; then
- b) plus or minus changes in value as a result of factoring; then
- c) plus or minus changes in value as a result of reappraisal; then
- d) plus or minus any change in value resulting from a legislative mandate or court order.

2. Net annexation value is the taxable value for the current year adjusted for redevelopment of all properties annexed into an entity during the previous calendar year minus the taxable value for the previous year adjusted for redevelopment for all properties annexed out of the entity during the previous calendar year.

3. New growth is equal to zero for an entity with:

- a) an actual new growth value less than zero; and
- b) a net annexation value greater than or equal to zero.

4. New growth is equal to actual new growth for:

- a) an entity with an actual new growth value greater than or equal to zero; or
- b) an entity with:

- i) an actual new growth value less than zero; and
- ii) the actual new growth value is greater than or equal to the net annexation value.

5. New growth is equal to the net annexation value for an entity with:

- a) a net annexation value less than zero; and
- b) the actual new growth value is less than the net annexation value.

6. Adjusted new growth equals new growth multiplied by the mean collection rate for the previous five years.

~~L. The following definitions and formulas shall be used in determining the certified tax rate:~~

~~1. Current year adjusted taxable value equals the taxable value for the current year adjusted for redevelopment.~~

~~2. The following amounts shall be subtracted from the value determined under L.1.:~~

~~a) the taxing entity's estimated equalization adjustments in the current year; and~~

~~b) the taxing entity's adjustments for estimated collection losses.~~

~~3. "Estimated equalization adjustments in the current year" means adjustments made to locally and centrally assessed property to reflect the most current three-year average percentage net change in value for locally and centrally assessed property from the value reported on Report 697, Report of the Sum of Taxable Values by the County Assessor, to the value reported on Report 233-B, List of Final Values by Entity/By Property Type.~~

~~4. The certified tax rate shall be computed by dividing last year's taxes budgeted by the difference between:~~

- ~~a) the current year adjusted taxable value; and~~
- ~~b) adjusted new growth.~~

~~5.]L.1. Entities required to set levies for more than one fund must compute an aggregate certified rate. The aggregate certified rate is the sum of the certified rates for individual funds for which separate levies are required by law. The aggregate certified rate computation applies where:~~

- a) the valuation bases for the funds are contained within identical geographic boundaries; and
- b) the funds are under the levy and budget setting authority of the same governmental entity.

~~[6.]2. Exceptions to [L.5.]L.1. are the county assessing and collecting levy, as described in Section 59-2-906.1(3), and the additional levies for property valuation and reappraisal, as described in Section 59-2-906.3.~~

a) These levies may not be included as part of a county's aggregate certified rate. Instead, they must be segregated into a separate aggregate certified rate.

b) The separate aggregate certified rate representing these levies is subject to the proposed tax increase requirements of Sections 59-2-918 and 59-2-919.

M. For purposes of determining the certified tax rate of a municipality incorporated on or after July 1, 1996, the levy imposed for municipal-type services or general county purposes shall be the certified tax rate for municipal-type services or general county purposes, as applicable.

N. No new entity, including a new city, may have a certified tax rate or levy a tax for any particular year unless that entity existed on the first day of that calendar year.

**KEY: taxation, personal property, property tax, appraisals  
2004**

**Notice of Continuation April 5, 2002  
59-2-918 through 59-2-924**

▼ ————— ▼

**Workforce Services, Workforce  
Information and Payment Services  
R994-401-207  
Retirement or Disability Retirement  
Income**

**NOTICE OF PROPOSED RULE  
(Amendment)**

DAR FILE No.: 27193  
FILED: 05/28/2004, 15:05

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This amendment changes the provision on social security reductions to match the recent change to the Employment Security Act in H.B. 8 (2004). (DAR NOTE: H.B. 8 (2004) is found at UT L 2004 Ch 246, and was effective 05/03/2004.)

**SUMMARY OF THE RULE OR CHANGE:** A claimant's unemployment benefits were reduced by 100% of Social Security benefits. H.B. 8 changed that to 50%. This rule change is being made to reflect the statutory change. At the current time, the department is rewriting all of its unemployment rules. This section has been rewritten as part of that project. Apart from the social security reduction, there are no other substantive changes.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 35A-4-401

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** There will be no costs or savings to the State budget because this is a federally-funded program. This rule change is only being made to bring the rule into compliance with recent statutory changes. If there were costs associated with that change, it was contemplated by the legislature at the time.

❖ **LOCAL GOVERNMENTS:** In addition to the reasons stated in relation to the State budget, there will be no costs or savings to local government as this is a federally-funded, state-wide program that does not affect local government.

❖ **OTHER PERSONS:** There will be no cost or savings to any person for the reasons stated in relation to the State budget.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There will be no compliance costs to any person for the reasons stated in relation to the State budget.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This change will have no fiscal impact on any business in Utah as it merely codifies the new legislative changes.

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

WORKFORCE SERVICES  
WORKFORCE INFORMATION  
AND PAYMENT SERVICES  
140 E 300 S  
SALT LAKE CITY UT 84111-2333, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/16/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 07/19/2004

AUTHORIZED BY: Raylene G. Ireland, Executive Director

**R994. Workforce Services, Workforce Information and Payment Services.**

**R994-401. Payment of Benefits.**

**R994-401-207. Retirement or Disability Retirement Income.**

~~[(1) Subsection 35A-4-401(2)(c) and (d) establish the provisions under which a Weekly Benefit Amount must be recomputed because a claimant is eligible to receive a retirement benefit or receives credit against retirement income previously overpaid. Retirement income is treated differently from severance pay or other earnings as the Weekly and Maximum Benefit Amounts are reduced by 100% of the amount of the retirement income attributable to the week, including that portion which is based on the claimant's contribution to the retirement fund.~~

~~—(2) Elements.~~

~~—All of the following factors must be shown to exist before the Weekly Benefit Amount will be recomputed:~~

~~—(a) The claimant must be eligible to receive a periodic retirement income. Retirement income is defined as a pension or plan, paid for at least in part by an employer as contrasted to a IRA, KEOGH or other savings program which provides periodic payments following discontinuance of service to an individual who qualifies for the payment because of age, length of service, disability or combination of these qualifications. If the amount of the disability payment is not determined at least in part by years of service, it is not a retirement income. Payments not considered retirement income are those resulting from a special program which insures other reasons for discontinuance of employment including worker's compensation due to a temporary disability, black lung disability income, and benefits from the Department of Veterans Affairs. In these cases, even though the entitlement is partially dependent upon prior service, the amount of the payment is determined by the disability and not the length of employment.~~

Lump sum payments made at the time of separation are not considered a retirement benefit even when drawn from the employer's contributions to a fund established for the purpose of retirement. Lump sum payments may be treated as a severance pay; see Subsection 35A-4-405(7).

— (b) ~~The Retirement is Based on Previous Employment.~~

— ~~As long as the entitlement was established as the result of the claimant's prior employment, not an income received as a spouse or beneficiary, it is deductible from the Weekly Benefit Amount, regardless of whether it is paid by a former employer, a government entity, the Social Security program, or any other pension provider.~~

— (c) ~~The Pension or Payment Plan is Maintained or Contributed to By a Base Period Employer.~~

— ~~If the claimant is receiving a retirement income from an employer for whom he did not work during the base period of his claim, the retirement benefit will not be deducted from his Weekly Benefit Amount. However, for example, if the claimant is entitled to a pension under the Social Security program, and any base period employer contributed to Social Security, regardless of whether the annuity is based on that employment, 100% of the Social Security benefit would be deductible.~~

— (d) ~~The Claimant is Receiving Retirement Payments Attributable to the Benefit Year.~~

— ~~If the claimant is not in "receipt" of retirement income, the Weekly Benefit Amount will not be reduced. For example, a claimant who has qualified for Social Security benefits but then has earnings which preclude his receipt of Social Security payments for the balance of that calendar year, would not have his Weekly Benefit Amount recomputed. The term "receipt" means the act of receiving. A claimant who is eligible for, but not receiving retirement income will not have his Weekly Benefit Amount reduced; however, if he subsequently receives a retroactive payment of retirement benefits which, if received during the time unemployment insurance claims were filed, would have resulted in a reduced payment, an overpayment will be established. The period of time the payment represents, not the time of the receipt, is the determining factor. An assumption that a claimant is entitled to receive a pension, even if correct, is not sufficient basis to recompute the Weekly Benefit Amount. However, if a claimant has applied for a pension and expects to be determined eligible for a specific amount attributable to weeks when Unemployment Insurance benefits are payable, and the claimant is only awaiting receipt of those payments, a reduction of the claimant's Weekly Benefit Amount will be made.~~

— (3) ~~Overpayment Liability.~~

— ~~A claimant who could be eligible for a retirement income, but chooses not to apply until after the Unemployment Insurance benefits have been paid, will be at fault for any overpayment resulting from a retroactive payment provided he was notified that a retroactive payment would result in an overpayment. He is at fault because he chose, after being made aware of the potential reduction, not to "receive" the retirement benefit to which he was entitled thereby preventing the Department from recomputing the Weekly Benefit Amount.~~

— (4) ~~Recomputation of Weekly and Maximum Benefit Amounts.~~

— ~~If the claimant's receipt of a retirement income is established at the time the claim is filed, the Weekly Benefit Amount will be computed less 100% of the retirement income. If the claimant becomes eligible to receive a retirement income after the beginning of the benefit year, his Weekly Benefit Amount will be recomputed effective with the first full calendar week during his benefit year in~~

~~which he became eligible to receive retirement benefits and may be recomputed when the retirement benefit is increased. The Maximum Benefit Amount is then determined by dividing the unused benefits before retirement income is deducted by the Weekly Benefit Amount which did not include the deduction for retirement income; the resultant number, disregarding any fraction is then multiplied by the recomputed Weekly Benefit Amount to give the new Maximum Benefit Amount. For example, the claimant is entitled to receive \$186 for 26 weeks without retirement deductions. His retirement benefit is \$86 per week and therefore his recomputed Weekly Benefit Amount is \$100.  $\$186 \times 26 = \$4,836$ ;  $\$4,836$  divided by  $\$186 = 26$ . Therefore, his recomputed Maximum Benefit Amount is  $\$100 \times 26$ , or  $\$2,600$ . If he had received  $\$336$  in benefits before he became eligible to receive retirement income, his Maximum Benefit Amount would be determined by dividing  $\$4,500$  by  $\$186$  which equals 24. The  $\$100$  Weekly Benefit Amount is then multiplied by 24 which equals a recomputed Maximum Benefit Amount of  $\$2,400$ .]~~ (1) A claimant's weekly benefit amount is reduced by 100% of any retirement benefits, social security, pension or disability retirement pay (referred to collectively in this section as "retirement benefits" or "retirement pay") received by the claimant. Except for social security retirement benefits, the reduction is 50% for claims with an effective date on or after July 4, 2004 and on or before July 2, 2006. The payments must be:

(a) from a plan contributed to by a base-period employer. Payments made by the employer for whom the claimant did not work during the benefit year are not counted. Social security payments are counted if a base period employer contributed to social security even if the social security payment is not based on employment during the base period.

(b) based on prior employment and the claimant qualifies because of age, length of service, disability or any combination of these criteria. Disability payments must be based, at least in part, by length of service. Savings plans such as a 401(k), or IRA should not be used to reduce the weekly benefit amount. Payments from worker's compensation for temporary disability, black lung disability income, and benefits from the Department of Veterans Affairs are not counted because the amount of the payment is based on disability and not on length of service. Payments received as a spouse or beneficiary are not counted. That portion of retirement benefits payable to a claimant's former spouse is not counted if the paying entity pays the former spouse directly and it is pursuant to court order or a signed, stipulated agreement in accordance with the law;

(c) periodic and not made in a lump sum. Lump sum payments, even if drawn from the employer's contributions to a fund established for the purpose of retirement, are not treated as severance pay under 35A-4-405(7); and

(d) payable during the benefit year. A claimant's WBA is not reduced if the claimant is eligible for, but not receiving retirement income. However, if the claimant subsequently receives a retroactive payment of retirement benefits which, if received during the time unemployment insurance claims were filed would have resulted in a reduced payment, an overpayment will be established. The period of time the payment represents, not the time of the receipt, is the determining factor. An assumption that a claimant is entitled to receive a pension, even if correct, is not sufficient basis to recompute the Weekly Benefit Amount. However, if a claimant has applied for a pension and expects to be determined eligible for a specific amount attributable to weeks when Unemployment Insurance benefits are payable, and the claimant is only awaiting

receipt of those payments, a reduction of the claimant's Weekly Benefit Amount will be made.

(2) A claimant who could be eligible for a retirement income, but chooses not to apply until after the Unemployment Insurance benefits have been paid, will be at fault for any overpayment resulting from a retroactive payment of retirement benefits.

(3) The formula for recomputation of the Maximum Benefit Amount in the event a claimant begins receiving retirement income after the beginning of the benefit year is found in 35A-4-401(2)(d).

**KEY: unemployment compensation, benefits[≠]**

**[August 15, 1995]2004**

Notice of Continuation May 23, 2002

35A-4-401(1)

35A-4-401(2)

35A-4-401(3)

35A-4-401(6)

## Workforce Services, Workforce Information and Payment Services

### R994-405

#### Ineligibility for Benefits

#### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 27192

FILED: 05/28/2004, 14:52

#### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment changes the fraud penalty provision to match recent legislative changes in S.B. 5 (2004). (DAR NOTE: S.B. 5 (2004) is found at UT L 2004 Ch 7, and will be effective 07/01/2004.)

SUMMARY OF THE RULE OR CHANGE: The legislature passed an amendment to the Employment Security Act which changes to fraud penalty. The maximum penalty under this new rule will be the 100% of the amount actually received by reason of fraud and the overpayment is limited to the amount actually received by reason of fraud.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-4-405

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be no costs or savings to the State budget because this is a federally-funded program. This rule change is only being made to bring the rule into compliance with recent statutory changes. If there were costs associated with that change, it was contemplated by the legislature at the time.

❖ LOCAL GOVERNMENTS: In addition to the reasons stated in relation to the State budget, there will be no costs or savings to local government as this is a federally-funded, state-wide program that does not affect local government.

❖ OTHER PERSONS: There will be no cost or savings to any person for the reasons stated in relation to the State budget.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no compliance costs to any person for the reasons stated in relation to the State budget.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This change will have no fiscal impact on any business in Utah as it merely codifies the new legislative changes.

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

WORKFORCE SERVICES  
WORKFORCE INFORMATION  
AND PAYMENT SERVICES  
140 E 300 S  
SALT LAKE CITY UT 84111-2333, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/16/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 07/19/2004

AUTHORIZED BY: Raylene G. Ireland, Executive Director

#### R994. Workforce Services, Workforce Information and Payment Services.

##### R994-405. Ineligibility for Benefits.

##### R994-405-504. Disqualification and Penalty.

(1) Penalty Cannot Be Modified.

The Department has no authority to reduce or otherwise modify the period of disqualification or the monetary penalties imposed by statute.

(2) Week of Fraud.

A "week of fraud" shall include each week any benefits have been paid due to fraud.

(3) Overpayment and Penalty.

[When fraud is found to exist,]For any fraud decision where the initial fraud determination was issued on or before June 30, 2004, the claimant shall repay to the division an overpayment [shall be established]which is equal to [in-]the amount of the benefits actually received. In addition, a claimant shall be required to repay, as a civil penalty, the amount of benefits received as a direct result of fraud. [(a)-]"Benefits actually received" means the benefits paid or constructively paid by the Department. Constructively paid refers to benefits used to reduce or off-set an overpayment or used as a payment to the Office of Recovery Services for child support obligations or other payments as required by law.

(4) For all fraud decisions where the initial department determination is issued on or after July 1, 2004, the claimant shall

repay to the division the overpayment and, as a civil penalty, an amount equal to the overpayment. The overpayment in this subparagraph is the amount of benefits the claimant received by direct reason of fraud.

([4]5) Additional Penalties.

Criminal prosecution of fraud may be pursued as provided by Subsection 35A-4-104(1) in addition to the administrative penalties.

#### **R994-405-506. Future Eligibility.**

A claimant shall be ineligible for unemployment benefits or waiting week credit following a disqualification for fraud until any overpayment established in conjunction with the disqualification has been satisfied in full. Any overpayment established under Subsection 35A-4-405(5) may NOT be satisfied by deductions from benefit checks for weeks claimed after the penalty period ends, as a claimant is precluded from receiving any future benefits or waiting week credit as long as there is an outstanding fraud overpayment. However, a claimant may be permitted to file a new claim to preserve a particular benefit year. An overpayment shall be considered satisfied as of the beginning of the week during which the cash payment or credit card payment is received by the Department or in the case of payment by personal check, the beginning of the week during which the check is honored by the bank. ~~[If a claimant was not aware at the time of filing an initial claim that there was an outstanding fraud overpayment.]~~ [b] Benefits ~~[shall]~~ will be allowed as of the effective date of ~~[the]~~ a new claim if a claimant repays the outstanding fraud overpayment and penalty within seven days of the date the notice of the outstanding overpayment is mailed.

#### **R994-405-507. Examples.**

Depending on the issue, a disqualification could result in a denial of benefits for one week, a specific number of weeks or an indefinite number of weeks. A disqualifying separation results in an indefinite denial, continuing until the claimant has returned to work and earned six times his or her weekly benefit amount. The disqualification applicable to the reason for the underlying denial determines the amount of the fraud penalties and disqualification periods in each case.

(1) Failure to Report Reason for Separation. A claimant who was discharged for disqualifying conduct reports the separation as a layoff and receives benefits. Each benefit check received is paid due to the original false statements, even though the claimant may subsequently answer the Department's weekly questions correctly. Therefore, all benefits received would be "due to fraud." The fraud penalties and disqualification periods would, therefore, apply to all weeks benefits were received.

(2) Failure to Report Earnings.

The fraud overpayment and penalty, where the initial department fraud determination was issued on or before June 30, 2004, is calculated as in the following example: The claimant has a weekly benefit amount of \$100 and reports no earnings when there was \$50 in reportable earnings for the week at issue. The Act provides a claimant may earn up to 30% of his or her weekly benefit amount with no deduction. After considering the 30% factor in the present example, the claimant was overpaid in the amount of \$20. If the elements of fraud were established, all benefits paid for a disqualified week would be established as an overpayment. The claimant would also be liable to repay, as a civil penalty, the \$20 received by direct reason of fraud. Therefore, in this example, the claimant would be liable for a total overpayment of \$120, an amount that would have to be repaid in its entirety before the claimant would be eligible for any further waiting week credit or unemployment benefits. The claimant would also be subject to a 13-week penalty period. If the initial department fraud determination was issued on or after July 1, 2004, the overpayment would be \$20 and the penalty would be \$20 for a total due of \$40.

**KEY: unemployment compensation, employment, employee's rights, employee termination**  
~~January 1, 2002~~ **2004**  
**Notice of Continuation June 27, 2002**  
**35A-4-502(1)(b)**  
**35A-1-104(4)**  
**35A-4-405**

▼ ————— ▼

**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 July 15, 2004. At its option, the agency may hold public hearings.

From the end of the waiting period through October 13, 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.**

**Commerce, Occupational and  
Professional Licensing  
R156-38  
Residence Lien Restriction and Lien  
Recovery Fund Rules**

**NOTICE OF CHANGE IN PROPOSED RULE**

DAR File No.: 27020  
Filed: 06/01/2004, 12:01

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Following a public hearing and further review by the Division, additional amendments to the rule are being proposed.

SUMMARY OF THE RULE OR CHANGE: In Section R156-38-102, amendments were made to the definition of "permissive party" to further clarify the definition. In Section R156-38-204a, corrections were made in this section to Subsections R156-38-204a(2)(b)(i) through (iv) to change "contracting entity" to "real estate developer" since they deal with real estate developers. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the 04/15/2004 issue of the Utah State Bulletin, on page 39. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 38-11-101, and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: No additional costs or savings will be incurred as a result of these additional amendments beyond those previously identified in the original rule filing.
- ❖ LOCAL GOVERNMENTS: Additional proposed amendments do not apply to local governments. Therefore, there are no cost or savings to local governments.
- ❖ OTHER PERSONS: No additional costs or savings will be incurred as a result of these additional amendments beyond those previously identified in the original rule filing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No additional costs or savings will be incurred as a result of these additional amendments beyond those previously identified in the original rule filing.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This change in proposed rule filing simplifies and clarifies the prior rule change published in the State Bulletin on 04/15/2004. This filing does not create any fiscal impact to businesses. Jason P. Perry, Acting 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:

Earl Webster at the above address, by phone at 801-530-7632, by FAX at 801-530-6511, or by Internet E-mail at [ewebster@utah.gov](mailto:ewebster@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 07/15/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2004

AUTHORIZED BY: J. Craig Jackson, Director

**R156. Commerce, Occupational and Professional Licensing.  
R156-38. Residence Lien Restriction and Lien Recovery Fund  
Rules.**

**R156-38-102. Definitions.**

In addition to the definitions in Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery Fund Act; Title 58, Chapter 1, Division of Occupational and Professional Licensing Act; and Rule R156-1, General Rules of the Division of Occupational and Professional Licensing, which shall apply to these rules, as used in these rules:

- (1) "Applicant" means either a claimant, as defined in Subsection (2), or a homeowner, as defined in Subsection (5), who submits an application for a certificate of compliance.
- (2) "Claimant" means a person who submits an application or claim for payment from the fund.
- (3) "Construction project", as used in Subsection 38-11-203(4), means all qualified services related to the written contract required by Subsection 38-11-204(3)(a).
- (4) "Contracting entity" means an original contractor, a factory built housing retailer, or a real estate developer that contracts with a homeowner.
- (5) "Homeowner" means the owner of an owner-occupied residence.
- (6) "Licensed or exempt from licensure", as used in Subsection 38-11-204(3) means that, on the date the written contract was entered into, the contractor held a valid, active license issued by the Division pursuant to Title 58, Chapter 55 of the Utah Code in any classification or met any of the exemptions to licensure given in Title 58, Chapters 1 and 55.
- (7) "Necessary party" includes the division, on behalf of the fund, and the claimant.
- (8) "Owner", as defined in Subsection 38-11-102(16), does not include any person or developer who builds residences that are offered for sale to the public.
- (9) "Permissive party" includes:

(a) ~~with respect to claims for payment: the nonpaying party, the homeowner, and any entity who will be required to reimburse the fund if a claimant's claim is paid from the fund; [the nonpaying party in a claim for payment from the fund;]~~

(b) ~~with respect to an application for a certificate of compliance: the original contractor and any entity who has demanded from the homeowner payment for qualified services. [in an application for a certificate of compliance; and~~

~~(c) the homeowner and any entity who will be required to reimburse the fund if a claimant's claim is paid from the fund in either a claim for payment or an application for certificate of compliance.]~~

(10) "Qualified services", as used in Subsection 38-11-102(19) do not include:

(a) services provided by the claimant to cure a breach of the contract between the claimant and the nonpaying party; or

(b) services provided by the claimant under a warranty or similar arrangement.

#### **R156-38-204a. Applications for Certificate of Compliance by Homeowners - Supporting Documents and Information.**

The following supporting documents shall, at a minimum, accompany each homeowner application for a certificate of compliance:

(1) a copy of the written contract between the homeowners and the contracting entity;

(2)(a) if the homeowner contracted with an original contractor, documentation issued by the division that the original contractor was licensed or exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, on the date the contract was entered into;

(b) if the homeowner contracted with a real estate developer:

(i) credible evidence that the ~~[contracting entity]~~real estate developer had an ownership interest in the property;

(ii) a copy of the contract between the ~~[contracting entity]~~real estate developer and the licensed contractor with whom the ~~[contracting entity]~~real estate developer contracted for construction of the residence or other credible evidence showing the existence of such a contract and setting forth a description of the services provided to the ~~[contracting entity]~~real estate developer by the contractor;

(iii) credible evidence that the real estate developer offered the residence for sale to the public; and

(iv) documentation issued by the division that the contractor with whom the ~~[contracting entity]~~real estate developer contracted for construction of the residence was licensed or exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, on the date the contract was entered into;

(c) if the homeowner contracted with a manufactured housing retailer, a copy of the completed retail purchase contract;

(3) one of the following:

(a) an affidavit from the contracting entity acknowledging that the homeowner paid the contracting entity in full in accordance with the written contract and any amendments to the contract; or

(b) other credible evidence establishing that the homeowner paid the contracting entity in full in accordance with the written contract and any amendments to the contract; and

(4) an affidavit from the homeowner establishing that he is an owner as defined in Subsection 38-11-102(16) and that the residence is an owner-occupied residence as defined in Subsection 38-11-102(17).

**KEY: licensing, contractors, liens**

**2004**

**Notice of Continuation April 6, 2000**

**38-11-101**

**58-1-106(1)(a)**

**58-1-202(1)(a)**

## Money Management Council, Administration

### **R628-15**

## Certification as an Investment Adviser

### **NOTICE OF CHANGE IN PROPOSED RULE**

DAR File No.: 27136

Filed: 06/01/2004, 13:05

#### **RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** During the initial rulewriting process, it was noted that the way the Money Management Council had written the language for bonding requirements may be prohibitive and in some cases not possible with respect to the cost to insure all funds under management. However, information was not available at the time of filing. After a review with interested parties, the Council has revised the bonding requirements to a more acceptable level.

**SUMMARY OF THE RULE OR CHANGE:** The original language for bonding included all funds that the investment adviser had under management. The change now requires that the bond be on only Utah public funds under management by the Certified Investment Adviser, and increased the percentage of the bond to 20% on those public funds. Also, revised language was placed in the "post certification" section of the rule as it would be difficult to determine how much in public funds an investment adviser was managing until after they become certified and acquire public funds to manage. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed new rule that was published in the 05/15/2004 issue of the Utah State Bulletin, on page 28. 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 new rule 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:** Subsections 51-7-3(3) and 51-7-3(10), and Section 51-7-18

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** The bonding requirement is on the investment advisory firm and is paid to a private insurance firm. There will be no costs or savings to the state budget.



❖ LOCAL GOVERNMENTS: It is not known if the investment advisory firms will "pass through" the cost of the bonding requirements to the public treasurer who utilizes an investment adviser.

❖ OTHER PERSONS: Most firms carry errors and omissions insurance and it is not known if the amount and therefore the cost, will increase due to the requirements of this rule. If a firm does not carry these types of insurance, costs may vary based on the amount of the bonds. It is not known if the investment advisory firms who choose to become certified will pass on the additional cost of insurance, if any, to the public treasurer who utilizes their services.

COMPLIANCE COSTS FOR AFFECTED PERSONS: In researching the issue, the Council came up with costs that worked up to around 1% of the amount of the bond on errors and omissions insurance. Surety insurance was approximately the same cost.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The revisions may affect insurance costs of certified investment advisers as follows: 1) the cost of errors and omissions insurance coverage may increase for some advisers because a minimum coverage is established; 2) the cost of errors and omissions insurance coverage may increase for some advisers because a minimum percentage coverage related to Utah public funds under management may require increased coverage; and 3) the cost of surety bond coverage should decrease since the revision relates required coverage to only Utah public funds under management instead of to all public funds under management, as required by the original Rule.

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

MONEY MANAGEMENT COUNCIL  
ADMINISTRATION  
Room E315 EAST OFFICE BLDG  
STATE CAPITOL COMPLEX  
PO BOX 142315  
SALT LAKE CITY UT 84114-2315, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ann Pedroza at the above address, by phone at 801-538-1883, by FAX at 801-538-1465, or by Internet E-mail at apedroza@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/15/2004.

THIS RULE MAY BECOME EFFECTIVE ON: 07/16/2004

AUTHORIZED BY: Larry Richardson, Chair

## **R628. Money Management Council, Administration.**

### **R628-15. Certification as an Investment Adviser.**

#### **R628-15-1. Authority.**

This rule is issued pursuant to Sections 51-7-3(3), 51-7-3(10), and 51-7-18.

#### **R628-15-2. Scope.**

This rule establishes the criteria applicable to all investment advisers and investment adviser representatives for certification by the Director as eligible to provide advisory services to public treasurers under the State Money Management Act (the "Act"). It further establishes the application contents and procedures, and the criteria and the procedures for denial, suspension, termination and reinstatement of certification. Additionally, the qualification of non-certified dealers and the use of these qualified dealers by certified investment advisers is provided for.

#### **R628-15-3. Purpose.**

This rule establishes a uniform standard to evaluate the financial condition and the standing of an investment adviser to determine if investment transactions with public treasurers by investment advisers would expose public funds to undue risk.

#### **R628-15-4. Definitions.**

A. The following terms are defined in Section 51-7-3 of the Act, and when used in this rule, have the same meaning as in the Act:

1. "Certified investment adviser";
2. "Council";
3. "Director";
4. "Public treasurer"; and
5. "Investment adviser representative".

B. For purposes of this rule the following terms are defined:

1. "Investment adviser" means either a federal covered adviser as defined in Section 61-1-13 or an investment adviser as defined in Section 61-1-13.
2. "Qualified dealer" means a non-certified broker/dealer that is licensed by the Division and is qualified by the Council to conduct investment transactions on behalf of a public treasurer pursuant to an investment adviser contract not inconsistent with the Act or Rules of the Council between the public treasurer and a certified investment adviser.

#### **R628-15-5. General Rule.**

Before an investment adviser or investment adviser representative provides investment advisory services to any public treasurer, the investment adviser or investment adviser representative must submit and receive approval of an application to the Division, pay to the Division a non-refundable fee as described in Section 51-7-18.4(2), and become a Certified investment adviser or Investment adviser representative under the Act.

#### **R628-15-6. Criteria for Certification of an Investment Adviser.**

To be certified by the Director as a Certified investment adviser or Investment adviser representative under the Act, an investment adviser or investment adviser representative shall:

- A. Submit an application to the Division on Form 628-15 and pay to the Division the non-refundable fee described in Section 51-7-18.4(2).

B. Be licensed with the Division under its laws and rules, effective as of the date of the application. Licensing is required for all of the following:

- (1) the investment adviser;
- (2) its designated official as defined in R164-4-2 of the Division; and
- (3) any investment adviser representative who provides investment advisory services to public treasurers in the state.

C. Have a current Certificate of Good Standing dated within 30 days of application from the state in which the applicant is incorporated or organized.

D. Have net worth as of its most recent fiscal year-end of not less than \$150,000 documented by financial statements prepared by an independent certified public accountant in accordance with generally accepted accounting principles.

~~[E. Have surety bond coverage of not less than fifteen percent (15%) of assets under management as of the date of application.~~

~~[F]E.~~ Allow the public treasurer to select the forum and method for dispute resolution, whether that forum be arbitration, mediation or litigation in any state or federal court. No agreement, contract, or other document that the applicant requires or intends to require to be signed by the public treasurer to open or maintain an account shall require or propose to require that any dispute between the applicant and the public treasurer must be submitted to arbitration.

~~[G]E.~~ Agree to the jurisdiction of the Courts of the State of Utah and applicability of Utah law, where relevant, for litigation of any dispute arising out of transactions between the applicant and the public treasurer.

~~[H]G.~~ All Investment adviser representatives who have any contact with a public treasurer or its account, must sign and have notarized a statement that the representative:

- (1) is familiar with the authorized investments as set forth in the Act and the rules of the Council;
- (2) is familiar with the investment objectives of the public treasurer, as set forth in Section 51-7-17(2);
- (3) acknowledges, understands, and agrees that all investment transactions conducted for the benefit of the public treasurer are required to be settled on a delivery vs. payment basis only at the treasurer's safekeeping bank and that the Certified investment adviser and any Investment adviser representative is prohibited from receiving custody of any public funds or investment securities at any time.

#### **R628-15-7. Certification.**

A. The initial application for certification must be received on or before the last day of the month for approval at the following month's Council meeting.

B. All certifications shall be effective upon acceptance by the Council.

C. All certifications not otherwise terminated shall expire on June 30 of each year, unless renewed. Renewal applications must be received on or before April 30 of each year.

#### **R628-15-8. Renewal of Application.**

A. Certified investment advisers shall apply annually, on or before April 30 of each year, for certification to be effective July 1 of each year.

B. The application must contain all of the documents and meet all of the requirements as set forth above with respect to initial applications.

C. The application must be accompanied by an annual certification fee as described in section 51-7-18.4(2).

#### **R628-15-9. Post Certification Requirements.**

A. Certified investment advisers shall notify the Division of any changes to any items or information contained in the original application within 30 calendar days of the change. The notification shall provide copies, where necessary, of relevant documents.

B. Certified investment advisers shall maintain licensing with the Division and registration as an investment adviser under the Investment Advisers Act of 1940 throughout the term of any agreement or contract with any public treasurer.

~~C. Certified investment advisers shall have and maintain insurance coverage as follows:~~

~~(1) surety bond coverage of not less than twenty percent (20%) of Utah public funds under management; and~~

~~(2) errors and omissions coverage equal to twenty percent (20%) of Utah public funds under management, but not less than \$1,000,000.~~

~~[E]D.~~ Certified investment advisers shall provide to the public treasurer the SEC Form ADV Part II prior to contract execution.

~~[D]E.~~ Certified investment advisers shall file annual audited financial statements with all public treasurers with whom they are doing business and with the Division.

~~[E]E.~~ Certified investment advisers shall fully disclose all conflicts of interest and all economic interests in qualified dealers and other affiliates, consultants and experts used by the Investment adviser in providing investment advisory services.

~~[F]G.~~ Certified investment advisers shall act with the degree of care, skill, prudence, and diligence that a person having special skills or expertise acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

~~[G]H.~~ Certified investment advisers shall exercise good faith in allocating transactions to qualified dealers in the best interest of the account and in overseeing the completion of transactions and performance of qualified dealers used by the Investment adviser in connection with investment advisory services.

~~[H]I.~~ Certified investment advisers shall fully disclose to the public treasurer any self-dealing with subsidiaries, affiliates or partners of the Investment adviser and any "soft dollar" benefits to the Investment adviser for transactions placed on behalf of the public treasurer.

~~[I]J.~~ Certified investment advisers shall fully and completely disclose to all public treasurers with whom they do business the basis for calculation of fees, whether and how fees may be adjusted during the term of any agreement, and any other costs chargeable to the account. If performance-based fees are proposed, the disclosure shall include a clear explanation of the amount of the fee at specific levels of performance and how prior losses are handled in calculation of the performance-based fee.

~~[J]K.~~ Certified investment advisers shall not assign any contract or agreement with a public treasurer without the written consent of the public treasurer.

~~[K]L.~~ Certified investment advisers shall provide immediate written notification to any public treasurer to whom advisory services are provided and to the Division upon conviction of any crime involving breach of trust or fiduciary duty or securities law violations.

[E]M. Not less than once each calendar quarter and as often as requested by the public treasurer, Certified investment advisers shall timely deliver to the public treasurer:

- (1) copies of all trade confirmations for transactions in the account;
- (2) a summary of all transactions completed during the reporting period;
- (3) a listing of all securities in the portfolio at the end of each reporting period, the market value and cost of each security, and the credit rating of each security;
- (4) performance reports for each reporting period showing the total return on the portfolio as well as the accrual basis return and the net return after calculation of all fees and charges permitted by the agreement; and
- (5) a statistical analysis showing the portfolio's weighted average maturity and duration as of the end of each reporting period.

**R628-15-10. Notification of Certification.**

The Director shall provide a list of Certified investment advisers and Investment adviser representatives to the Council at least semiannually. The Council shall mail this list to each public treasurer.

**R628-15-11. Criteria for Qualification of a Non-Certified Dealer.**

A. Before a Certified investment adviser uses a non-certified dealer to conduct investment transactions on behalf of a public treasurer, the investment adviser must submit an application for each non-certified dealer for qualification by the Division.

B. The application must include:

- (1) Proof of licensing with the Division under its laws and rules, effective as of the date of the application, of the following:
  - (a) the broker-dealer;
  - (b) any agents of a firm doing business in the state.
- (2) A Certificate of Good Standing, obtained from the state in which the applicant is incorporated or organized.
- (3) With respect to applicants who are not primary reporting dealers, financial statements, prepared by an independent certified public accountant in accordance with generally accepted accounting principles, indicating that the applicant has, as of its most recent fiscal year end:
  - (a) Minimum net capital, as calculated under rule 15c3-1 of the Securities and Exchange Act of 1934[~~17 CFR 240.15c3-1(2004)~~], of at least 5% of the applicant's aggregate debt balances, as defined in the rule, and;
  - (b) Total capital as follows:
    - (i) of at least \$10 million or;
    - (ii) of at least \$25 million, calculated on a consolidated basis, with respect to an applicant which is a wholly-owned subsidiary.

**R628-15-12. Grounds for Denial, Suspension or Termination of Status as a Certified Investment Adviser.**

Any of the following constitutes grounds for denial, suspension, or termination of status as a Certified investment adviser:

- A. Denial, suspension or termination of the Certified investment adviser's license by the Division.
- B. Failure to maintain a license with the Division by the firm or any of its Investment adviser representatives conducting investment transactions with a public treasurer.

C. Failure to maintain the required minimum net worth and the required surety bond.

D. Requiring the public treasurer to sign any documents, contracts, or agreements which require that disputes be submitted to mandatory arbitration.

E. Failure to pay the annual certification fee.

F. Making any false statement or filing any false report with the Division.

G. Failure to comply with any requirement of section R628-15-9.

H. Engaging in any act in violation of the Act or Rules of the Council.

I. Failure to respond to requests for information from the Division or the Council within 15 days after receipt of a request for information.

J. Engaging in a dishonest or unethical practice. "Dishonest or unethical practice" includes but is not limited to those acts and practices enumerated in Rule R164-6-1g.

K. Being the subject of:

- (1) an adjudication or determination, within the past five years by a securities or commodities agency or administrator of another state, Canadian province or territory, or a court of competent jurisdiction that the person has willfully violated the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodity Exchange Act, or the securities or commodities law of any other state; or
- (2) an order entered within the past five years by the securities administrator of any state or Canadian province or territory or by the Securities and Exchange Commission denying or revoking license as a broker-dealer, agent, investment adviser, or investment adviser representative or the substantial equivalent of those terms or is the subject of an order of the Securities and Exchange Commission suspending or expelling the person from a national securities exchange or national securities association registered under the Securities Exchange Act of 1934, or is the subject of a United States post office fraud order.

**R628-15-13. Procedures for Denial, Suspension, or Termination and Reinstatement of Status.**

A. Where it appears to the Division or to the Council that grounds may exist to deny, suspend, or terminate status as a Certified investment adviser, the Council shall proceed under the Utah Administrative Procedures Act, Chapter 46b, Title 63 ("UAPA").

B. All proceedings to suspend a Certified investment adviser or to terminate status as a certified investment adviser are designated as informal proceedings under ("UAPA").

C. In any hearings held, the Chair of the Council shall be the presiding officer, and that person may act as the hearing officer, or may designate another person from the Council or the Division to be the hearing officer. At the close of the hearing, other members of the Council may make recommendations to the hearing officer after the close of the hearing.

D. The Notice of Agency Action as set forth under UAPA, or any petition filed in connection with it, shall include a statement of the grounds for termination, and the remedies required to cure the violation.

E. After the date of service of the Notice of Agency Action, the Certified investment adviser and its Investment adviser representatives shall not conduct any investment transaction with any public treasurer if so ordered by the Money Management Council. The order issued by the hearing officer on behalf of the Council at the conclusion of the proceedings shall lift this prohibition if the order allows the Certified investment adviser to keep its status as a Certified investment adviser.

**KEY: cash management, public investments, securities regulation, investment advisers**

**2004**

**51-7-3(1)**

**51-7-18(2)(b)(v)**



**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).

---

Education, Administration  
**R277-105**  
Recognizing Constitutional Freedoms in  
the Schools

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

DAR File No.: 27214  
FILED: 06/01/2004, 15:24

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-401(3) allows the Utah State Board of Education to adopt rules in accordance with its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No 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: There continues to be a need to have a rule that provides guidance to public school officials in protecting and accommodating individual rights in the Utah's public schools. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
EDUCATION  
ADMINISTRATION  
250 E 500 S  
SALT LAKE CITY UT 84111-3272, or  
at the Division of Administrative Rules.

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

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 06/01/2004



Education, Administration  
**R277-438**  
Dual Enrollment

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

DAR File No.: 27205  
FILED: 06/01/2004, 15:15

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 53A-11-102.5 directs that the Utah State Board of Education establish a rule for purposes of dual enrollment and possible transfer of credits toward graduation when courses are taken in a private or home school.

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 law continues to provide for dual enrollment and the requirement that the Utah

State Board of Education have a rule for purposes of dual enrollment and potential transferability of credits toward graduation that are earned in a private or home school, and therefore, the rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 06/01/2004



Education, Administration

**R277-916**

Technology, Life, and Careers, and  
Work-Based Learning Programs

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

DAR FILE No.: 27212  
FILED: 06/01/2004, 15:21

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 53A-15-202 directs the Utah State Board of Education to establish minimum standards for applied technology programs in the public education system.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No 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 Technology, Life, and Careers, and Work-Based Learning Programs still exist and a rule is necessary to provide standards and procedures for the programs and for distribution of funds. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: Carol Lear, Coordinator School Law and Legislation

EFFECTIVE: 06/01/2004



Health, Epidemiology and Laboratory  
Services, Environmental Services

**R392-101**

Food Safety Manager Certification

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

DAR FILE No.: 27187  
FILED: 05/24/2004, 16:00

**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: This rule is authorized by Subsection 26-1-30(2), and Title 26, Chapter 15a. Subsection 26-1-30(2)(u) authorizes the Department to adopt rules and enforce minimum sanitary standards for the operation and maintenance of restaurants and all other places where food is handled for commercial purposes, sold, or served to the public. Title 26, Chapter 15a outlines the Food Safety Manager Certification Act, authorizing the department to establish and enforce, or provide for the enforcement of the minimum rules regarding the definitions, duties, requirements, and exemptions of Food Safety Manager Certification.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: While the Office of Epidemiology has not received comments opposing the entire rule, comments have been received from Local Health Departments, the Conference of Local Environmental Health Administrators (CLEHA), and the Food Code revision work group regarding different aspects of the rule. The Division has responded to these comments as part of our process to develop modifications to the rule. Comments received

include: 1) the Food Safety Manager Certification Act exempts facilities that serve high risk populations such as nursing homes, hospitals, and day care centers. Local Health Departments acknowledge that these types of food service facilities definitely should require a certified food safety manager on staff; 2) the rule needs to contain additional language requiring a specified time for which a person who is seeking to become certified has to complete the requirements of certification; 3) some local health departments have commented on the difficulty and increased time and effort it takes to keep track of certified managers in an industry with high turnover employment rate; and 4) the lag time it takes to get a certificate issued to those who have passed the requirements.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is the statewide rule for the Food Safety Manager Certification, and is enforced by the local health departments. This rule is the basis for consistent enforcement of the Food Safety Manager Certification Act (Title 26, Chapter 15a) across all areas of the state. The Food and Drug Administration (FDA) has concluded that food borne illness in the United States is a major cause of personal distress, preventable death, and avoidable economic burden. An estimated 76 million illnesses, 325,000 hospitalizations, and 5,000 deaths are a direct result of food borne illness. The annual cost of food borne illness in terms of pain and suffering, reduced productivity, and medical costs are estimated to be

\$10,000,000,000 - \$83,000,000,000. While the Office of Epidemiology has not received comments in opposition to the rule, comments have been received from local health departments, the food safety coalition, CLEHA, and the Food Code workgroup. Based on the local health department input, this is an important rule for local health departments, the industry, and the consumer, and should be continued.

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

HEALTH  
EPIDEMIOLOGY AND LABORATORY SERVICES,  
ENVIRONMENTAL SERVICES  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY UT 84116-3231, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ronald Marsden at the above address, by phone at 801-538-6191, by FAX at 801-538-6564, or by Internet E-mail at [rmarsden@utah.gov](mailto:rmarsden@utah.gov)

AUTHORIZED BY: Scott D. Williams, Executive Director

EFFECTIVE: 05/24/2004



**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

### Alcoholic Beverage Control

#### Administration

No. 27025 (AMD): R81-1-3. General Policies.  
Published: April 15, 2004  
Effective: June 1, 2004

No. 27027 (AMD): R81-1-8. Consent Calendar Procedures.  
Published: April 15, 2004  
Effective: June 1, 2004

No. 27028 (AMD): R81-1-21. Beer Advertising in Event Venues.  
Published: April 15, 2004  
Effective: June 1, 2004

No. 27029 (AMD): R81-1-22. Diplomatic Embassy Shipments and Purchases.  
Published: April 15, 2004  
Effective: June 1, 2004

No. 27030 (AMD): R81-1-23. Sales Restrictions on Products of Limited Availability.  
Published: April 15, 2004  
Effective: June 1, 2004

No. 27031 (AMD): R81-2-1. Special Orders of Liquor by Public.  
Published: April 15, 2004  
Effective: June 1, 2004

No. 27032 (AMD): R81-2-2. Liquor Returns, Refunds and Exchanges.  
Published: April 15, 2004  
Effective: June 1, 2004

No. 27033 (AMD): R81-2-7. Minors on Premises.  
Published: April 15, 2004  
Effective: June 1, 2004

No. 27034 (AMD): R81-2-8. Accepting Checks as Payment for Liquor.  
Published: April 15, 2004  
Effective: June 1, 2004

No. 27035 (AMD): R81-2-9. Accepting Credit Cards as Payment for Liquor.  
Published: April 15, 2004  
Effective: June 1, 2004

No. 27036 (AMD): R81-2-10. State Store Hours.  
Published: April 15, 2004  
Effective: June 1, 2004

No. 27037 (AMD): R81-2-11. Industry Members in State Stores.  
Published: April 15, 2004  
Effective: June 1, 2004

No. 27038 (AMD): R81-3-5. Special Orders of Liquor by Public.  
Published: April 15, 2004  
Effective: June 1, 2004

No. 27039 (AMD): R81-3-6. Liquor Returns, Refunds and Exchanges.  
Published: April 15, 2004  
Effective: June 1, 2004

No. 27040 (AMD): R81-3-14. Type 5 Package Agencies.  
Published: April 15, 2004  
Effective: June 1, 2004

No. 27041 (AMD): R81-3-16. Minors on Premises.  
Published: April 15, 2004  
Effective: June 1, 2004

No. 27042 (AMD): R81-3-17. Consignment Inventory Package Agencies.  
Published: April 15, 2004  
Effective: June 1, 2004

No. 27043 (AMD): R81-3-18. Type 4 Package Agency Room Service - Mini-Bottle/187 ml Wine Sales.  
Published: April 15, 2004  
Effective: June 1, 2004

No. 27044 (AMD): R81-3-19. Credit Cards.  
Published: April 15, 2004  
Effective: June 1, 2004

No. 27045 (AMD): R81-4D-13. On-Premise Banquet License Room Service - Mini-Bottle/187 ml Wine Sales.  
Published: April 15, 2004  
Effective: June 1, 2004



No. 27046 (AMD): R81-6-6. Religious Wine Permits.  
Published: April 15, 2004  
Effective: June 1, 2004

No. 27047 (AMD): R81-8-2. Out of State Business.  
Published: April 15, 2004  
Effective: June 1, 2004

No. 27048 (AMD): R81-8-3. Winery Tasting Facilities.  
Published: April 15, 2004  
Effective: June 1, 2004

### Commerce

#### Consumer Protection

No. 26945 (AMD): R152-11. Utah Consumer Sales Practices Act Rules.  
Published: March 1, 2004  
Effective: May 20, 2004

No. 26905 (AMD): R152-34. Postsecondary Proprietary School Act Rules.  
Published: February 15, 2004  
Effective: May 20, 2004

#### Occupational and Professional Licensing

No. 27019 (AMD): R156-26a-303b. Renewal and Reinstatement Requirements - Continuing Professional Education (CPE).  
Published: April 15, 2004  
Effective: May 24, 2004

#### Real Estate

No. 27026 (AMD): R162-3. License Status Change.  
Published: April 15, 2004  
Effective: May 20, 2004

### Environmental Quality

#### Air Quality

No. 26896 (AMD): R307-110-12. Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide.  
Published: February 1, 2004  
Effective: May 18, 2004

No. 26896 (CPR): R307-110-12. Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide.  
Published: April 15, 2004  
Effective: May 18, 2004

No. 26898 (AMD): R307-110-31. Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements.  
Published: February 1, 2004  
Effective: May 18, 2004

No. 26898 (CPR): R307-110-31. Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements.  
Published: April 15, 2004  
Effective: May 18, 2004

No. 26899 (AMD): R307-110-34. Section X, Vehicle Inspection and Maintenance Program, Part D, Utah County.  
Published: February 1, 2004  
Effective: May 18, 2004

No. 26899 (CPR): R307-110-34. Section X, Vehicle Inspection and Maintenance Program, Part D, Utah County.  
Published: April 15, 2004  
Effective: May 18, 2004

No. 26897 (AMD): R307-301. Utah and Weber Counties: Oxygenated Gasoline Program..  
Published: February 1, 2004  
Effective: May 18, 2004

### Health

#### Children's Health Insurance Program

No. 27050 (AMD): R382-10. Eligibility.  
Published: April 15, 2004  
Effective: June 1, 2004

#### Health Care Financing, Coverage and Reimbursement Policy

No. 26955 (AMD): R414-1-5. State Plan.  
Published: March 15, 2004  
Effective: May 19, 2004

No. 27023 (AMD): R414-1A. Medicaid Policy for Experimental, Investigational or Unproven Medical Practices.  
Published: April 15, 2004  
Effective: May 25, 2004

#### Health Systems Improvement, Licensing

No. 26993 (AMD): R432-150-6. Reserved.  
Published: April 1, 2004  
Effective: May 26, 2004

No. 26992 (AMD): R432-270-29b. Adult Day Care Services.  
Published: April 1, 2004  
Effective: May 26, 2004

### Human Services

#### Administration, Administrative Services, Licensing

No. 26904 (AMD): R501-7. Child Placing Agencies.  
Published: February 15, 2004  
Effective: May 28, 2004

## NOTICES OF RULE EFFECTIVE DATES

---

### Recovery Services

No. 27006 (AMD): R527-231. Review and Adjustment of Child Support Order.  
Published: April 15, 2004  
Effective: May 19, 2004

No. 27007 (AMD): R527-258. Enforcing Child Support When the Obligor is an Ex-Prisoner or in a Treatment Program.  
Published: April 15, 2004  
Effective: May 19, 2004

### Natural Resources

#### Oil, Gas and Mining; Non-Coal

No. 27015 (AMD): R647-1-106. Definitions.  
Published: April 15, 2004  
Effective: June 1, 2004

No. 27016 (NEW): R647-6. Inspection and Enforcement: Division Authority and Procedures.  
Published: April 15, 2004  
Effective: June 1, 2004

No. 27017 (NEW): R647-7. Inspection and Enforcement: Civil Penalties.  
Published: April 15, 2004  
Effective: June 1, 2004

No. 27018 (NEW): R647-8. Inspection and Enforcement: Individual Civil Penalties.  
Published: April 15, 2004  
Effective: June 1, 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, 2004, including notices of effective date received through June 1, 2004, the effective dates of which are no later than June 15, 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. 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
<b>Administrative Services</b>					
<u>Facilities Construction and Management</u>					
R23-29	Across the Board Delegation	26991	5YR	03/10/2004	2004-7/35
<u>Fleet Operations, Surplus Property</u>					
R28-3	Utah State Agency for Surplus Property Adjudicative Proceedings	26843	AMD	02/12/2004	2004-1/4
<b>Agriculture and Food</b>					
<u>Animal Industry</u>					
R58-20	Domesticated Elk Hunting Parks	26990	5YR	03/05/2004	2004-7/35
R58-20-5	Facilities	26989	AMD	05/04/2004	2004-7/3
R58-21	Trichomoniasis	26891	AMD	03/04/2004	2004-3/4
<u>Plant Industry</u>					
R68-7-6	Categorization of Pesticide Applicators	26794	NSC	01/01/2004	Not Printed

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R68-20-1	Authority	26949	AMD	04/01/2004	2004-5/2
<u>Regulatory Services</u>					
R70-330	Raw Milk for Retail	27069	AMD	06/02/2004	2004-9/4
<b>Alcoholic Beverage Control</b>					
<u>Administration</u>					
R81-1-3	General Policies	27025	AMD	06/01/2004	2004-8/4
R81-1-8	Consent Calendar Procedures	27027	AMD	06/01/2004	2004-8/5
R81-1-21	Beer Advertising in Event Venues	27028	AMD	06/01/2004	2004-8/6
R81-1-22	Diplomatic Embassy Shipments and Purchases	27029	AMD	06/01/2004	2004-8/8
R81-1-23	Sales Restrictions on Products of Limited Availability	27030	AMD	06/01/2004	2004-8/10
R81-2-1	Special Orders of Liquor by Public	27031	AMD	06/01/2004	2004-8/11
R81-2-2	Liquor Returns, Refunds and Exchanges	27032	AMD	06/01/2004	2004-8/12
R81-2-7	Minors on Premises	27033	AMD	06/01/2004	2004-8/14
R81-2-8	Accepting Checks as Payment for Liquor	27034	AMD	06/01/2004	2004-8/14
R81-2-9	Accepting Credit Cards as Payment for Liquor	27035	AMD	06/01/2004	2004-8/16
R81-2-10	State Store Hours	27036	AMD	06/01/2004	2004-8/17
R81-2-11	Industry Members in State Stores	27037	AMD	06/01/2004	2004-8/18
R81-3-5	Special Orders of Liquor by Public	27038	AMD	06/01/2004	2004-8/19
R81-3-6	Liquor Returns, Refunds and Exchanges	27039	AMD	06/01/2004	2004-8/20
R81-3-14	Type 5 Package Agencies	27040	AMD	06/01/2004	2004-8/22
R81-3-16	Minors on Premises	27041	AMD	06/01/2004	2004-8/23
R81-3-17	Consignment Inventory Package Agencies	27042	AMD	06/01/2004	2004-8/24
R81-3-18	Type 4 Package Agency Room Service - Mini-Bottle/187 ml Wine Sales	27043	AMD	06/01/2004	2004-8/25
R81-3-19	Credit Cards	27044	AMD	06/01/2004	2004-8/26
R81-4D-13	On-Premise Banquet License Room Service - Mini-Bottle/187 ml Wine Sales	27045	AMD	06/01/2004	2004-8/27
R81-6-6	Religious Wine Permits	27046	AMD	06/01/2004	2004-8/29
R81-8-2	Out of State Business	27047	AMD	06/01/2004	2004-8/30
R81-8-3	Winery Tasting Facilities	27048	AMD	06/01/2004	2004-8/31
<b>Commerce</b>					
<u>Consumer Protection</u>					
R152-11	Utah Consumer Sales Practices Act Rules	26945	AMD	05/20/2004	2004-5/3
R152-34	Postsecondary Proprietary School Act Rules	26905	AMD	05/20/2004	2004-4/2
<u>Occupational and Professional Licensing</u>					
R156-1	General Rules of the Division of Occupational and Professional Licensing	26678	NSC	01/01/2004	Not Printed
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	AMD	02/19/2004	2003-22/11
R156-17a-612	Operating Standards - Pharmaceutical Wholesaler/Distributor and Pharmaceutical Manufacturer located in Utah	26754	CPR	02/19/2004	2004-2/10
R156-22-503	Administrative Penalties	26859	NSC	01/01/2004	Not Printed
R156-26a-303b	Renewal and Reinstatement Requirements - Continuing Professional Education (CPE)	26786	AMD	01/06/2004	2003-23/7

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R156-26a-303b	Renewal and Reinstatement Requirements - Continuing Professional Education (CPE)	27019	AMD	05/24/2004	2004-8/32
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
R156-44a	Nurse Midwife Practice Act Rules	27224	5YR	06/10/2004	Not Printed
R156-47b	Massage Therapy Practice Act Rules	26937	AMD	06/07/2004	2004-5/5
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	Utah Uniform Building Standard Act Rules	26866	NSC	01/01/2004	Not Printed
R156-56-707	Statewide Amendments to the IPC	26692	AMD	01/01/2004	2003-21/34
R156-61	Psychologist Licensing Act Rules	27225	5YR	06/10/2004	Not Printed
R156-63	Security Personnel Licensing Act Rules	26888	AMD	03/04/2004	2004-3/5
R156-68	Utah Osteopathic Medical Practice Act Rules	26956	AMD	04/15/2004	2004-6/2
R156-71-202	Naturopathic Physician Formulary	26998	AMD	05/04/2004	2004-7/3
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
<b><u>Real Estate</u></b>					
R162-3	License Status Change	27026	AMD	05/20/2004	2004-8/44
R162-6-2	Standards of Practice	26944	AMD	04/21/2004	2004-5/6
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
R162-203	Changes to Residential Mortgage Registration Statement	26909	AMD	04/12/2004	2004-4/7
R162-204	Residential Mortgage Record Keeping Requirements	26908	AMD	04/12/2004	2004-4/8
R162-205	Residential Mortgage Unprofessional Conduct	26907	AMD	04/12/2004	2004-4/9
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
R162-209	Administrative Proceedings	26906	AMD	04/12/2004	2004-4/10
<b><u>Securities</u></b>					
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
<b>Corrections</b>					
<b><u>Administration</u></b>					
R251-101	Corrections Advisory Council Bylaws	26769	REP	03/24/2004	2003-23/15
<b>Education</b>					
<b><u>Administration</u></b>					
R277-102	Adjudicative Proceedings	26958	5YR	02/26/2004	2004-6/58
R277-105	Recognizing Constitutional Freedoms in the Schools	27214	5YR	06/01/2004	2004-12/80

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R277-413	Accreditation of Secondary Schools, Alternative or Special Purpose Schools	26959	5YR	02/26/2004	2004-6/58
R277-425	Budgeting, Accounting, and Auditing for Utah School Districts	26960	5YR	02/26/2004	2004-6/59
R277-437	Student Enrollment Options	26871	5YR	01/05/2004	2004-3/42
R277-438	Dual Enrollment	27205	5YR	06/01/2004	2004-12/80
R277-444	Distribution of Funds to Arts and Sciences Organizations	26979	AMD	04/15/2004	2004-6/4
R277-462	Comprehensive Guidance Program	26850	AMD	02/05/2004	2004-1/16
R277-469	Instructional Materials Commission Operating Procedures	26999	AMD	05/05/2004	2004-7/5
R277-484	Data Standards, Deadlines and Procedures	26688	NSC	01/01/2004	Not Printed
R277-486	Professional Staff Cost Program	26828	NEW	01/15/2004	2003-24/5
R277-501	Educator Licensing Renewal	26980	AMD	04/15/2004	2004-6/5
R277-502	Educator Licensing and Data Retention	26827	AMD	01/15/2004	2003-24/6
R277-514	Board Procedures: Sanctions for Educator Misconduct	26981	AMD	04/15/2004	2004-6/10
R277-517	Athletic Coaching Certification	26852	AMD	02/05/2004	2004-1/18
R277-518	Vocational-Technical Certificates	27000	AMD	05/05/2004	2004-7/8
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	2004-6/59
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	2004-6/60
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
R277-725	Electronic High School	26982	NEW	04/15/2004	2004-6/12
R277-734	Standards and Procedures for Adult Education Section 353 Funds	26963	5YR	02/26/2004	2004-6/60
R277-734	Standards and Procedures for Adult Education Section 353 Funds	27001	REP	05/05/2004	2004-7/11
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
R277-916	Technology, Life, and Careers, and Work-Based Learning Programs	27212	5YR	06/01/2004	2004-12/81
<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
<b>Environmental Quality</b>					
<u>Air Quality</u>					
R307-110-12	Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide	26896	AMD	05/18/2004	2004-3/12
R307-110-12	Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide	26896	CPR	05/18/2004	2004-8/87
R307-110-28	Regional Haze	26946	AMD	06/08/2004	2004-5/9
R307-110-31	Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements	26898	CPR	05/18/2004	2004-8/87
R307-110-31	Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements	26898	AMD	05/18/2004	2004-3/13
R307-110-34	Section X, Vehicle Inspection and Maintenance Program, Part D, Utah County	26899	AMD	05/18/2004	2004-3/14

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R307-110-34	Section X, Vehicle Inspection and Maintenance Program, Part D, Utah County	26899	CPR	05/18/2004	2004-8/88
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
R307-215	Emission Standards: Acid Rain Requirements	27220	5YR	06/08/2004	Not Printed
R307-301	Utah and Weber Counties: Oxygenated Gasoline Program.	26897	AMD	05/18/2004	2004-3/15
R307-309	Davis, Salt Lake and Utah Counties, Ogden City and Any Nonattainment Area for PM10: Fugitive Emissions and Fugitive Dust	27217	5YR	06/08/2004	Not Printed
R307-343	Davis and Salt Lake Counties and Ozone Nonattainment Areas: Emission Standards for Wood Furniture Manufacturing Operations	27219	5YR	06/08/2004	Not Printed
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
R307-420	Permits: Ozone Offset Requirements in Davis and Salt Lake Counties	27218	5YR	06/08/2004	Not Printed
<u>Drinking Water</u>					
R309-110	Administration: Definitions	26970	AMD	04/21/2004	2004-6/13
R309-204	Facility Design and Operation: Source Development	26971	AMD	04/21/2004	2004-6/23
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	2004-6/61
<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
R317-8	Utah Pollutant Discharge Elimination System (UPDES)	26903	AMD	03/30/2004	2004-3/19
<b>Governor</b>					
<u>Planning and Budget, Chief Information Officer</u>					
R365-4	Sub-Domain Naming Conventions for Executive Branch Agencies	26953	NEW	04/15/2004	2004-5/12
<b>Health</b>					
<u>Children's Health Insurance Program</u>					
R382-10	Eligibility	26757	AMD	01/05/2004	2003-22/21
R382-10	Eligibility	27050	AMD	06/01/2004	2004-8/58
<u>Epidemiology and Laboratory Services, Environmental Services</u>					
R392-101	Food Safety Manager Certification	27187	5YR	05/24/2004	2004-12/81
<u>Health Care Financing, Coverage and Reimbursement Policy</u>					
R414-1-5	State Plan	26955	AMD	05/19/2004	2004-6/47
R414-1A	Medicaid Policy for Experimental, Investigational or Unproven Medical Practices	27023	AMD	05/25/2004	2004-8/68
R414-1B	Prohibition of Payment for Certain Abortion Services.	27222	EMR	06/09/2004	Not Printed
R414-9	Federally Qualified Health Centers	26854	NEW	02/03/2004	2004-1/26
R414-49	Dental Service	26964	AMD	05/07/2004	2004-6/48
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

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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	2004-8/94
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
R414-305-3	Spousal Impoverishment Resource Rules for Married Institutionalized Individuals	26965	AMD	05/07/2004	2004-6/50
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, Child Care Licensing</u>					
R430-2	General Licensing Provisions, Child Care Facilities	26824	AMD	04/12/2004	2003-24/25
<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
R432-2-11	Expiration and Renewal	26825	AMD	04/12/2004	2003-24/26
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
R432-150-6	Reserved	26993	AMD	05/26/2004	2004-7/13
R432-270-29b	Adult Day Care Services	26992	AMD	05/26/2004	2004-7/15
<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	2004-6/61
<b>Human Services</b>					
<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
R501-7	Child Placing Agencies	26904	AMD	05/28/2004	2004-4/22
R501-16	Intermediate Secure Treatment Programs for Minors	26804	AMD	04/12/2004	2003-24/29



CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Child and Family Services</u>					
R512-3	Procedures for Establishing Policy (5YR EXTENSION)	26774	NSC	03/04/2004	Not Printed
R512-3	Procedures for Establishing Policy (EXPIRED RULE)	27014	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
R527-231	Review and Adjustment of Child Support Order	27006	AMD	05/19/2004	2004-8/71
R527-258	Enforcing Child Support When the Obligor is an Ex-Prisoner or in a Treatment Program	27007	AMD	05/19/2004	2004-8/72
R527-302	Income Withholding Fees	27109	5YR	04/21/2004	2004-10/38
<b>Insurance</b>					
<u>Administration</u>					
R590-86	Filing of Life and Disability Forms and Rates	26978	REP	04/23/2004	2004-6/53
R590-93	Replacement of Life Insurance and Annuities	27121	5YR	04/28/2004	2004-10/38
R590-98	Unfair Practice in Payment of Life Insurance and Annuity Policy Values	27122	5YR	04/28/2004	2004-10/39
R590-102	Insurance Department Fee Payment Rule	26787	AMD	01/08/2004	2003-23/39
R590-102-5	Admitted Insurer Annual License and Annual Service Fees	26882	NSC	02/01/2004	Not Printed
R590-153	Unfair Inducements and Marketing Practices in Obtaining Title Insurance Business	26791	AMD	05/13/2004	2003-23/41
R590-153	Unfair Inducements and Marketing Practices in Obtaining Title Insurance Business	26791	CPR	05/13/2004	2004-7/31
R590-166	Home Protection Service Contract Rule	27126	5YR	04/28/2004	2004-10/39
R590-170	Fiduciary and Trust Account Obligations	26812	NSC	01/01/2004	Not Printed
R590-170	Fiduciary and Trust Account Obligations	26976	5YR	03/01/2004	2004-6/62
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
R590-187	Assessment of Title Insurance Agencies and Title Insurers for Costs Related to Regulation of Title Insurance	26885	NSC	03/01/2004	Not Printed
R590-190	Unfair Property, Liability and Title Claims Settlement Practices Rule	27113	5YR	04/26/2004	2004-10/40
R590-191	Unfair Life Insurance Claims Settlement Practices Rule	27115	5YR	04/26/2004	2004-10/40
R590-195	Rental Car Related Licensing Rule	27011	5YR	03/19/2004	2004-8/97
R590-220	Submission of Accident and Health Insurance Filings	26806	NEW	03/24/2004	2003-24/33
R590-220	Submission of Accident and Health Insurance Filings	26806	CPR	03/24/2004	2004-4/61
R590-225	Submission of Property Casualty Rate and Form Filings	26821	CPR	03/24/2004	2004-4/64
R590-225	Submission of Property and Casualty Rate and Form Filings	26821	NEW	03/24/2004	2003-24/38
R590-226	Submission of Life Insurance Filings	26951	NEW	04/08/2004	2004-5/14
R590-227	Submission of Annuity Filings	26952	NEW	04/08/2004	2004-5/20
R590-228	Submission of Credit Life and Credit Accident and Health Insurance Form and Rate Filings	26950	NEW	04/08/2004	2004-5/25
R590-230	Senior Protection in Annuity Transactions	27083	NEW	06/03/2004	2004-9/14
<b>Labor Commission</b>					
<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

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<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
R616-2-3	Safety Codes and Rules for Boilers and Pressure Vessels	26967	AMD	04/15/2004	2004-6/55
R616-3-3	Safety Codes for Elevators	26966	AMD	04/15/2004	2004-6/56
<b>Lieutenant Governor</b>					
<u>Administration</u>					
R622-2	Use of the Great Seal of the State of Utah	27221	5YR	06/09/2004	Not Printed
<b>Money Management Council</b>					
<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
<b>Natural Resources</b>					
<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>Oil, Gas and Mining: Non-Coal</u>					
R647-1-106	Definitions	27015	AMD	06/01/2004	2004-8/74
R647-6	Inspection and Enforcement: Division Authority and Procedures	27016	NEW	06/01/2004	2004-8/76
R647-7	Inspection and Enforcement: Civil Penalties	27017	NEW	06/01/2004	2004-8/79
R647-8	Inspection and Enforcement: Individual Civil Penalties	27018	NEW	06/01/2004	2004-8/83
<u>Parks and Recreation</u>					
R651-611	Fee Schedule	26776	AMD	01/06/2004	2003-23/52
R651-611	Fee Schedule	26948	AMD	04/01/2004	2004-5/29
R651-633	Special Closures or Restrictions	27139	5YR	05/03/2004	2004-11/91
<u>Forestry, Fire and State Lands</u>					
R652-40-1800	Abandonment	26865	AMD	02/24/2004	2004-2/2
R652-41-1300	Unauthorized Uses	27070	AMD	06/04/2004	2004-9/17
<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>					
R655-11	Requirements for the Design, Construction and Abandonment of Dams	26844	NSC	01/01/2004	Not Printed
R655-13	Stream Alteration	26814	NEW	03/25/2004	2003-24/43
R655-13	Stream Alteration	26984	AMD	05/04/2004	2004-7/16
<u>Wildlife Resources</u>					
R657-5	Taking Big Game	26817	AMD	01/21/2004	2003-24/46

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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
<b>Professional Practices Advisory Commission</b>					
<u>Administration</u>					
R686-103	Professional Practices and Conduct for Utah Educators	27141	5YR	05/05/2004	2004-11/91
<b>Public Safety</b>					
<u>Administration</u>					
R698-4	Certification of the Law Enforcement Agency of a Private College or University	26969	5YR	02/27/2004	2004-6/62
<u>Driver License</u>					
R708-2	Commercial Driver Training Schools	26894	AMD	03/04/2004	2004-3/27
R708-3	Driver License Point System Administration	27142	EMR	05/05/2004	2004-11/88
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
R710-4	Buildings Under the Jurisdiction of the State Fire Prevention Board	27003	AMD	05/05/2004	2004-7/19
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
R710-6-1	Adoption, Title, Purpose and Scope	26938	AMD	04/01/2004	2004-5/32
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
R710-9	Rules Pursuant to the Utah Fire Prevention Law	27002	AMD	05/05/2004	2004-7/23
<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
<b>Public Service Commission</b>					
<u>Administration</u>					
R746-100	Practice and Procedure Governing Formal Hearings	26849	AMD	04/01/2004	2004-1/28
R746-100	Practice and Procedure Governing Formal Hearings	26849	CPR	04/01/2004	2004-5/36
R746-200-6	Termination of Service	26780	AMD	01/07/2004	2003-23/76
R746-348-6	Ancillary Features and Functions	26826	AMD	04/13/2004	2003-24/65
R746-350	Application to Discontinue or Curtail Telecommunications Services	26785	NEW	01/15/2004	2003-23/79

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R746-350	Application to Discontinue Telecommunications Service	26901	NSC	03/01/2004	Not Printed
R746-365	Intercarrier Service Quality	26883	5YR	01/06/2004	2004-3/49
<b>Regents (Board Of)</b>					
<u>Salt Lake Community College</u>					
R784-1	Government Records Access and Management Act Rules	26994	5YR	03/12/2004	2004-7/36
<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
<b>Tax Commission</b>					
<u>Auditing</u>					
R865-7H	Environmental Assurance Fee	26957	5YR	02/25/2004	2004-6/63
<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
<b>Transportation</b>					
<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
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
<b>Workforce Services</b>					
<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

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<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
<b><u>abortion</u></b>					
Health, Health Care Financing, Coverage and Reimbursement Policy	27222	R414-1B	EMR	06/09/2004	Not Printed
<b><u>accelerated learning</u></b>					
Education, Administration	26962	R277-712	5YR	02/26/2004	2004-6/60
<b><u>accountants</u></b>					
Commerce, Occupational and Professional Licensing	26786	R156-26a-303b	AMD	01/06/2004	2003-23/7
	27019	R156-26a-303b	AMD	05/24/2004	2004-8/32
<b><u>accreditation</u></b>					
Education, Administration	26959	R277-413	5YR	02/26/2004	2004-6/58
<b><u>acid rain</u></b>					
Environmental Quality, Air Quality	26941	R307-417	5YR	02/09/2004	2004-5/45
<b><u>administrative law</u></b>					
Human Services, Recovery Services	27007	R527-258	AMD	05/19/2004	2004-8/72
<b><u>administrative procedures</u></b>					
Education, Administration	26958	R277-102	5YR	02/26/2004	2004-6/58
Labor Commission, Adjudication	26772	R602-1	AMD	01/02/2004	2003-23/46
	26773	R602-2-1	AMD	01/02/2004	2003-23/47
Natural Resources, Forestry, Fire and State Lands	27070	R652-41-1300	AMD	06/04/2004	2004-9/17

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>
<b><u>adult education</u></b>					
Education, Administration	26963	R277-734	5YR	02/26/2004	2004-6/60
	27001	R277-734	REP	05/05/2004	2004-7/11
<b><u>advertising</u></b>					
Commerce, Consumer Protection	26945	R152-11	AMD	05/20/2004	2004-5/3
<b><u>air pollution</u></b>					
Environmental Quality, Air Quality	26896	R307-110-12	AMD	05/18/2004	2004-3/12
	26946	R307-110-28	AMD	06/08/2004	2004-5/9
	26898	R307-110-31	AMD	05/18/2004	2004-3/13
	26899	R307-110-34	AMD	05/18/2004	2004-3/14
	26942	R307-150	5YR	02/09/2004	2004-5/43
	26939	R307-214	5YR	02/09/2004	2004-5/44
	27220	R307-215	5YR	06/08/2004	Not Printed
	26897	R307-301	AMD	05/18/2004	2004-3/15
	27217	R307-309	5YR	06/08/2004	Not Printed
	27219	R307-343	5YR	06/08/2004	Not Printed
	26940	R307-415	5YR	02/09/2004	2004-5/45
	27218	R307-420	5YR	06/08/2004	Not Printed
<b><u>air quality</u></b>					
Environmental Quality, Air Quality	26941	R307-417	5YR	02/09/2004	2004-5/45
<b><u>alcoholic beverages</u></b>					
Alcoholic Beverage Control, Administration	27025	R81-1-3	AMD	06/01/2004	2004-8/4
	27027	R81-1-8	AMD	06/01/2004	2004-8/5
	27028	R81-1-21	AMD	06/01/2004	2004-8/6
	27029	R81-1-22	AMD	06/01/2004	2004-8/8
	27030	R81-1-23	AMD	06/01/2004	2004-8/10
	27031	R81-2-1	AMD	06/01/2004	2004-8/11
	27032	R81-2-2	AMD	06/01/2004	2004-8/12
	27033	R81-2-7	AMD	06/01/2004	2004-8/14
	27034	R81-2-8	AMD	06/01/2004	2004-8/14
	27035	R81-2-9	AMD	06/01/2004	2004-8/16
	27036	R81-2-10	AMD	06/01/2004	2004-8/17
	27037	R81-2-11	AMD	06/01/2004	2004-8/18
	27038	R81-3-5	AMD	06/01/2004	2004-8/19
	27039	R81-3-6	AMD	06/01/2004	2004-8/20
	27040	R81-3-14	AMD	06/01/2004	2004-8/22
	27041	R81-3-16	AMD	06/01/2004	2004-8/23
	27042	R81-3-17	AMD	06/01/2004	2004-8/24
	27043	R81-3-18	AMD	06/01/2004	2004-8/25
	27044	R81-3-19	AMD	06/01/2004	2004-8/26
	27045	R81-4D-13	AMD	06/01/2004	2004-8/27
	27046	R81-6-6	AMD	06/01/2004	2004-8/29
	27047	R81-8-2	AMD	06/01/2004	2004-8/30
	27048	R81-8-3	AMD	06/01/2004	2004-8/31

<u>KEYWORD AGENCY</u>	<u>FILE NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE DATE</u>	<u>BULLETIN ISSUE/PAGE</u>
<b><u>alternative dispute resolution</u></b> Commerce, Occupational and Professional Licensing	26915	R156-39a	5YR	01/27/2004	2004-4/75
<b><u>animals</u></b> Health, Epidemiology and Laboratory Services, Laboratory Services	26968	R438-13	5YR	02/27/2004	2004-6/61
<b><u>annuities</u></b> Insurance, Administration	27083	R590-230	NEW	06/03/2004	2004-9/14
<b><u>annuity insurance filings</u></b> Insurance, Administration	26952	R590-227	NEW	04/08/2004	2004-5/20
<b><u>appellate procedures</u></b> 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
<b><u>applied technology education</u></b> Education, Administration	27000	R277-518	AMD	05/05/2004	2004-7/8
<b><u>appraisals</u></b> Tax Commission, Property Tax	26910	R884-24P-24	NSC	01/27/2004	Not Printed
<b><u>arbitration</u></b> Commerce, Occupational and Professional Licensing	26915	R156-39a	5YR	01/27/2004	2004-4/75
<b><u>archaeological resources</u></b> Regents (Board Of), University of Utah, Museum of Natural History (Utah)	26913	R807-1	5YR	01/26/2004	2004-4/77
<b><u>arts</u></b> Education, Administration	26979	R277-444	AMD	04/15/2004	2004-6/4
<b><u>assignment</u></b> Education, Administration	26851	R277-520	R&R	02/05/2004	2004-1/20
<b><u>athletics</u></b> Education, Administration	26852	R277-517	AMD	02/05/2004	2004-1/18
<b><u>automatic fire sprinklers</u></b> Public Safety, Fire Marshal	26900	R710-5	AMD	03/03/2004	2004-3/32
<b><u>bait and switch</u></b> Commerce, Consumer Protection	26945	R152-11	AMD	05/20/2004	2004-5/3
<b><u>bear</u></b> Natural Resources, Wildlife Resources	26867	R657-33	AMD	02/24/2004	2004-2/3
<b><u>bicycles</u></b> Regents (Board Of), University of Utah, Administration	26914	R805-1	5YR	01/27/2004	2004-4/76
<b><u>big game seasons</u></b> Natural Resources, Wildlife Resources	26817	R657-5	AMD	01/21/2004	2003-24/46

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>
<b><u>boilers</u></b>					
Labor Commission, Safety	26967	R616-2-3	AMD	04/15/2004	2004-6/55
	26674	R616-2-3	AMD	01/01/2004	2003-20/25
<b><u>budgeting</u></b>					
Health, Health Care Financing, Coverage and Reimbursement Policy	26781	R414-304	AMD	01/01/2004	2003-23/29
<b><u>building codes</u></b>					
Commerce, Occupational and Professional Licensing	26693	R156-56	AMD	01/01/2004	2003-21/7
	26866	R156-56	NSC	01/01/2004	Not Printed
	26692	R156-56-707	AMD	01/01/2004	2003-21/34
<b><u>building inspection</u></b>					
Commerce, Occupational and Professional Licensing	26693	R156-56	AMD	01/01/2004	2003-21/7
	26866	R156-56	NSC	01/01/2004	Not Printed
	26692	R156-56-707	AMD	01/01/2004	2003-21/34
<b><u>buildings</u></b>					
Administrative Services, Facilities Construction and Management	26991	R23-29	5YR	03/10/2004	2004-7/35
<b><u>buses</u></b>					
Education, Administration	26961	R277-601	5YR	02/26/2004	2004-6/59
<b><u>certification</u></b>					
Labor Commission, Safety	26967	R616-2-3	AMD	04/15/2004	2004-6/55
	26674	R616-2-3	AMD	01/01/2004	2003-20/25
	26966	R616-3-3	AMD	04/15/2004	2004-6/56
<b><u>certified nurse midwife</u></b>					
Commerce, Occupational and Professional Licensing	27224	R156-44a	5YR	06/10/2004	Not Printed
<b><u>child care</u></b>					
Workforce Services, Employment Development	26707	R986-700	AMD	01/01/2004	2003-21/83
	26933	R986-700	AMD	04/01/2004	2004-4/36
<b><u>child care facilities</u></b>					
Health, Health Systems Improvement, Child Care Licensing	26824	R430-2	AMD	04/12/2004	2003-24/25
<b><u>child placing</u></b>					
Human Services, Administration, Administrative Services, Licensing	26904	R501-7	AMD	05/28/2004	2004-4/22
<b><u>child support</u></b>					
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
	27006	R527-231	AMD	05/19/2004	2004-8/71
	27007	R527-258	AMD	05/19/2004	2004-8/72
	27109	R527-302	5YR	04/21/2004	2004-10/38
<b><u>child welfare policy</u></b>					
Human Services, Child and Family Services	26774	R512-3	NSC	03/04/2004	Not Printed



<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>
	27014	R512-3	NSC	03/04/2004	Not Printed
<b><u>children's health benefits</u></b>					
Health, Children's Health Insurance Program	27050	R382-10	AMD	06/01/2004	2004-8/58
	26757	R382-10	AMD	01/05/2004	2003-22/21
<b><u>chiropractic services</u></b>					
Health, Health Care Financing, Coverage and Reimbursement Policy	26809	R414-99	NEW	02/17/2004	2003-24/15
<b><u>coaching certification</u></b>					
Education, Administration	26852	R277-517	AMD	02/05/2004	2004-1/18
<b><u>coal mines</u></b>					
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
<b><u>coatings</u></b>					
Environmental Quality, Air Quality	27219	R307-343	5YR	06/08/2004	Not Printed
<b><u>colleges</u></b>					
Public Safety, Administration	26969	R698-4	5YR	02/27/2004	2004-6/62
<b><u>complaints</u></b>					
Education, Rehabilitation	26872	R280-201	5YR	01/05/2004	2004-3/43
<b><u>consumer protection</u></b>					
Commerce, Consumer Protection	26945	R152-11	AMD	05/20/2004	2004-5/3
<b><u>continuing professional education</u></b>					
Commerce, Occupational and Professional Licensing	27019	R156-26a-303b	AMD	05/24/2004	2004-8/32
	26786	R156-26a-303b	AMD	01/06/2004	2003-23/7
<b><u>contractors</u></b>					
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
	26866	R156-56	NSC	01/01/2004	Not Printed
	26692	R156-56-707	AMD	01/01/2004	2003-21/34
Transportation, Administration	26720	R907-67	NEW	01/05/2004	2003-22/50
<b><u>controlled substances</u></b>					
Commerce, Occupational and Professional Licensing	26916	R156-37c	5YR	01/27/2004	2004-4/74
<b><u>corrections</u></b>					
Corrections, Administration	26769	R251-101	REP	03/24/2004	2003-23/15
<b><u>counselors</u></b>					
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

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>
<b><u>court reporting</u></b> Commerce, Occupational and Professional Licensing	26927	R156-74	5YR	02/02/2004	2004-4/75
<b><u>covered-at-work benefits</u></b> Health, Health Care Financing, Coverage and Reimbursement Policy	26811	R414-300	NEW	02/10/2004	2003-24/17
<b><u>credit insurance filings</u></b> Insurance, Administration	26950	R590-228	NEW	04/08/2004	2004-5/25
<b><u>criminal records</u></b> Public Safety, Criminal Investigations and Technical Services, Criminal Identification	26858	R722-900	NSC	01/15/2004	Not Printed
	26895	R722-900	5YR	01/15/2004	2004-3/48
<b><u>curation</u></b> Regents (Board Of), University of Utah, Museum of Natural History (Utah)	26913	R807-1	5YR	01/26/2004	2004-4/77
<b><u>curricula</u></b> Education, Administration	26979	R277-444	AMD	04/15/2004	2004-6/4
	26902	R277-700	AMD	03/03/2004	2004-3/10
<b><u>custody</u></b> Education, Administration	26870	R277-735	5YR	01/05/2004	2004-3/43
<b><u>custody of children</u></b> Human Services, Administration	26822	R495-879	AMD	01/26/2004	2003-24/27
<b><u>dams</u></b> Natural Resources, Water Rights	26844	R655-11	NSC	01/01/2004	Not Printed
<b><u>data standards</u></b> Education, Administration	26688	R277-484	NSC	01/01/2004	Not Printed
<b><u>deadlines</u></b> Education, Administration	26688	R277-484	NSC	01/01/2004	Not Printed
<b><u>definitions</u></b> Environmental Quality, Drinking Water	26970	R309-110	AMD	04/21/2004	2004-6/13
Workforce Services, Workforce Information and Payment Services	26928	R994-201	AMD	04/04/2004	2004-4/42
<b><u>delegation</u></b> Administrative Services, Facilities Construction and Management	26991	R23-29	5YR	03/10/2004	2004-7/35
<b><u>demonstration</u></b> Health, Health Care Financing, Coverage and Reimbursement Policy	26810	R414-310	AMD	02/10/2004	2003-24/18
<b><u>dental</u></b> Health, Health Care Financing, Coverage and Reimbursement Policy	26782	R414-51	AMD	01/28/2004	2003-23/25
<b><u>disabled persons</u></b> Education, Rehabilitation	26872	R280-201	5YR	01/05/2004	2004-3/43
	26873	R280-202	5YR	01/05/2004	2004-3/44

<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>
<b><u>discharge permits</u></b> Environmental Quality, Water Quality	26903	R317-8	AMD	03/30/2004	2004-3/19
<b><u>disciplinary actions</u></b> Education, Administration	26981	R277-514	AMD	04/15/2004	2004-6/10
	27141	R686-103	5YR	05/05/2004	2004-11/91
<b><u>disease control</u></b> Agriculture and Food, Animal Industry	26891	R58-21	AMD	03/04/2004	2004-3/4
<b><u>diversion programs</u></b> Commerce, Occupational and Professional Licensing	26678	R156-1	NSC	01/01/2004	Not Printed
	26805	R156-1-106	AMD	01/20/2004	2003-24/4
<b><u>domestic violence policy</u></b> Human Services, Child and Family Services	26774	R512-3	NSC	03/04/2004	Not Printed
	27014	R512-3	NSC	03/04/2004	Not Printed
<b><u>drinking water</u></b> Environmental Quality, Drinking Water	26970	R309-110	AMD	04/21/2004	2004-6/13
	26971	R309-204	AMD	04/21/2004	2004-6/23
<b><u>driver education</u></b> Public Safety, Driver License	26894	R708-2	AMD	03/04/2004	2004-3/27
<b><u>dual enrollment</u></b> Education, Administration	27205	R277-438	5YR	06/01/2004	2004-12/80
<b><u>dust</u></b> Environmental Quality, Air Quality	27220	R307-215	5YR	06/08/2004	Not Printed
	27217	R307-309	5YR	06/08/2004	Not Printed
<b><u>earthquakes</u></b> Natural Resources, Water Rights	26844	R655-11	NSC	01/01/2004	Not Printed
<b><u>education</u></b> Commerce, Consumer Protection	26905	R152-34	AMD	05/20/2004	2004-4/2
<b><u>education finance</u></b> Education, Administration	26960	R277-425	5YR	02/26/2004	2004-6/59
<b><u>educational program evaluations</u></b> Education, Administration	26980	R277-501	AMD	04/15/2004	2004-6/5
<b><u>educational testing</u></b> Education, Administration	26962	R277-712	5YR	02/26/2004	2004-6/60
<b><u>educator</u></b> Education, Administration	26851	R277-520	R&R	02/05/2004	2004-1/20
<b><u>educator license</u></b> Education, Administration	26981	R277-514	AMD	04/15/2004	2004-6/10
<b><u>educator license renewal</u></b> Education, Administration	26980	R277-501	AMD	04/15/2004	2004-6/5

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>
<b><u>educator licensing</u></b>					
Education, Administration	26827	R277-502	AMD	01/15/2004	2003-24/6
	27000	R277-518	AMD	05/05/2004	2004-7/8
<b><u>educators</u></b>					
Professional Practices Advisory Commission, Administration	27141	R686-103	5YR	05/05/2004	2004-11/91
<b><u>effluent standards</u></b>					
Environmental Quality, Water Quality	26796	R317-1	AMD	03/29/2004	2003-23/16
<b><u>electronic high school</u></b>					
Education, Administration	26982	R277-725	NEW	04/15/2004	2004-6/12
<b><u>elevators</u></b>					
Labor Commission, Safety	26966	R616-3-3	AMD	04/15/2004	2004-6/56
<b><u>emergency medical services</u></b>					
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
<b><u>emission fees</u></b>					
Environmental Quality, Air Quality	26940	R307-415	5YR	02/09/2004	2004-5/45
<b><u>employment support procedures</u></b>					
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
<b><u>engineers</u></b>					
Commerce, Occupational and Professional Licensing	26859	R156-22-503	NSC	01/01/2004	Not Printed
<b><u>enrollment options</u></b>					
Education, Administration	26871	R277-437	5YR	01/05/2004	2004-3/42
<b><u>environment</u></b>					
Tax Commission, Auditing	26957	R865-7H	5YR	02/25/2004	2004-6/63
<b><u>environmental protection</u></b>					
Environmental Quality, Air Quality	26896	R307-110-12	CPR	05/18/2004	2004-8/87
	26898	R307-110-31	CPR	05/18/2004	2004-8/87
	26899	R307-110-34	CPR	05/18/2004	2004-8/88
	26940	R307-415	5YR	02/09/2004	2004-5/45
<b><u>exiting provider</u></b>					
Public Service Commission, Administration	26901	R746-350	NSC	03/01/2004	Not Printed
<b><u>exiting providers</u></b>					
Public Service Commission, Administration	26785	R746-350	NEW	01/15/2004	2003-23/79
<b><u>eyeglasses</u></b>					
Health, Health Care Financing, Coverage and Reimbursement Policy	26783	R414-53	AMD	01/28/2004	2003-23/28

<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>
<b><u>facilities</u></b> Education, Administration	26829	R277-724	NEW	01/15/2004	2003-24/11
<b><u>facility</u></b> Health, Health Care Financing, Coverage and Reimbursement Policy	26854	R414-9	NEW	02/03/2004	2004-1/26
<b><u>family employment program</u></b> Workforce Services, Employment Development	26704	R986-200	AMD	02/02/2004	2003-21/77
	26934	R986-200	AMD	04/01/2004	2004-4/35
<b><u>fees</u></b> Natural Resources, Parks and Recreation	26948	R651-611	AMD	04/01/2004	2004-5/29
	26776	R651-611	AMD	01/06/2004	2003-23/52
<b><u>filing deadlines</u></b> Labor Commission, Adjudication	26772	R602-1	AMD	01/02/2004	2003-23/46
<b><u>financial assistance</u></b> Environmental Quality, Drinking Water	26760	R309-705	AMD	01/01/2004	2003-22/19
<b><u>financial disclosures</u></b> Health, Health Care Financing, Coverage and Reimbursement Policy	26781	R414-304	AMD	01/01/2004	2003-23/29
<b><u>fire prevention</u></b> Public Safety, Fire Marshal	26920	R710-4	EMR	01/28/2004	2004-4/66
	26793	R710-4	AMD	01/02/2004	2003-23/67
	27003	R710-4	AMD	05/05/2004	2004-7/19
	27002	R710-9	AMD	05/05/2004	2004-7/23
	26919	R710-9	EMR	01/28/2004	2004-4/70
	26788	R710-9	AMD	01/02/2004	2003-23/72
<b><u>fireworks</u></b> Public Safety, Fire Marshal	26795	R710-2	AMD	01/02/2004	2003-23/65
<b><u>fish</u></b> Natural Resources, Wildlife Resources	26659	R657-13	AMD	01/02/2004	2003-20/28
<b><u>fishing</u></b> Natural Resources, Wildlife Resources	26659	R657-13	AMD	01/02/2004	2003-20/28
<b><u>floods</u></b> Natural Resources, Water Rights	26844	R655-11	NSC	01/01/2004	Not Printed
<b><u>food inspection</u></b> Agriculture and Food, Regulatory Services	27069	R70-330	AMD	06/02/2004	2004-9/4
<b><u>food programs</u></b> Education, Administration	26829	R277-724	NEW	01/15/2004	2003-24/11
<b><u>food services</u></b> Health, Epidemiology and Laboratory Services, Environmental Services	27187	R392-101	5YR	05/24/2004	2004-12/81

RULES INDEX

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>freedom of religion</u></b> Education, Administration	27214	R277-105	5YR	06/01/2004	2004-12/80
<b><u>game laws</u></b> 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
<b><u>general assistance</u></b> Workforce Services, Employment Development	26706	R986-400	AMD	01/01/2004	2003-21/81
<b><u>geology</u></b> Commerce, Occupational and Professional Licensing	26777	R156-76-102	AMD	01/20/2004	2003-23/14
<b><u>gifted children</u></b> Education, Administration	26962	R277-712	5YR	02/26/2004	2004-6/60
<b><u>government hearings</u></b> Public Service Commission, Administration	26849	R746-100	CPR	04/01/2004	2004-5/36
	26849	R746-100	AMD	04/01/2004	2004-1/28
<b><u>GRAMA</u></b> Regents (Board Of), Salt Lake Community College	26994	R784-1	5YR	03/12/2004	2004-7/36
<b><u>hazardous air pollutant</u></b> Environmental Quality, Air Quality	26939	R307-214	5YR	02/09/2004	2004-5/44
<b><u>health</u></b> 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
<b><u>health care facilities</u></b> Health, Health Systems Improvement, Licensing	26825	R432-2-11	AMD	04/12/2004	2003-24/26
<b><u>health facilities</u></b> 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
	26993	R432-150-6	AMD	05/26/2004	2004-7/13
	26992	R432-270-29b	AMD	05/26/2004	2004-7/15
<b><u>health facility</u></b> Health, Health Systems Improvement, Licensing	26877	R432-5	5YR	01/05/2004	2004-3/46
<b><u>health facilities</u></b> Health, Health Systems Improvement, Licensing	26869	R432-4	5YR	01/05/2004	2004-3/46
<b><u>health insurance filings</u></b> 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>
	26806	R590-220	NEW	03/24/2004	2003-24/33
<b><u>health planning</u></b>					
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
<b><u>hearings</u></b>					
Labor Commission, Adjudication	26773	R602-2-1	AMD	01/02/2004	2003-23/47
<b><u>highways</u></b>					
Transportation, Administration	26720	R907-67	NEW	01/05/2004	2003-22/50
<b><u>hospital</u></b>					
Health, Health Care Financing, Coverage and Reimbursement Policy	27222	R414-1B	EMR	06/09/2004	Not Printed
<b><u>hospital policy</u></b>					
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
<b><u>human services</u></b>					
Human Services, Administration, Administrative Services, Licensing	26925	R501-2	AMD	03/17/2004	2004-4/16
	26904	R501-7	AMD	05/28/2004	2004-4/22
	26804	R501-16	AMD	04/12/2004	2003-24/29
<b><u>hunting</u></b>					
Natural Resources, Wildlife Resources	26819	R657-38	AMD	01/21/2004	2003-24/56
<b><u>hunting and fishing licenses</u></b>					
Natural Resources, Wildlife Resources	26818	R657-17-4	AMD	01/21/2004	2003-24/55
<b><u>implements of husbandry</u></b>					
Transportation, Motor Carrier	26823	R909-1	AMD	03/01/2004	2003-24/66
<b><u>income</u></b>					
Health, Health Care Financing, Coverage and Reimbursement Policy	26781	R414-304	AMD	01/01/2004	2003-23/29
<b><u>income withholding fees</u></b>					
Human Services, Recovery Services	27109	R527-302	5YR	04/21/2004	2004-10/38
<b><u>industrial waste</u></b>					
Environmental Quality, Water Quality	26796	R317-1	AMD	03/29/2004	2003-23/16
<b><u>informal review</u></b>					
Public Service Commission, Administration	26780	R746-200-6	AMD	01/07/2004	2003-23/76
<b><u>inmates</u></b>					
Education, Administration	26870	R277-735	5YR	01/05/2004	2004-3/43
<b><u>inspections</u></b>					
Agriculture and Food, Animal Industry	26990	R58-20	5YR	03/05/2004	2004-7/35
<b><u>inspections</u></b>					
Agriculture and Food, Animal Industry	26989	R58-20-5	AMD	05/04/2004	2004-7/3
Agriculture and Food, Plant Industry	26794	R68-7-6	NSC	01/01/2004	Not Printed

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>
	26949	R68-20-1	AMD	04/01/2004	2004-5/2
<b><u>instructional materials</u></b>					
Education, Administration	26999	R277-469	AMD	05/05/2004	2004-7/5
<b><u>insurance</u></b>					
Insurance, Administration	26787	R590-102	AMD	01/08/2004	2003-23/39
	26882	R590-102-5	NSC	02/01/2004	Not Printed
	27126	R590-166	5YR	04/28/2004	2004-10/39
	26976	R590-170	5YR	03/01/2004	2004-6/62
	26812	R590-170	NSC	01/01/2004	Not Printed
	27083	R590-230	NEW	06/03/2004	2004-9/14
<b><u>insurance law</u></b>					
Insurance, Administration	26978	R590-86	REP	04/23/2004	2004-6/53
	27121	R590-93	5YR	04/28/2004	2004-10/38
	27122	R590-98	5YR	04/28/2004	2004-10/39
	27113	R590-190	5YR	04/26/2004	2004-10/40
	27115	R590-191	5YR	04/26/2004	2004-10/40
<b><u>insurance licensing</u></b>					
Insurance, Administration	27011	R590-195	5YR	03/19/2004	2004-8/97
<b><u>interconnection</u></b>					
Public Service Commission, Administration	26826	R746-348-6	AMD	04/13/2004	2003-24/65
	26883	R746-365	5YR	01/06/2004	2004-3/49
<b><u>interstate highway system</u></b>					
Transportation, Administration	26878	R907-64	5YR	01/05/2004	2004-3/49
	26879	R907-65	5YR	01/05/2004	2004-3/50
<b><u>inventories</u></b>					
Environmental Quality, Air Quality	26942	R307-150	5YR	02/09/2004	2004-5/43
<b><u>investment advisers</u></b>					
Money Management Council, Administration	26676	R628-19	CPR	02/10/2004	2004-1/38
	26676	R628-19	NEW	02/10/2004	2003-20/27
<b><u>jurisdiction</u></b>					
Workforce Services, Workforce Information and Payment Services	26924	R994-406	AMD	04/04/2004	2004-4/45
<b><u>laboratories</u></b>					
Health, Epidemiology and Laboratory Services, Laboratory Services	26968	R438-13	5YR	02/27/2004	2004-6/61
<b><u>laboratory animals</u></b>					
Health, Epidemiology and Laboratory Services, Laboratory Services	26968	R438-13	5YR	02/27/2004	2004-6/61
<b><u>law</u></b>					
Public Safety, Fire Marshal	26788	R710-9	AMD	01/02/2004	2003-23/72
	27002	R710-9	AMD	05/05/2004	2004-7/23
	26919	R710-9	EMR	01/28/2004	2004-4/70



<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>
<b><u>law enforcement officer certification</u></b> Public Safety, Administration	26969	R698-4	5YR	02/27/2004	2004-6/62
<b><u>license</u></b> Education, Administration	26851	R277-520	R&R	02/05/2004	2004-1/20
<b><u>licensing</u></b> Commerce, Occupational and Professional Licensing	26678	R156-1	NSC	01/01/2004	Not Printed
	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	CPR	02/19/2004	2004-2/10
	26754	R156-17a-612	AMD	02/19/2004	2003-22/11
	27019	R156-26a-303b	AMD	05/24/2004	2004-8/32
	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
	27224	R156-44a	5YR	06/10/2004	Not Printed
	26937	R156-47b	AMD	06/07/2004	2004-5/5
	26580	R156-54-302b	CPR	01/20/2004	2003-24/70
	26580	R156-54-302b	AMD	01/20/2004	2003-18/4
	26866	R156-56	NSC	01/01/2004	Not Printed
	26693	R156-56	AMD	01/01/2004	2003-21/7
	26692	R156-56-707	AMD	01/01/2004	2003-21/34
	27225	R156-61	5YR	06/10/2004	Not Printed
	26888	R156-63	AMD	03/04/2004	2004-3/5
	26956	R156-68	AMD	04/15/2004	2004-6/2
	26998	R156-71-202	AMD	05/04/2004	2004-7/3
	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
	26904	R501-7	AMD	05/28/2004	2004-4/22
	26804	R501-16	AMD	04/12/2004	2003-24/29
<b><u>liens</u></b> Commerce, Occupational and Professional Licensing	26834	R156-38	AMD	02/03/2004	2004-1/5
<b><u>life insurance filings</u></b> Insurance, Administration	26951	R590-226	NEW	04/08/2004	2004-5/14
<b><u>liquefied petroleum gas</u></b> Public Safety, Fire Marshal	26801	R710-6	AMD	01/16/2004	2003-24/63
	26938	R710-6-1	AMD	04/01/2004	2004-5/32
<b><u>loans</u></b> Environmental Quality, Drinking Water	26760	R309-705	AMD	01/01/2004	2003-22/19
<b><u>Lt. Governor</u></b> Lieutenant Governor, Administration	27221	R622-2	5YR	06/09/2004	Not Printed

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>
<b><u>MACT</u></b> Environmental Quality, Air Quality	26939	R307-214	5YR	02/09/2004	2004-5/44
<b><u>management</u></b> Natural Resources, Forestry, Fire and State Lands	27070	R652-41-1300	AMD	06/04/2004	2004-9/17
<b><u>massage therapy</u></b> Commerce, Occupational and Professional Licensing	26937	R156-47b	AMD	06/07/2004	2004-5/5
<b><u>mediation</u></b> Commerce, Occupational and Professional Licensing	26915	R156-39a	5YR	01/27/2004	2004-4/75
<b><u>Medicaid</u></b> Health, Health Care Financing, Coverage and Reimbursement Policy	26955	R414-1-5	AMD	05/19/2004	2004-6/47
	27023	R414-1A	AMD	05/25/2004	2004-8/68
	27222	R414-1B	EMR	06/09/2004	Not Printed
	26854	R414-9	NEW	02/03/2004	2004-1/26
	26964	R414-49	AMD	05/07/2004	2004-6/48
	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	2004-8/94
	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
	26965	R414-305-3	AMD	05/07/2004	2004-6/50
	26810	R414-310	AMD	02/10/2004	2003-24/18
<b><u>midwifery</u></b> Commerce, Occupational and Professional Licensing	27224	R156-44a	5YR	06/10/2004	Not Printed
<b><u>minerals reclamation</u></b> Natural Resources, Oil, Gas and Mining; Non-Coal	27015	R647-1-106	AMD	06/01/2004	2004-8/74
	27016	R647-6	NEW	06/01/2004	2004-8/76
	27017	R647-7	NEW	06/01/2004	2004-8/79
	27018	R647-8	NEW	06/01/2004	2004-8/83
<b><u>motorcycle rider training schools</u></b> Public Safety, Driver License	26918	R708-30	5YR	01/27/2004	2004-4/76
<b><u>natural resources</u></b> Natural Resources, Forestry, Fire and State Lands	27070	R652-41-1300	AMD	06/04/2004	2004-9/17
<b><u>natural resources; management; surveys</u></b> Natural Resources, Forestry, Fire and State Lands	26865	R652-40-1800	AMD	02/24/2004	2004-2/2

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b><u>naturopathic physician</u></b> Commerce, Occupational and Professional Licensing	26998	R156-71-202	AMD	05/04/2004	2004-7/3
<b><u>naturopaths</u></b> Commerce, Occupational and Professional Licensing	26998	R156-71-202	AMD	05/04/2004	2004-7/3
<b><u>NCLB</u></b> Education, Administration	26853	R277-524	NEW	02/05/2004	2004-1/25
<b><u>network interconnection</u></b> Public Service Commission, Administration	26826	R746-348-6	AMD	04/13/2004	2003-24/65
<b><u>nutrition</u></b> Education, Administration	26830	R277-720	AMD	01/15/2004	2003-24/10
<b><u>occupational licensing</u></b> Commerce, Occupational and Professional Licensing	26678	R156-1	NSC	01/01/2004	Not Printed
	26805	R156-1-106	AMD	01/20/2004	2003-24/4
<b><u>offset</u></b> Environmental Quality, Air Quality	27218	R307-420	5YR	06/08/2004	Not Printed
<b><u>operating permits</u></b> Environmental Quality, Air Quality	26940	R307-415	5YR	02/09/2004	2004-5/45
	26941	R307-417	5YR	02/09/2004	2004-5/45
<b><u>optometry</u></b> Health, Health Care Financing, Coverage and Reimbursement Policy	26798	R414-52	AMD	01/01/2004	2003-23/27
<b><u>organ transplants</u></b> Health, Health Care Financing, Coverage and Reimbursement Policy	26935	R414-58	5YR	02/03/2004	2004-5/46
<b><u>orthodontia</u></b> Health, Health Care Financing, Coverage and Reimbursement Policy	26782	R414-51	AMD	01/28/2004	2003-23/25
<b><u>osteopathic physician</u></b> Commerce, Occupational and Professional Licensing	26956	R156-68	AMD	04/15/2004	2004-6/2
<b><u>osteopaths</u></b> Commerce, Occupational and Professional Licensing	26956	R156-68	AMD	04/15/2004	2004-6/2
<b><u>overpayments</u></b> Workforce Services, Workforce Information and Payment Services	26924	R994-406	AMD	04/04/2004	2004-4/45
<b><u>ozone</u></b> Environmental Quality, Air Quality	26896	R307-110-12	CPR	05/18/2004	2004-8/87
	26896	R307-110-12	AMD	05/18/2004	2004-3/12
	26946	R307-110-28	AMD	06/08/2004	2004-5/9
	26898	R307-110-31	CPR	05/18/2004	2004-8/87
	26898	R307-110-31	AMD	05/18/2004	2004-3/13
	26899	R307-110-34	CPR	05/18/2004	2004-8/88

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>
	26899	R307-110-34	AMD	05/18/2004	2004-3/14
	26897	R307-301	AMD	05/18/2004	2004-3/15
	27219	R307-343	5YR	06/08/2004	Not Printed
	27218	R307-420	5YR	06/08/2004	Not Printed
<b><u>paleontological resources</u></b> Regents (Board Of), University of Utah, Museum of Natural History (Utah)	26913	R807-1	5YR	01/26/2004	2004-4/77
<b><u>paraprofessional qualifications</u></b> Education, Administration	26853	R277-524	NEW	02/05/2004	2004-1/25
<b><u>parks</u></b> Natural Resources, Parks and Recreation	26776	R651-611	AMD	01/06/2004	2003-23/52
	26948	R651-611	AMD	04/01/2004	2004-5/29
	27139	R651-633	5YR	05/03/2004	2004-11/91
<b><u>particulate matter</u></b> Environmental Quality, Air Quality	26896	R307-110-12	CPR	05/18/2004	2004-8/87
	26896	R307-110-12	AMD	05/18/2004	2004-3/12
	26946	R307-110-28	AMD	06/08/2004	2004-5/9
	26898	R307-110-31	CPR	05/18/2004	2004-8/87
	26898	R307-110-31	AMD	05/18/2004	2004-3/13
	26899	R307-110-34	CPR	05/18/2004	2004-8/88
	26899	R307-110-34	AMD	05/18/2004	2004-3/14
	26897	R307-301	AMD	05/18/2004	2004-3/15
<b><u>pedestrians</u></b> Regents (Board Of), University of Utah, Administration	26914	R805-1	5YR	01/27/2004	2004-4/76
<b><u>peer review</u></b> Commerce, Occupational and Professional Licensing	26786	R156-26a-303b	AMD	01/06/2004	2003-23/7
	27019	R156-26a-303b	AMD	05/24/2004	2004-8/32
<b><u>permits</u></b> 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
<b><u>permitting authority</u></b> Environmental Quality, Air Quality	26941	R307-417	5YR	02/09/2004	2004-5/45
<b><u>personal property</u></b> Tax Commission, Property Tax	26910	R884-24P-24	NSC	01/27/2004	Not Printed
<b><u>pharmacies</u></b> Commerce, Occupational and Professional Licensing	26754	R156-17a-612	AMD	02/19/2004	2003-22/11
	26754	R156-17a-612	CPR	02/19/2004	2004-2/10
<b><u>pharmacists</u></b> 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>KEYWORD AGENCY</u>	<u>FILE NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE DATE</u>	<u>BULLETIN ISSUE/PAGE</u>
<b><u>physician</u></b> Health, Health Care Financing, Coverage and Reimbursement Policy	27222	R414-1B	EMR	06/09/2004	Not Printed
<b><u>podiatric physician</u></b> Commerce, Occupational and Professional Licensing	26917	R156-5a	5YR	01/27/2004	2004-4/74
<b><u>podiatrists</u></b> Commerce, Occupational and Professional Licensing	26917	R156-5a	5YR	01/27/2004	2004-4/74
<b><u>point-system</u></b> Public Safety, Driver License	27142	R708-3	EMR	05/05/2004	2004-11/88
<b><u>postsecondary school</u></b> Commerce, Consumer Protection	26905	R152-34	AMD	05/20/2004	2004-4/2
<b><u>precursor</u></b> Commerce, Occupational and Professional Licensing	26916	R156-37c	5YR	01/27/2004	2004-4/74
<b><u>primary care</u></b> Health, Health Care Financing, Coverage and Reimbursement Policy	26810	R414-310	AMD	02/10/2004	2003-24/18
<b><u>primary care network</u></b> Health, Health Care Financing, Coverage and Reimbursement Policy	26811	R414-300	NEW	02/10/2004	2003-24/17
<b><u>private security officers</u></b> Commerce, Occupational and Professional Licensing	26888	R156-63	AMD	03/04/2004	2004-3/5
<b><u>professional competency</u></b> Education, Administration	26827	R277-502	AMD	01/15/2004	2003-24/6
	26981	R277-514	AMD	04/15/2004	2004-6/10
<b><u>professional education</u></b> Education, Administration	27000	R277-518	AMD	05/05/2004	2004-7/8
<b><u>professional engineers</u></b> Commerce, Occupational and Professional Licensing	26859	R156-22-503	NSC	01/01/2004	Not Printed
<b><u>professional geologists</u></b> Commerce, Occupational and Professional Licensing	26777	R156-76-102	AMD	01/20/2004	2003-23/14
<b><u>professional land surveyors</u></b> Commerce, Occupational and Professional Licensing	26859	R156-22-503	NSC	01/01/2004	Not Printed
<b><u>professional staff</u></b> Education, Administration	26828	R277-486	NEW	01/15/2004	2003-24/5
<b><u>property casualty insurance filing</u></b> Insurance, Administration	26821	R590-225	CPR	03/24/2004	2004-4/64
	26821	R590-225	NEW	03/24/2004	2003-24/38
<b><u>property tax</u></b> Tax Commission, Property Tax	26910	R884-24P-24	NSC	01/27/2004	Not Printed

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>
<b><u>prosecution</u></b> Workforce Services, Workforce Information and Payment Services	26923	R994-104	REP	04/04/2004	2004-4/41
<b><u>psychologists</u></b> Commerce, Occupational and Professional Licensing	27225	R156-61	5YR	06/10/2004	Not Printed
<b><u>public buildings</u></b> Public Safety, Fire Marshal	27003	R710-4	AMD	05/05/2004	2004-7/19
	26920	R710-4	EMR	01/28/2004	2004-4/66
	26793	R710-4	AMD	01/02/2004	2003-23/67
<b><u>public education</u></b> Education, Administration	27214	R277-105	5YR	06/01/2004	2004-12/80
	26871	R277-437	5YR	01/05/2004	2004-3/42
	27205	R277-438	5YR	06/01/2004	2004-12/80
	26850	R277-462	AMD	02/05/2004	2004-1/16
	26870	R277-735	5YR	01/05/2004	2004-3/43
<b><u>public funds</u></b> Money Management Council, Administration	26676	R628-19	CPR	02/10/2004	2004-1/38
	26676	R628-19	NEW	02/10/2004	2003-20/27
<b><u>public health</u></b> Health, Epidemiology and Laboratory Services, Environmental Services	27187	R392-101	5YR	05/24/2004	2004-12/81
<b><u>public input in policy</u></b> Human Services, Child and Family Services	27014	R512-3	NSC	03/04/2004	Not Printed
	26774	R512-3	NSC	03/04/2004	Not Printed
<b><u>public schools</u></b> Education, Administration	27212	R277-916	5YR	06/01/2004	2004-12/81
<b><u>public utilities</u></b> Public Service Commission, Administration	26849	R746-100	CPR	04/01/2004	2004-5/36
	26849	R746-100	AMD	04/01/2004	2004-1/28
	26883	R746-365	5YR	01/06/2004	2004-3/49
<b><u>radiology practical technician</u></b> Commerce, Occupational and Professional Licensing	26580	R156-54-302b	AMD	01/20/2004	2003-18/4
<b><u>radiology practical technicians</u></b> Commerce, Occupational and Professional Licensing	26580	R156-54-302b	CPR	01/20/2004	2003-24/70
<b><u>radiology technologist</u></b> Commerce, Occupational and Professional Licensing	26580	R156-54-302b	AMD	01/20/2004	2003-18/4
<b><u>radiology technologists</u></b> Commerce, Occupational and Professional Licensing	26580	R156-54-302b	CPR	01/20/2004	2003-24/70

<u>KEYWORD AGENCY</u>	<u>FILE NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE DATE</u>	<u>BULLETIN ISSUE/PAGE</u>
<b><u>rates</u></b> Labor Commission, Industrial Accidents	26697	R612-4-2	AMD	01/01/2004	2003-21/64
<b><u>real estate appraisals</u></b> Commerce, Real Estate	26890	R162-105	5YR	01/13/2004	2004-3/42
<b><u>real estate brokers</u></b> Commerce, Real Estate	26835	R162-7-3	AMD	02/18/2004	2004-1/9
<b><u>real estate business</u></b> Commerce, Real Estate	27026	R162-3	AMD	05/20/2004	2004-8/44
	26944	R162-6-2	AMD	04/21/2004	2004-5/6
<b><u>reclamation</u></b> 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
<b><u>recreation</u></b> Natural Resources, Wildlife Resources	26819	R657-38	AMD	01/21/2004	2003-24/56
<b><u>registration</u></b> Commerce, Consumer Protection	26905	R152-34	AMD	05/20/2004	2004-4/2
<b><u>rehabilitation</u></b> Education, Rehabilitation	26873	R280-202	5YR	01/05/2004	2004-3/44
<b><u>reimbursement</u></b> Health, Health Care Financing, Coverage and Reimbursement Policy	26854	R414-9	NEW	02/03/2004	2004-1/26
<b><u>replacement provider</u></b> Public Service Commission, Administration	26901	R746-350	NSC	03/01/2004	Not Printed
<b><u>replacement providers</u></b> Public Service Commission, Administration	26785	R746-350	NEW	01/15/2004	2003-23/79
<b><u>reports</u></b> Education, Administration	26688	R277-484	NSC	01/01/2004	Not Printed
Environmental Quality, Air Quality	26942	R307-150	5YR	02/09/2004	2004-5/43
<b><u>reservoirs</u></b> Natural Resources, Water Rights	26844	R655-11	NSC	01/01/2004	Not Printed
<b><u>residential mortgage loan origination</u></b> Commerce, Real Estate	26837	R162-202	AMD	02/03/2004	2004-1/10
	26909	R162-203	AMD	04/12/2004	2004-4/7
	26908	R162-204	AMD	04/12/2004	2004-4/8
	26907	R162-205	AMD	04/12/2004	2004-4/9
	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
	26906	R162-209	AMD	04/12/2004	2004-4/10

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>
<b><u>rights-of-way</u></b>					
Transportation, Administration	26878	R907-64	5YR	01/05/2004	2004-3/49
	26879	R907-65	5YR	01/05/2004	2004-3/50
<b><u>rules and procedures</u></b>					
Education, Administration	26958	R277-102	5YR	02/26/2004	2004-6/58
Public Safety, Driver License	26894	R708-2	AMD	03/04/2004	2004-3/27
Public Service Commission, Administration	26849	R746-100	CPR	04/01/2004	2004-5/36
	26849	R746-100	AMD	04/01/2004	2004-1/28
	26780	R746-200-6	AMD	01/07/2004	2003-23/76
<b><u>safety</u></b>					
Labor Commission, Safety	26967	R616-2-3	AMD	04/15/2004	2004-6/55
	26674	R616-2-3	AMD	01/01/2004	2003-20/25
	26966	R616-3-3	AMD	04/15/2004	2004-6/56
Transportation, Motor Carrier	26880	R909-3	5YR	01/05/2004	2004-3/50
<b><u>school</u></b>					
Education, Administration	26961	R277-601	5YR	02/26/2004	2004-6/59
<b><u>school buses</u></b>					
Transportation, Motor Carrier	26880	R909-3	5YR	01/05/2004	2004-3/50
<b><u>school lunch program</u></b>					
Education, Administration	26830	R277-720	AMD	01/15/2004	2003-24/10
<b><u>school transportation</u></b>					
Education, Administration	26961	R277-601	5YR	02/26/2004	2004-6/59
<b><u>schools</u></b>					
Public Safety, Driver License	26894	R708-2	AMD	03/04/2004	2004-3/27
<b><u>science</u></b>					
Education, Administration	26979	R277-444	AMD	04/15/2004	2004-6/4
<b><u>SDWA</u></b>					
Environmental Quality, Drinking Water	26760	R309-705	AMD	01/01/2004	2003-22/19
<b><u>Seal</u></b>					
Lieutenant Governor, Administration	27221	R622-2	5YR	06/09/2004	Not Printed
<b><u>securities</u></b>					
Money Management Council, Administration	26676	R628-19	CPR	02/10/2004	2004-1/38
	26676	R628-19	NEW	02/10/2004	2003-20/27
<b><u>securities regulation</u></b>					
Commerce, Securities	26481	R164-11-2	AMD	01/05/2004	2003-15/17
	26481	R164-11-2	CPR	01/05/2004	2003-23/83
<b><u>security guards</u></b>					
Commerce, Occupational and Professional Licensing	26888	R156-63	AMD	03/04/2004	2004-3/5



<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>
<b><u>senior protection</u></b>					
Insurance, Administration	27083	R590-230	NEW	06/03/2004	2004-9/14
<b><u>services</u></b>					
Public Service Commission, Administration	26901	R746-350	NSC	03/01/2004	Not Printed
	26785	R746-350	NEW	01/15/2004	2003-23/79
<b><u>settlement</u></b>					
Labor Commission, Adjudication	26773	R602-2-1	AMD	01/02/2004	2003-23/47
<b><u>shorthand reporter</u></b>					
Commerce, Occupational and Professional Licensing	26927	R156-74	5YR	02/02/2004	2004-4/75
<b><u>signs</u></b>					
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
<b><u>SLCC</u></b>					
Regents (Board Of), Salt Lake Community College	26994	R784-1	5YR	03/12/2004	2004-7/36
<b><u>small business assistance program</u></b>					
Environmental Quality, Air Quality	26896	R307-110-12	AMD	05/18/2004	2004-3/12
	26896	R307-110-12	CPR	05/18/2004	2004-8/87
	26898	R307-110-31	CPR	05/18/2004	2004-8/87
	26898	R307-110-31	AMD	05/18/2004	2004-3/13
	26899	R307-110-34	CPR	05/18/2004	2004-8/88
	26899	R307-110-34	AMD	05/18/2004	2004-3/14
	26897	R307-301	AMD	05/18/2004	2004-3/15
<b><u>solid waste management</u></b>					
Environmental Quality, Solid and Hazardous Waste	26972	R315-320	5YR	03/01/2004	2004-6/61
<b><u>source development</u></b>					
Environmental Quality, Drinking Water	26971	R309-204	AMD	04/21/2004	2004-6/23
<b><u>source maintenance</u></b>					
Environmental Quality, Drinking Water	26971	R309-204	AMD	04/21/2004	2004-6/23
<b><u>speed limits</u></b>					
Regents (Board Of), University of Utah, Administration	26914	R805-1	5YR	01/27/2004	2004-4/76
<b><u>State Seal</u></b>					
Lieutenant Governor, Administration	27221	R622-2	5YR	06/09/2004	Not Printed
<b><u>stream alterations</u></b>					
Natural Resources, Water Rights	26814	R655-13	NEW	03/25/2004	2003-24/43
	26984	R655-13	AMD	05/04/2004	2004-7/16
<b><u>surplus property</u></b>					
Administrative Services, Fleet Operations, Surplus Property	26843	R28-3	AMD	02/12/2004	2004-1/4

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>
<b><u>surveyors</u></b>					
Commerce, Occupational and Professional Licensing	26859	R156-22-503	NSC	01/01/2004	Not Printed
<b><u>suspension</u></b>					
Transportation, Administration	26720	R907-67	NEW	01/05/2004	2003-22/50
<b><u>taxation</u></b>					
Tax Commission, Auditing	26957	R865-7H	5YR	02/25/2004	2004-6/63
Tax Commission, Property Tax	26910	R884-24P-24	NSC	01/27/2004	Not Printed
<b><u>telecommunications</u></b>					
Public Service Commission, Administration	26826	R746-348-6	AMD	04/13/2004	2003-24/65
	26901	R746-350	NSC	03/01/2004	Not Printed
	26785	R746-350	NEW	01/15/2004	2003-23/79
	26883	R746-365	5YR	01/06/2004	2004-3/49
<b><u>telephone utility regulation</u></b>					
Public Service Commission, Administration	26826	R746-348-6	AMD	04/13/2004	2003-24/65
<b><u>time</u></b>					
Labor Commission, Adjudication	26772	R602-1	AMD	01/02/2004	2003-23/46
<b><u>title insurance</u></b>					
Insurance, Administration	26791	R590-153	CPR	05/13/2004	2004-7/31
	26791	R590-153	AMD	05/13/2004	2003-23/41
	26885	R590-187	NSC	03/01/2004	Not Printed
	26792	R590-187	AMD	01/08/2004	2003-23/44
<b><u>traffic violations</u></b>					
Public Safety, Driver License	27142	R708-3	EMR	05/05/2004	2004-11/88
<b><u>transportation</u></b>					
Transportation, Administration	26720	R907-67	NEW	01/05/2004	2003-22/50
<b><u>transportation safety</u></b>					
Transportation, Motor Carrier	26823	R909-1	AMD	03/01/2004	2003-24/66
<b><u>trucks</u></b>					
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
<b><u>unemployment compensation</u></b>					
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>KEYWORD AGENCY</u>	<u>FILE NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE DATE</u>	<u>BULLETIN ISSUE/PAGE</u>
<b><u>utah.gov</u></b> Governor, Planning and Budget, Chief Information Officer	26953	R365-4	NEW	04/15/2004	2004-5/12
<b><u>utility service</u></b> Public Service Commission, Administration	26780	R746-200-6	AMD	01/07/2004	2003-23/76
<b><u>waste disposal</u></b> Environmental Quality, Solid and Hazardous Waste	26972	R315-320	5YR	03/01/2004	2004-6/61
Environmental Quality, Water Quality	26796	R317-1	AMD	03/29/2004	2003-23/16
<b><u>water funding</u></b> Natural Resources, Water Resources	26779	R653-2	AMD	01/07/2004	2003-23/56
<b><u>water policy</u></b> Natural Resources, Water Resources	26784	R653-5	AMD	01/07/2004	2003-23/59
<b><u>water pollution</u></b> Environmental Quality, Water Quality	26796	R317-1	AMD	03/29/2004	2003-23/16
	26242	R317-2	AMD	01/06/2004	2003-10/27
	26242	R317-2	CPR	01/06/2004	2003-18/35
	26903	R317-8	AMD	03/30/2004	2004-3/19
<b><u>water quality standards</u></b> Environmental Quality, Water Quality	26242	R317-2	CPR	01/06/2004	2003-18/35
	26242	R317-2	AMD	01/06/2004	2003-10/27
<b><u>weather modification</u></b> Natural Resources, Water Resources	26784	R653-5	AMD	01/07/2004	2003-23/59
<b><u>wildlife</u></b> 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
<b><u>wildlife conservation</u></b> Natural Resources, Wildlife Resources	26819	R657-38	AMD	01/21/2004	2003-24/56
<b><u>wildlife law</u></b> Natural Resources, Wildlife Resources	26659	R657-13	AMD	01/02/2004	2003-20/28
<b><u>wildlife permits</u></b> Natural Resources, Wildlife Resources	26778	R657-41	AMD	01/05/2004	2003-23/61
<b><u>witness fees</u></b> Labor Commission, Adjudication	26772	R602-1	AMD	01/02/2004	2003-23/46
<b><u>wood furniture</u></b> Environmental Quality, Air Quality	27219	R307-343	5YR	06/08/2004	Not Printed

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>
<b><u>work-based learning programs</u></b> Education, Administration	27212	R277-916	5YR	06/01/2004	2004-12/81
<b><u>workers' compensation</u></b> 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
<b><u>working toward employment</u></b> Workforce Services, Employment Development	26706	R986-400	AMD	01/01/2004	2003-21/81
<b><u>youth</u></b> Human Services, Administration, Administrative Services, Licensing	26804	R501-16	AMD	04/12/2004	2003-24/29