# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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Nancy L. Lancaster, Editor

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

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

Division of Administrative Rules, Salt Lake City 84114

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# EDITOR'S NOTES

### CODIFICATION ERROR FOR SECTION R861-1A-21 IN 2003

On 07/31/2003, the Tax Commission filed a proposed amendment to remove Section R861-1a-21 from the *Utah Administrative Code*. The proposed amendment was published under DAR No. 26517 in the August 15, 2003, issue of the *Utah State Bulletin*. Subsequently, after the close of the comment period, the Tax Commission filed a notice of effective date with the Division of Administrative Rules (Division); the notice provided for an effective date of 09/25/2003. All of the appropriate steps were followed by the Tax Commission to remove Section R861-1a-21.

However, review by Tax Commission staff on 09/14/2006 revealed that the version of the text of Rule R861-1a maintained by the Division still contained Section R861-1a-21. Research revealed that two amendments to Rule R861-1a were processed with an effective date of 09/25/2003: one amendment affected Section R861-1a-16 while the other affected Section R861-1a-21. While processing these two amendments, the text of the removed section was inadvertently reintroduced by Division staff.

The Division has removed Section R861-1a-21 from Rule R861-1a. The Division regrets the error.

*If you have any questions regarding this correction, please contact Mike Broschinsky, Code Editor, Division of Administrative Rules, PO Box 141007, Salt Lake City, UT 84114-1007, phone: (801) 538-3003, FAX: (801) 538-1773, or Internet E-mail: mbroschi@utah.gov.*

**End of the Editor's Notes Section**

# SPECIAL NOTICES

**Community and Culture**
**History**

**Public Hearing on the Proposed New Rule R212-14 Entitled Distribution and Acceptable Use of Archaeological Records**

The Department of Community and Culture, Division of State History will hold a public hearing on 10/05/2006 at 5:00 p.m. at the Division of State History Zephyr Conference Room, located at Rio Grande Depot, 300 S Rio Grande (455 W), Salt Lake City, Utah. This is in response to a request for a public hearing on the Division's proposed new rule of R212-14, Distribution and Acceptable Use of Archaeological Records. This proposed new rule was published in the August 15, 2006, issue of the *Utah State Bulletin* (No. 2006-16, page 13) under DAR No. 28895. The public comment period has been extended through 10/31/2006.

*Any comments or questions should be directed to: Alycia Aldrich at the above address, by phone at 801-533-3556, by FAX at 801-533-3567, or by Internet E-mail at AALDRICH@utah.gov*.

**End of the Special Notices Section**

# NOTICES OF
# PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between September 2, 2006, 12:00 a.m., and September 15, 2006, 11:59 p.m. are included in this, the October 1, 2006, issue of the *Utah State Bulletin*.

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

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

The law requires that an agency accept public comment on PROPOSED RULES published in this issue of the *Utah State Bulletin* until at least October 31, 2006. The agency may accept comment beyond this date and will list the last day the agency will accept comment in the RULE ANALYSIS. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency to hold a hearing on a specific PROPOSED RULE. Section 63-46a-5 (1987) requires that a hearing request be received "in writing not more than 15 days after the publication date of the PROPOSED RULE."

From the end of the public comment period through January 29, 2007, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than 31 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

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

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

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

# Commerce, Administration
# R151-33-403
## Additional Procedures for Immediate License Suspension

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29014
FILED: 09/11/2006, 16:01

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: During the 2005 General Session, the Utah Legislature expanded the authority of the Pete Suazo Utah Athletic Commission (Commission) with respect to immediate suspensions, S.B. 149. The statutory change allowed the Commission, under certain circumstances, to immediately suspend the license of any licensee. This change makes the rule consistent with the statute. (DAR NOTE: S.B. 149 (2005) is found at Chapter 104, Laws of Utah 2005, and was effective 05/02/2005.)

SUMMARY OF THE RULE OR CHANGE: This change expands the provisions related to immediate suspension of a license. Existing rules apply only to the immediate suspension of a contestant's license. The change applies the provisions to any licensee.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 13-33-303(7)(b)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--This change could potentially result in an increased number of administrative proceedings before the Commission to contest an immediate suspension, but it is anticipated that the number will be minimal.

❖ LOCAL GOVERNMENTS: None--Local governments do not participate in the administration or enforcement of this rule, and should not be affected by license suspensions.

❖ OTHER PERSONS: There will be no cost or savings to any law-abiding individual. A licensee who is not a contestant may now face an immediate suspension for certain law violations, but the financial impact of an immediate suspension as opposed to a regular suspension is impossible to quantify. However, any financial impact is the result of the 2005 statutory change, not this rule change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no cost or savings to any law-abiding individual. A licensee who is not a contestant may now face an immediate suspension for certain law violations, but the financial impact of an immediate suspension as opposed to a regular suspension is impossible to quantify. However, any financial impact is the result of the 2005 statutory change, not this rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change will have no fiscal impact to businesses other than that anticipated by the Legislature in connection with the 2005 statutory change. Francine A. Giani, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Masuda Medcalf at the above address, by phone at 801-530-7663, by FAX at 801-530-6446, or by Internet E-mail at mmedcalf@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/08/2006

AUTHORIZED BY: Francine Giani, Executive Director

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**R151. Commerce, Administration.**
**R151-33. Pete Suazo Utah Athletic Commission Act Rule.**
**R151-33-403. Additional Procedures for Immediate License Suspension.**

(1) In accordance with Subsection 13-33-303([~~6~~]7), the designated Commission member may issue an order immediately suspending the license of a [~~contestant~~]licensee upon a finding that the [~~contestant~~]licensee presents an immediate and significant danger to the [~~contestant~~]licensee, other [~~contestants~~]licensees, or the public.

(2) The suspension shall be at such time and for such period as the Commission believes is necessary to protect the health, safety, and welfare of the [~~contestant~~]licensee, other [~~contestants~~]licensees, or the public.

(3) A [~~contestant~~]licensee whose license has been immediately suspended may, within 30 days after the decision of the designated Commission member, challenge the suspension by submitting a written request for a hearing. The Commission shall convene the hearing as soon as is reasonably practical but not later than 20 days from the receipt of the written request, unless the Commission and the party requesting the hearing agree to conduct the hearing at a later date.

**KEY: licensing, boxing, contests**
**Date of Enactment or Last Substantive Amendment: [~~September 15, 2004~~]2006**
**Notice of Continuation: August 2, 2002**
**Authorizing, and Implemented or Interpreted Law: 13-33-101 et seq.**

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# Commerce, Occupational and Professional Licensing

# R156-11a

## Cosmetologist/Barber, Esthetician, Electrologist and Nail Technician Licensing Act Rules

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29013
FILED: 09/11/2006, 09:34

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Cosmetology/Barbering, Esthetics, Electrology, and Nail Technology Licensing Board are proposing amendments to the rule as a result of statutory changes made to Title 58, Chapter 11a, in H.B. 71 during the 2005 legislative session. Some rule information which is being deleted is now included in the statute governing these professions. Also, all references in the rule to a "grandfather clause" have been deleted as the specific time limit for applicability of the clause has now passed. Also, the Division has been evaluating the need for each profession's law/rule examination and has determined that the law/rule examination for applicants for licensure as a cosmetologist/barber, esthetician, electrologist, and nail technician can be deleted with no negative impact on the professions. The Division and Board are also proposing an amendment to add the fine schedule applicable to these professions into the rule. The existing fine schedule applicable to licensees and unlicensed persons under Title 58, Chapter 11a, is a Division policy. (DAR NOTE: H.B. 71 (2005) is found at Chapter 222, Laws of Utah 2005, and was effective 12/31/2005.)

SUMMARY OF THE RULE OR CHANGE: In Section R156-11a-102, updated definition for "advanced pedicures"; added a definition for "aroma therapy", "indirect supervision", and "pedicure"; and deleted definitions for "being engaged in the practice of esthetics" and "being engaged in the practice of master esthetics" as these definitions are no longer applicable as they established the experience criteria needed for persons applying for licensure under the grandfather clause in the statute which no longer exists. In Section R156-11a-302a, amendments have been made throughout this section to delete the Utah Law and Rules Examination for all classifications of licensure. Amendments have also been made to add that a theory and practical examination approved by the licensing authority of another state is now an examination option for persons who have been licensed in another state. By adding this amendment, persons who have been licensed in another state will now be eligible for licensure in Utah without having to take an additional examination in this state. Also deleted in Subsection R156-11a-302a(1)(c)(ii) the requirement that a licensed cosmetologist/barber in another state have practiced for a period of not less than 4,000 hours. Deletions are also made throughout this section to delete respective national examinations established by the National Interstate Council of State Boards of Cosmetology. In lieu of national examinations, applicants for licensure in the various license classifications must pass either a Utah Theory and Practical Examination or a theory and practical examination approved by the licensing authority of another state. Section R156-11a-302b has been deleted in its entirety as it is no longer applicable with respect to a grandfather clause. In Subsection R156-11a-502(12), defining the use of methyl methacrylate as a nail technician is deleted as this restriction is now contained in the statute. Section R156-11a-503 regarding administrative penalties for unlawful conduct has been added. In Section R156-11a-601, updates what agency a cosmetology school is to register with. Subsection R156-11a-606(3) is added which prohibits apprenticeship training hours to be combined with school training hours. In Sections R156-11a-701 through R156-11a-705, changes have been made to the sections to remove redundancies and to make all sections more consistent. In Section R156-11a-704, changes have been made to increase nail technology hours of instruction from 200 to 300 to be consistent with new statute requirements. Section R156-11a-706 is being added to define curriculum standards for cosmetology/barber, master esthetic, electrology and nail technology instructor schools. In Section R156-11a-801, changes the word "supervisor" to "instructor" to clarify who is providing instruction to apprentices. In Section R156-11a-802, changes the word "supervisor" to "instructor" to clarify who is providing instruction to apprentices and reduces the number of apprentice to instructor ratio to one-to-one to comply with statute changes. In Section R156-11a-803, changes the word "supervisor" to "instructor" to clarify who is providing instruction to apprentices and reduced the number of apprentice to instructor ratio to one-to-one to comply with statute changes. Also deleted that a master esthetician apprentice needs to be licensed as an esthetician. In Section R156-11a-804, changes the word "supervisor" to "instructor" to clarify who is providing instruction to apprentices and in Subsections R156-11a-804(6) and (9) increases the training hours from 250 to 375 to comply with statute changes.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-11a-101 and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

- THE STATE BUDGET: The Division will incur minimal costs of approximately $200 to reprint the rule once the proposed changes are made effective. Any costs incurred will be absorbed in the Division's current budget.
- LOCAL GOVERNMENTS: The proposed changes do not apply to local governments; therefore, no costs or savings are anticipated. The proposed changes only apply to licensees and applicants for licensure as either a cosmetologist/barber, esthetician, electrologist, or nail technician.
- OTHER PERSONS: The proposed amendment deleting the Utah law/rule examination only applies to applicants for licensure as either a cosmetologist/barber, esthetician, electrologist, or nail technician. Those applicants for licensure will see a savings of $75 each in that they will no longer be required to take the Utah law/rule examination. The Division estimates approximately 3,175 new cosmetology license

classifications are licensed on a yearly basis, thus resulting in an aggregate savings of $238,125. It should be noted however that any testing agency which the Division has contracted with to give the law/rule examination will see a decrease in the examination fees noted above. The proposed fine schedule amendment will affect persons (both licensed and unlicensed) who violate the specified sections of Title 58, Chapter 11a. The Division is unable to determine how many fines in the future may be issued to persons violating the specified sections of Title 58, Chapter 11a. Members of the public may be charged slightly more for some services provided by the cosmetology industry as a result of the proposed changes. Also, due to the increase in training hours required for nail technicians, students may see an increase in costs from nail schools or nail apprenticeship programs. The Division is unable to determine any exact increases as it would depend on if a licensee wishes to increase prices for services and if a nail school or nail apprenticeship program wishes to increase fees.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendment deleting the Utah law/rule examination only applies to applicants for licensure as either a cosmetologist/barber, esthetician, electrologist, or nail technician. Those applicants for licensure will see a savings of $75 each in that they will no longer be required to take the Utah law/rule examination. It should be noted however that any testing agency which the Division has contracted with to give the law/rule examination will see a decrease in the examination fees noted above. With respect to the proposed change regarding a fine schedule, the Division is not able to determine an exact compliance cost to persons affected as it would depend on what violation they had committed and if the violation was a first, second, or third offense. Members of the public may be charged slightly more for some services provided by the cosmetology industry as a result of the proposed changes. Also, due to the increase in training hours required for nail technicians, students may see an increase in costs from nail schools or nail apprenticeship programs. The Division is unable to determine any exact increases as it would depend on if a licensee wishes to increase prices for services and if a nail school or nail apprenticeship program wishes to increase fees.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Much of the amendments in this rule filing result from statutory changes and the fiscal impact to businesses as to those statutory changes has been addressed by the Legislature. No further fiscal impact to businesses is anticipated from this rule filing. The amendments to the school curricula are mostly a reorganization of the sections; any substantive changes therein are intended to adopt national standards for school curricula. Francine A. Giani, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Daniel T. Jones at the above address, by phone at 801-530-6767, by FAX at 801-530-6511, or by Internet E-mail at dantjones@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 10/16/2006 at 9:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474, Salt Lake Clty, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 11/08/2006

AUTHORIZED BY: J. Craig Jackson, Director

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**R156. Commerce, Occupational and Professional Licensing.**
**R156-11a. Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act Rules.**
**R156-11a-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 11a, as used in Title 58, Chapters 1 and 11a or these rules:

(1) "Advanced pedicures", as used in Subsection 58-11a-102(27)(a)(i)(D), means any of the following:

(a) utilizing instruments or implements other than nail clippers for cleaning, trimming, softening, smoothing and caring of the nail, cuticles, and calluses of the feet;

(b) utilizing [~~various~~]advanced equipment, instruments, implements, [~~as well as~~] topical products, and preparations[~~-~~];

(c) manual, chemical or microdermabrasion for exfoliation as defined in Subsection R156-11a-610(4); or

(d) lymphatic massaging of the lower portion of the feet or legs by manual or other means.

(2) "Aroma therapy" means the application of essential oils which are applied directly to the skin, undiluted or in a misted dilution with a carrier oil or lotion, for varied applications such as massage, hot packs, cold packs, compress, inhalation, steam or air diffusion, or in hydrotherapy services.

([~~2~~]3) "BCA acid" means bicloroacetic acid.[

~~(3) "Being engaged in the practice of esthetics", as used in Subsections 58-11a-302(7)(d)(iii) and (iv), means having been engaged in a scope of practice that includes at least 50% of the modalities listed in Subsection 58-11-102(25).~~

~~(4) "Being engaged in the practice of master esthetics", as used in Subsections 58-11a-302(8)(d)(iii) and (v), means having been engaged in a scope of practice that includes at least 50% of the modalities listed in Subsection 58-11a-102(27).~~]

([~~5~~]4) "Body wraps", as used in Subsection 58-11a-102(27)(a)(i)(A), means body treatments utilizing products or equipment to enhance and maintain the texture, contour, integrity and health of the skin and body[~~promote the health of the skin and body~~].

([~~6~~]5) "Chemical exfoliation", as used in Subsection 58-11a-102(27)(a)(i)(C), means a resurfacing procedure performed with a chemical solution or product for the purpose of removing superficial

layers of the epidermis to a point no deeper than the stratum corneum.

([~~7~~]6) "Dermabrasion or open dermabrasion" means the surgical application of a wire or diamond frieze by a physician to abrade the skin to the epidermis and possibly down to the papillary dermis.

([~~8~~]7) "Dermaplane" means the use of a scalpel or bladed instrument by a physician to shave the upper layers of the stratum corneum.

([~~9~~]8) "Equivalent number of credit hours" means:

(a) the following conversion table if on a semester basis:

(i) theory - 1 credit hour - 30 clock hours;

(ii) practice - 1 credit hour - 30 clock hours; and

(iii) clinical experience - 1 credit hour - 45 clock hours; and

(b) the following conversion table if on a quarter basis:

(i) theory - 1 credit hour - 20 clock hours;

(ii) practice - 1 credit hour - 20 clock hours; and

(iii) clinical experience - 1 credit hour - 30 clock hours.

([~~10~~]9) "Exfoliation" means the sloughing off of non-living skin cells by very superficial and non-invasive means.

([~~11~~]10) "Galvanic current" means a constant low-voltage direct current.

([~~12~~]11) "Health care practitioner" means a physician/surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, or a physician assistant licensed under Title 58, Chapter 70, Physician Assistant Act.

([~~13~~]12) "Hydrotherapy", as used in Subsection 58-11a-102(27)(a)(i)(B), means the use of water for cosmetic purposes or beautification of the body.

(13) "Indirect supervision" means the supervising instructor is present within the facility in which the person being supervised is providing services, and is available to provide immediate face to face communication with the person being supervised.

(14) "Limited chemical exfoliation" means an extremely gentle chemical exfoliation.

(15) "Manipulating", as used in Subsection 58-11a-102(25)(a), means applying a light pressure by the hands to the skin.

(16) "Manual lymphatic massage", as used in Subsection 58-11a-102(25)(b), means a method using light pressure applied by manual or other means to the skin in specific maneuvers to promote drainage of the lymphatic fluid through the tissue.

(17) "Microdermabrasion", as used in Subsection 58-11a-102(27)(a)(i)(E), means a gentle, progressive, superficial, mechanical exfoliation of the uppermost layers of the stratum corneum using a closed-loop vacuum system.

(18) "Patch test" or "predisposition test" means applying a small amount of a chemical preparation to the skin of the arm or behind the ear to determine possible allergies of the client to the chemical preparation.

(19) "Pedicure" means any of the following:

(a) cleaning, trimming, softening, or caring for the nails, cuticles, or calluses of the feet;

(b) the use of manual instruments or implements on the nails, cuticles, or calluses of the feet;

(c) callus removal by sanding, buffing, or filing; or

(d) massaging of the feet or lower portion of the leg.

([~~19~~]20) "Supervision by a licensed health care practitioner" means a health care practitioner who, acting within the scope of the licensee's license, authorizes and directs the work of a licensee pursuant to this chapter in the treatment of a patient of the health care practitioner while:

(a) the health care practitioner is physically located on the premises and is immediately available to care for the patient if complications arise; or

(b) the patient is physically located on the premises of the health care practitioner.

([~~20~~]21) "TCA acid" means trichloroacetic acid.

([~~21~~]22) "Unprofessional conduct" is further defined, in accordance with Subsection 58-1-203(5), in Section R156-11a-50[~~1~~]2.

**R156-11a-103. Authority - Purpose.**

These rules are adopted by the division under the authority of Subsection 58-1-106(1)(a) to enable the division to administer Title 58, Chapter 11a.

**R156-11a-302a. Qualifications for Licensure - Examination Requirements.**

In accordance with Section 58-11a-302, the various examination requirements for licensure are established as follows:

(1) Applicants for licensure as a cosmetologist/barber shall:

(a) [~~pass the Utah Law and Rules Examination with a score of at least 75%;~~

~~(b)(i)~~ ]pass the Utah Cosmetology/Barber Theory and Practical Exam with a score of at least 75%; or[

~~(ii) pass the National Interstate Council of State Boards of Cosmetology National examination with a passing score as established by the Council of State Boards of Cosmetology; and~~

~~(c)(i) pass the Utah Cosmetology/Barber Practical Exam or an equivalent exam as established by the Division in collaboration with the Board; or~~

~~(ii) have practiced as a licensed cosmetologist/barber in another state for a period of not less than 4,000 hours.~~](b) pass any cosmetology/barber theory and practical examination approved by the licensing authority of another state.

(2) Applicants for licensure as a cosmetologist/barber instructor shall[~~pass the following~~]:

(a) pass the Utah Cosmetologist/Barber Instructor Licensing Examination with a [~~passing~~ ]score of at least 75%; [~~and~~]or

(b) [~~the Utah Law and Rules Examination with a passing score of at least 75%~~]pass any cosmetology/barber instructor examination approved by the licensing authority of another state.

(3) Applicants for licensure as an electrologist shall[~~pass the following~~]:

(a)[~~(i) the National Interstate Council of State Boards of Cosmetology Electrologist test with a passing score as established by the Council of State Boards of Cosmetology~~] pass the Utah Electrologist Theory and Practical Examination with a score of at least 75%; or

(b) pass any electrologist theory and practical examination approved by the licensing authority of another state.

[~~(ii) the Utah Electrologist Theory Examination;~~

~~(b) the Utah Law and Rules Examination with a passing score of at least 75%; and~~

~~(c) the Utah Electrology Practical Examination.~~]

(4) Applicants for licensure as an electrologist instructor shall[~~pass the following~~]:

(a) pass the Utah Electrologist Instructor Examination with a [~~passing~~ ]score of at least 75%; [~~and~~]or

(b) [~~the Utah Law and Rules Examination with a passing score of at least 75%~~]pass any electrology instructor examination approved by the licensing authority of another state.

(5) Applicants for licensure as an esthetician shall[~~pass the following~~]:

(a) pass the Utah Esthetics Theory and Practical Examination with a score of at least 75%; or

(b) pass an esthetics theory and practical examination approved by the licensing authority of another state.[~~if applying for licensure under Subsections 58-11a-302(7)(d)(i) or (ii):~~

~~(i) the Utah Law and Rules Examination with a passing score of at least 75%;~~

~~(ii) (A) the Utah Esthetics Theory Examination with a passing score of at least 75%; or~~

~~(B) the National Interstate Council of State Board of Cosmetology National Esthetics examination with a passing score as established by the Council of State Boards of Cosmetology; and~~

~~(iii) the Utah Esthetics Practical Examination or an equivalent exam as established by the Division in collaboration with the Board;~~

~~(b) if applying for licensure under Subsections 58-11a-302(7)(d)(iii) or (iv), no examination is required; or~~

~~(c) if applying for licensure under Subsection 58-11a-302(7)(d)(v):~~

~~(i) the Utah Esthetics Theory Examination with a passing score of at least 75%; or~~

~~(ii) the National Interstate Council of State Boards of Cosmetology National Esthetics examination with a passing score as established by the Council of State Boards of Cosmetology.~~]

(6) Applicants for licensure as a master esthetician shall[~~pass the following~~]:

(a) pass the Utah Master Esthetician Theory and Practical Examination with a score of at least 75%; or

(b) pass a master esthetician theory and practical examination approved by the licensing authority of another state.[~~if applying for licensure under Subsections 58-11a-302(8)(d)(i) or (ii):~~

~~(i) the Utah Law and Rules Examination with a passing score of at least 75%;~~

~~(ii) the Utah Master Esthetician Theory Examination with a passing score of at least 75%;~~

~~(b) if applying for licensure under Subsections 58-11a-302(8)(d)(iii) or (iv), no examination is required; or~~

~~(c) if applying for licensure under Subsection 58-11a-302(8)(d)(v), the Utah Master Esthetician Theory Examination.~~]

(7) Applicants for licensure as an esthetician instructor shall[~~pass the following~~]:

(a) pass the Utah Esthetician Instructor Examination with a [~~passing~~ ]score of at least 75%; [~~and~~]or

(b) [~~the Utah Law and Rules Examination with a passing score of at least 75%~~]pass any esthetician instructor examination approved by the licensing authority of another state.

(8) Applicants for licensure as a [~~N~~]nail [~~T~~]technician shall[~~pass the following~~]:

(a) pass the Utah Nail Technician Theory and Practical Examination with a score of at least 75%; or

(b) pass a nail technician theory and practical examination approved by the licensing authority of another state.[~~if applying for licensure under Subsections 58-11a-302(11)(d)(i) or (ii):~~

~~(i) the Utah Law and Rules Examination with a passing score of at least 75%;~~

~~(ii)(A) the Utah Nail Technician Theory Examination with a passing score of at least 75%; or~~

~~(B) the National Interstate Council of State Boards of Cosmetology National Nail Technician Examination with a passing score as established by the Council of State Boards of Cosmetology; and~~

~~(iii) pass the Utah Nail Technician Practical Examination or an equivalent exam as established by the Division in collaboration with the Board;~~

~~(b) if applying for licensure under Subsections 58-11a-302(11)(d)(iii) or (iv), no examination is required; or~~

~~(c) if applying for licensure under Subsection 58-11a-302(11)(d)(v):~~

~~(i) the Utah Nail Technician Theory Examination with a passing score of at least 75%; or~~

~~(ii) the National Interstate Council of State Boards of Cosmetology National Nail Technician Examination with a passing score as established by the Council of State Boards of Cosmetology.~~]

(9) Applicants for licensure as a nail technician instructor shall[~~pass the following~~]:

(a) pass the Utah Nail Technician Instructor Examination with a [~~passing~~ ]score of at least 75%; [~~and~~]or

(b) [~~the Utah Law and Rules Examination with a passing score of at least 75%~~]pass any nail technology instructor examination approved by the licensing authority of another state.

[~~**R156-11a-302b. Deadline for Making Application under Grandfather Clause.**~~

~~Applicants for licensure under the grandfather provisions in Subsections 58-11a-302(7)(d)(iii), (iv), and (v); (8)(d)(iii), (iv), and (v); and (11)(d)(iii), (iv), and (v) must apply for licensure on or before June 30, 2003. Thereafter, all applicants must meet all requirements for initial licensure including those established in Subsections 58-11a-302(7)(d)(i) and (ii), 58-11a-302(8)(d)(i) and (ii) or 58-11a-302(11)(d)(i) and (ii), respectively.~~

]

**R156-11a-502. Unprofessional Conduct.**

"Unprofessional conduct" includes:

(1) failing to provide direct supervision of an apprentice, a student attending a cosmetology/barber, esthetics, electrology, or nail technology school, or a student instructor;

(2) failing to obtain accreditation as a cosmetology/barber, esthetics, electrology, or nail technology school in accordance with the requirements of Section R156-11a-601;

(3) failing to maintain accreditation as a cosmetology/barber, esthetics, electrology or nail technology school after having been approved for accreditation;

(4) failing to comply with the standards of accreditation applicable to cosmetology/barber, esthetics, electrology, or nail technology schools;

(5) failing to provide adequate instruction or training as applicable to a student of a cosmetology/barber, esthetics, electrology, or nail technology school, or in an approved cosmetology/barber, esthetics, or nail technology apprenticeship;

(6) failing to comply with Title 26, Utah Health Code;

(7) failing to comply with the apprenticeship requirements applicable to cosmetologist/barber, esthetician, master esthetician, or nail technician apprenticeships as set forth in Sections R156-11a-801 through R156-11a-805;

(8) failing to comply with the standards for curriculums applicable to cosmetology/barber, esthetics, electrology, or nail

technology schools as set forth in Sections R156-11a-701 through R156-11a-704;

(9) using any device classified by the Food and Drug Administration as a medical device without the supervision of a licensed health care practitioner acting in the scope of the licensee's practice;

(10) performing services within the scope of practice as a master esthetician without having been adequately trained to perform such services;

(11) violating any standard established in Sections R156-11a-601 through R156-11a-612;

(12) [~~as a nail technician, using methyl methacrylate;~~

~~(13)~~ ]performing a procedure while the licensee has a known contagious disease of a nature that may be transmitted by performing the procedure, unless the licensee takes medically approved measures to prevent transmission of the disease; and

([~~14~~]13) performing a procedure on a client who has a known contagious disease of a nature that may be transmitted by performing the procedure, unless the licensee takes medically approved measures to prevent transmission of the disease.

**R156-11a-503. Administrative Penalties - Unlawful Conduct.**

In accordance with Subsections 58-1-501(1)(a) and (c), 58-11a-301(1) and (2), 58-11-502(1), (2) or (4), and 58-11a-503(4), unless otherwise ordered by the presiding officer, the following fine schedule shall apply to citations issued under Title 58, Chapter 11a.

(1) Practicing or engaging in, or attempting to practice or engage in activity for which a license is required under Title 58, Chapter 11a in violation of Subsection 58-11a-502(1).

First Offense: $200

Second Offense: $300

(2) Knowingly employing any other person to engage in or practice or attempt to engage in or practice any occupation or profession for which a license is required under Title 58, Chapter 11a in violation of Subsection 58-11a-502(2).

First Offense: $400

Second Offense: $800

(3) Using as a nail technician a solution composed of at least 10% methyl methacrylete on a client in violation of Subsection 58-11a-501(4)

First Offense: $500

Second Offense: $1,000

(4) Citations shall not be issued for third offenses, except in extraordinary circumstances approved by the investigative supervisor. If a citation is issued for a third offense, the fine is double the second offense amount, with a maximum amount not to exceed the maximum fine allowed under Subsection 58-11a-503(4)(h).

(5) If multiple offenses are cited on the same citation, the fine shall be determined by evaluating the most serious offense.

(6) An investigative supervisor may authorize a deviation from the fine schedule based upon the aggravating or mitigating circumstances.

(7) The presiding officer for a contested citation shall have the discretion, after a review of the aggravating and mitigating circumstances, to increase or decrease the fine amount imposed by an investigator based upon the evidence reviewed.

**R156-11a-601. Standards for Accreditation.**

In accordance with Subsections 58-11a-302(3)(c)(iv), 58-11a-302(6)(c)(iv) 58-11a-302(10(c)(iv), and 58-11a-302(13)(c)(iv), the accreditation standards for a cosmetology/barber school, an electrology school, an esthetics school, and a nail technology school include:

(1) Each school shall be required to become accredited by:

(a) the National Accrediting Commission of Cosmetology Arts and Sciences (NACCAS); or

(b) other accrediting commissions recognized by the Utah Board of Regents for post secondary schools.

(2) Each school shall maintain and keep the accreditation current.

(3) A new school shall:

(a) submit an application for candidate status for accreditation to an accrediting commission within one month of receiving licensure from the Division as a cosmetology/barber school, an electrology school, an esthetics school, or a nail technology school and shall provide evidence of receiving candidate status from the accrediting commission to the Division within 12 months of the date the school was licensed;

(b) [~~register with the Utah Board of Regents pursuant to Subsection 53B-5-105(1)(e)~~]file an "Exemption of Registration as a Post-Secondary Proprietary School" form with the Division of Consumer Protection pursuant to Sections 13-34-101 and R152-34-1; and

(c) comply with all applicable accreditation standards during the pendency of its application for accreditation status.

(4) The school shall have 24 months following the date of receiving candidate status to be approved for accreditation.

(5) A licensee who fails to obtain or maintain accreditation status, as required herein, shall immediately surrender to the Division its license as a school. Failure to do so shall constitute a basis for immediate revocation of licensure in accordance with Section 63-46b-20.

**R156-11a-606. Standards for Protection of Schools.**

In accordance with Subsection 58-11a-302(3)(c)(iv), 58-11a-302(6)(c)(iv), 58-11a-302(10)(c)(iv), and 58-11a-302(13)(c)(iv), standards for the protection of cosmetology/barber, electrology, esthetics, and nail technology schools shall include:

(1) Schools shall not be required to release documentation of hours earned to a student until the student has paid the tuition or fees owed to the school as provided in the terms of the contract.

(2) Schools may accept transfer students. Schools shall determine the amount of hours to be accepted toward graduation based upon an evaluation of the student's level of training.

(3) Hours obtained while enrolled in a cosmetology, electrology, esthetics, master esthetics, or nail technology apprenticeship may not be used to satisfy any of the required hours of school instruction.

**R156-11a-701. Curriculum for Electrology Schools.**

In accordance with Subsection 58-11a-302(6)(c)(iv), the curriculum for an electrology school shall consist of 500 hours of instruction in the following subject areas:

(1) [~~I~~]introduction consisting of[~~as follows~~]:

(a) the history of electrology; and

(b) an overview of the curriculum[~~-~~];

(2) [~~Basic Science and Anatomy as follows~~]personal, client, and salon safety including:

(a) [~~medical definitions and diagnosis~~]aseptic techniques and sanitary procedures;

(b) [~~prescription drugs affecting hair growth~~]sterilization methods and procedures; and

([**e**]c) [~~contraindications.~~]health risks to the electrologist;

(3) [~~Histology;~~]business and salon management including:

(a) developing a clientele;

(b) professional image;

(c) professional ethics;

(d) professional associations;

(e) public relations; and

(f) advertising;

(4) [~~Trichology;~~]legal issues including:

(a) malpractice and liability;

(b) regulatory agencies; and

(c) tax laws;

(5) [~~Endocrinology~~]human immune system;

(6) [~~Dermatology~~]diseases and disorders of hair and skin;

(7) [~~Neurology as follows:~~]implements, tools, and equipment for electrology;

[~~(a) anesthetics, including over-the-counter and prescription; and~~

~~(c) carpal tunnel syndrome.~~]

(8) [~~Angiology~~]first aid;

(9) [~~Psychology as follows:~~]anatomy;

[~~(a) aesthetic/cosmetic electrolysis; and~~

~~(b) gender dysphoric clients.~~]

(10) [~~Practical Analysis as follows:~~]basic science of electrology;

[~~(a) evaluating the characteristics of skin;~~

~~(b) evaluating the characteristics of hair growth;~~

~~(c) needle/probe types, features and selection;~~

~~(d) insertions, considerations and accuracy; and~~

~~(e) one and two handed techniques.~~]

(11) [~~Infection and Disease Control as follows:~~]analysis of the skin;

[~~(a) pathogenic bacteria and non-bacterial causes;~~

~~(b) American Electrology Association (AEA) infection control standards;~~

~~(c) aseptic techniques and sanitary procedures;~~

~~(d) sterilization methods and procedures; and~~

~~(e) health risks to the electrologist.~~

~~(12) Principles of Electricity and Equipment as follows:~~

~~(a) currents, measurement and classification;~~

~~(b) FDA Class 1 needle type epilating equipment;~~

~~(c) FDA Class 3 hair removal devices; and~~

~~(d) laser technologies for temporary hair removal prohibited unless performed under the supervision of a licensed health care profession; and~~

~~(e) epilator operation and care.~~

~~(13) Modalities for Needle Type Electrolysis as follows:~~

~~(a) galvanic multi needle technique;~~

~~(b) thermolysis manual technique;~~

~~(c) thermolysis flash technique; and~~

~~(d) blend and progressive epilation technique.~~

~~(14) Clinical Procedures as follows:~~

~~(a) consultation;~~

~~(b) health/medical history;~~

~~(c) pre and post treatment skin care;~~

~~(d) normal healing skin effects;~~

~~(e) tissue injury and complications;~~

~~(f) treating ingrown hairs;~~

~~(g) face and body treatment;~~

~~(h) evaluation of treatments/regrowth;~~

~~(i) positioning and draping; and~~

~~(j) stress and relaxation techniques.~~

~~(15) Developing a practice and business management as follows:~~

~~(a) professional associations;~~

~~(b) ethics;~~

~~(c) legal issues including:~~

~~(i) malpractice liability;~~

~~(ii) regulatory agencies; and~~

~~(iii) tax laws;~~

~~(d) public relations; and~~

~~(e) advertising.~~

~~(16) State Board Exams Review; and~~

~~(17) Elective Topics.~~]

(12) physiology of hair and skin;

(13) medical definitions including:

(a) dermatology;

(b) endrocrinology;

(c) angiology; and

(d) neurology;

(14) evaluating the characteristics of skin;

(15) evaluating the characteristics of hair;

(16) medications affecting hair growth including:

(a) over-the-counter preparations;

(b) anesthetics; and

(c) prescription medications;

(17) contraindications;

(18) disease and blood-borne pathogens control including:

(a) pathogenic bacteria and non-bacterial causes; and

(b) American Electrology Association (AEA) infection control standards;

(19) principles of electricity and equipment including:

(a) types of electrical currents, their measurements and classifications;

(b) Food and Drug Administration (FDA) approved needle type epilation equipment;

(c) FDA approved hair removal devices; and

(d) epilator operation and care;

(20) modalities for need type electrolysis including:

(a) needle/probe types, features, and selection;

(b) insertions, considerations, and accuracy;

(c) galvanic multi needle technique;

(d) thermolysis manual and flash technique;

(e) blend and progressive epilation technique; and

(f) one and two handed techniques;

(21) clinical procedures including:

(a) consultation;

(b) health/medical history;

(c) pre and post treatment skin care;

(d) normal healing skin effects;

(e) tissue injury and complications;

(f) treating ingrown hairs;

(g) face and body treatment;

(h) cosmetic electrology; and

(i) positioning and draping;

(22) elective topics; and

(23) Utah Electrology Examination review.

**R156-11a-702. Curriculum for Esthetics School - Esthetician Programs.**

In accordance with Subsection 58-11a-302(10)(c)(iv), the curriculum for an esthetics school esthetician program shall consist of 600 hours of instruction in the following subject areas:

[~~(1) manual lymphatic massage of the face and neck;~~
~~(2) temporary removal of superfluous hair;~~
~~(3) treatment of the skin;~~
~~(4) packs and masks;~~
~~(5) analysis of the skin;~~
~~(6) application of make-up;~~
~~(7) application of false eyelashes;~~
~~(8) arching of the eyebrows;~~
~~(9) tinting of the eyelashes and eyebrows;~~
~~(10) history and theory of skin care;~~
~~(11) electronic facials;~~
~~(12) first aid;~~
~~(13) chemistry of cosmetics;~~
~~(14) skin treatments with and without machines;~~
~~(15) anatomy and physiology;~~
~~(16) sanitation, decontamination, and infection control;~~
~~(17) waxing;~~
~~(18) pedicures;~~
~~(19) aromatherapy;~~
~~(20) limited chemical exfoliation;~~
~~(21) other related topics; and~~
~~(22) state laws and rules.~~]

(1) introduction consisting of:
(a) history of esthetics; and
(b) an overview of the curriculum;
(2) personal, client, and salon safety including:
(a) aseptic techniques and sanitary procedures;
(b) sterilization methods and procedures; and
(c) health risks to the esthetician;
(3) business and salon management including:
(a) developing a clientele;
(b) professional image;
(c) professional ethics;
(d) professional associations;
(e) public relations; and
(f) advertising.
(4) legal issues including:
(a) malpractice liability;
(b) regulatory agencies; and
(c) tax laws;
(5) human immune system;
(6) diseases and disorders of the skin including:
(a) bacteriology;
(b) sanitation;
(c) sterilization;
(d) decontamination; and
(e) infection control;
(7) implements, tools, and equipment for esthetics;
(8) first aid;
(9) anatomy;
(10) basic science of esthetics;
(11) analysis of the skin;
(12) physiology of the skin;
(13) facials, manual and mechanical;
(14) limited chemical exfoliation including:
(a) pre-exfoliation consultation;
(b) post-exfoliation treatments; and
(c) chemical reactions;
(15) chemistry for esthetics;
(16) temporary removal of superfluous hair by waxing;
(17) treatment of the skin;
(18) packs and masks;
(19) Aroma therapy;
(20) application of makeup including:
(a) application of false eyelashes;
(b) arching of the eyebrows; and
(c) tinting of the eyelashes and eyebrows;
(21) medical devices;
(22) cardio pulmonary resuscitation (CPR);
(23) basic facials;
(24) chemistry of cosmetics;
(25) skin treatments with and without machines;
(26) manual lymphatic massage of the face and neck;
(27) pedicures;
(28) elective topics; and
(29) Utah Esthetic Examination review.

**R156-11a-703. Curriculum for Esthetics School - Master Esthetician Programs.**

In accordance with Subsection 58-11a-302(10)(c)(iv), the curriculum for an esthetics school master esthetician program shall consist of 1,200 hours of instruction, 600 of which consist[~~ing~~] of the curriculum for an esthetician program, the remaining 600 of which [~~is~~]shall be in the following subject areas:

(1) introduction consisting of:
(a) history of master esthetics; and
(b) an overview of the curriculum;

[~~(2) bacteriology, hygiene, sanitation, and sterilization techniques;~~
~~(3) the immune system, skin disorders, and the prevention of infectious disease;~~
~~(4) essentials of chemistry and advanced cosmetic chemistry;~~
~~(5) the skin and the aging process, including damage to the skin;~~
~~(6) 200 hours of lymphatic massage by manual and other means; including:~~
~~(a) anatomy and physiology of the lymphatic system, including client consultation, to consist of 40 hours of training;~~
~~(b) manual lymphatic massage of the full body, including the face and neck, by manual massage shall consist of 100 applications, of one hour each; and~~
~~(c) lymphatic massage by other means, including but not limited to, suction assisted massage or pressure therapy equipment shall consist of 60 applications of one hour each.~~
~~(7) advanced anatomy, physiology, and histology of the skin;~~
~~(8) body wrapping, including procedures, product ingredients, and contra-indications;~~
~~(9) advanced pedicures;~~
~~(10) hydrotherapy;~~
~~(11) advanced waxing and temporary hair removal;~~
~~(12) chemical exfoliation, including pre-exfoliation consultation, post-exfoliation treatments and reactions;~~
~~(13) cardio pulmonary resuscitation (CPR) training;~~
~~(14) advanced aromatherapy;~~
~~(15) sanding and microdermabrasion, including training in the use of:~~

~~(a) electrical devices which use high-frequency current in the treatment of the skin, including:~~
~~(i) a device equipped with a brush to cleanse the skin;~~
~~(ii) an electrical device which uses galvanic current for the treatment of the skin;~~
~~(iii) a device which applies a mixture of steam and ozone to the skin; and~~
~~(iv) a device which is used to spray water and other liquids on the skin, and to stimulate circulation in the skin; and~~
~~(b) any mechanical device for the care and treatment of the skin which is approved by the division in collaboration with the board; and~~
~~(16) other esthetic preparations or procedures.~~]
(2) personal, client, and salon safety including:
(a) aseptic techniques and sanitary procedures;
(b) sterilization methods and procedures; and
(c) health risks to the master esthetician;
(3) business and salon management consisting of:
(a) developing clients;
(b) professional image;
(c) professional ethics;
(d) professional associations;
(e) advertising; and
(f) public relations;
(4) legal issues including:
(a) malpractice liability;
(b) regulatory agencies; and
(c) tax laws;
(5) the human immune system;
(6) diseases and disorders of the skin including:
(a) bacteriology;
(b) sanitation;
(c) sterilization;
(d) contamination; and
(e) infection controls;
(7) implements, tools and equipment for master esthetics;
(8) first aid;
(9) anatomy;
(10) basic science of master esthetics;
(11) analysis of the skin;
(12) physiology of the skin;
(13) advanced facials, manual and mechanical;
(14) chemistry for master esthetics;
(15) advanced chemical exfoliation, including:
(a) pre-exfoliation consultation;
(b) post-exfoliation treatments; and
(c) reactions;
(16) temporary removal of superfluous hair by waxing and advanced waxing;
(17) 200 hours of instruction in lymphatic massage by manual or other means consisting of:
(a) manual lymphatic massage of the full body, including the face and neck; and
(b) lymphatic massage by other means, including suction assisted massage or pressure therapy;
(18) advanced pedicures;
(19) advanced Aroma therapy;
(20) the aging process and its damage to the skin;
(21) medical devices;
(22) cardio pulmonary resuscitation (CPR) training;
(23) hydrotherapy;
(24) mechanical sanding and microdermabrasion techniques consisting of:
(a) electrical devices which use high-frequency current for treatment of the skin;
(b) a device equipped with a brush to cleanse the skin;
(c) an electrical device which uses galvanic current for the treatment of the skin;
(d) a device which applies a mixture of steam and ozone to the skin;
(e) a device which is used to spray water and other liquids on the skin to stimulate circulation in the skin; and
(f) any mechanical device, other esthetic preparations or procedure for the care and treatment of the skin which is approved by the division in collaboration with the board;
(25) elective topics; and
(26) Utah Master Esthetician Examination review.

**R156-11a-704. Curriculum for Nail Technology Schools.**

In accordance with Subsection 58-11a-302(6)(c)(iv), the curriculum for a nail technology school shall consist of [~~200~~]300 hours of instruction in the following subject areas:
[~~(1) safety and sanitation, including salon safety, bacteriology, and sterilization;~~
~~(2) artificial nail techniques, including wraps, tips, gel, sculptured acrylic nail, nail art, and mechanical techniques;~~
~~(3) cosmetic chemistry;~~
~~(4) pedicuring including massage of the lower leg and foot;~~
~~(5) anatomy and physiology;~~
~~(6) nail and the disorders of nail;~~
~~(7) skin and the disorders of the skin;~~
~~(8) first aid;~~
~~(9) theory of basic manicuring with hand and arm massage;~~
~~(10) professional ethics/salon management/state laws; and~~
~~(11) elective topics.~~]
(1) introduction consisting of:
(a) history of nail technology; and
(b) an overview of the curriculum;
(2) personal, client and salon safety including:
(a) aseptic techniques and sanitary procedures;
(b) sterilization methods and procedures; and
(c) health risks to the nail technician;
(3) business and salon management including:
(a) developing clientele;
(b) professional image;
(c) professional ethics;
(d) professional associations;
(e) public relations; and
(f) advertising;
(4) legal issues including:
(a) malpractice liability;
(b) regulatory agencies; and
(c) tax laws;
(5) human immune system;
(6) diseases and disorders of the nails and skin including:
(a) bacteriology;
(b) sanitation;
(c) sterilization;
(d) decontamination; and
(e) infection control;
(7) implements, tools and equipment for nail technology;
(8) first aid;

(9) anatomy;
(10) basic science for nail technology;
(11) theory of basic manicuring including hand and arm massage;
(12) physiology of the skin and nails;
(13) chemistry for nail technology;
(14) artificial nail techniques consisting of:
(a) wraps;
(b) nail tips;
(c) gel nails;
(d) sculptured acrylic nails; and
(e) nail art;
(15) pedicures and massaging the lower leg and foot;
(16) elective topics; and
(17) Utah Nail Technology Examination review.

**R156-11a-705. Curriculum for Cosmetology/Barber Schools.**

In accordance with Subsection 58-11a-302(3)(c)(iv), the curriculum for a cosmetology/barber school shall consist of 2,000 hours of instruction, 600 of which shall consist[~~ing~~] of the curriculum for an esthetics school esthetician program; 200 of which shall consist[~~ing~~] of the curriculum for a nail technology school; and the remaining 1,200 hours shall be[~~of which~~] in the following subject areas:

(1) introduction consisting of:

(a) history of cosmetology/barbering, esthetics, nail technology; and

(b) overview of the cosmetology/barber curriculum;

[~~(2) professional image, including professional ethics and salon management;~~
~~(3) bacteriology, sanitation and sterilization, safety, and diseases and disorders;~~
~~(4) decontamination, infection control, and salon safety;~~
~~(5) properties of the hair and scalp;~~
~~(6) draping;~~
~~(7) shampooing, rinsing, and conditioning;~~
~~(8) haircutting, including men and women;~~
~~(9) hairstyling, including wet and thermal;~~
~~(10) permanent waving;~~
~~(11) hair coloring;~~
~~(12) chemical hair relaxing;~~
~~(13) thermal hair straightening;~~
~~(14) wigs and artificial hair;~~
~~(15) first aid;~~
~~(16) anatomy and physiology;~~
~~(17) chemistry for cosmetology/barbering;~~
~~(18) professional ethics and salon management;~~
~~(19) electricity and light therapy;~~
~~(20) implements, tools, and equipment for cosmetology and barbering;~~
~~(21) shaving;~~
~~(22) clipper variations;~~
~~(23) razor cutting for men;~~
~~(24) mustache and beard design;~~
~~(25) licensing laws and rules; and~~
~~(26) elective topics.~~]

(2) personal, client and salon safety including:
(a) aseptic techniques and sanitary procedures;
(b) sterilization methods and procedures;
(c) health risks to the electrologist;
(3) business and salon management including:
(a) developing clientele;
(b) professional image;
(c) professional ethics;
(d) professional associations;
(e) public relations; and
(f) advertising;
(4) legal issues including:
(a) malpractice liability;
(b) regulatory agencies; and
(c) tax laws;
(5) human immune system;
(6) diseases and disorders of skin, nails, hair, and scalp including:
(a) bacteriology;
(b) sanitation;
(c) sterilization;
(d) decontamination; and
(e) infection control;
(7) implements, tools and equipment for cosmetology, barbering, esthetics and nail technology;
(8) first aid;
(9) anatomy;
(10) basic science of cosmetology/barbering;
(11) analysis of the skin, hair and scalp;
(12) physiology of the human body;
(13) electricity and light therapy;
(14) limited chemical exfoliation;
(15) chemistry for cosmetology/barbering, esthetics and nail technology;
(16) temporary removal of superfluous hair;
(17) properties of the hair, skin and scalp;
(18) basic hairstyling including:
(a) wet and thermal styling;
(b) permanent waving;
(c) hair coloring;
(d) chemical hair relaxing; and
(e) thermal hair straightening;
(19) men and women's haircuts including:
(a) draping;
(b) clipper variations;
(c) scissor cutting;
(d) shaving; and
(e) wigs and artificial hair;
(20) razor cutting for men;
(21) mustache and beard design;
(22) elective topics; and
(23) Utah Cosmetology/Barber Examination review.

**R156-11a-706. Curriculum for Cosmetology/Barber, Master Esthetics, Electrology, and Nail Technology Instructors School.**

In accordance with Subsections 58-11a-302(2), (5), (9) and (12), the curriculum for an approved cosmetology/barber, esthetics, master esthetics, electrology and nail technology instructor school shall consist of 1,000 hours of instruction in the following subject areas:

(1) motivation and the learning process;
(2) teacher preparation;
(3) teaching methods;
(4) classroom management;
(5) testing;
(6) instructional evaluation;

(7) laws, rules and regulations; and

(8) Utah Cosmetology/Barber, Master Esthetics, Electrology and Nail Technology Instructors Examination review.

**R156-11a-801. Approved Cosmetologist/Barber Apprenticeship Requirements.**

In accordance with Subsection 58-11a-102(1), the requirements for an approved cosmetology/barber apprenticeship [~~shall~~]include[ ~~the following~~]:

(1) The [~~supervisor~~]instructor shall have only one apprentice at a time.

(2) There shall be a conspicuous sign near the work station of the apprentice stating "Apprentice in Training".

(3) The [~~supervisor~~]instructor and apprentice shall keep a daily record, which shall include the hours of theory instruction, the hours of practical instruction, the number and type of client services performed, and other services which will document the total number of hours of training. The record shall be available to the division upon request.

(4) A complete set of cosmetology/barber texts shall be available to the apprentice.

(5) An apprentice may be compensated for services performed.

(6) The [~~supervisor~~]instructor shall provide training and technical instruction of 2,500 hours using the curriculum defined in Section R156-11a-705.

(7) The [~~supervisor~~]instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days.

(8) An apprentice may not perform work on the public until the apprentice has received at least 10% of the hours of technical training, with at least a portion of that time devoted to each of the subjects specified in Section R156-11a-705.

(9) Hours obtained while enrolled in a cosmetology/barber school shall not be used to satisfy the required 2,500 hours of apprentice training.

**R156-11a-802. Approved Esthetician Apprenticeship Requirements.**

In accordance with Subsection 58-11a-102(2), the requirements for an approved esthetician apprenticeship [~~shall~~]include:

(1) The [~~supervisor~~]instructor shall have no more than [~~two~~]one apprentice[~~s~~] at a time.

(2) There shall be a conspicuous sign near the workstation of the apprentice stating, "Apprentice in Training."

(3) The [~~supervisor~~]instructor and apprentice shall keep a daily record, which shall include the hours of theory instruction, the hours of practical instruction, the number and type of client services performed, and other services, which will document the total number of hours of training. The record shall be available to the division upon request.

(4) A complete set of esthetics texts shall be available to the apprentice.

(5) An apprentice may be compensated for services performed.

(6) The [~~supervisor~~]instructor shall provide training and technical instruction of 800 hours using the curriculum defined in Section R156-11a-702.

(7) The [~~supervisor~~]instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days.

(8) An apprentice may not perform work on the public until the apprentice has received at least 10% of the hours required in technical training, with at least a portion of that time devoted to each of the subjects specified in Section R156-11a-702.

(9) Hours obtained while enrolled in an esthetics school shall not be used to satisfy the required 800 hours of apprentice training.

**R156-11a-803. Approved Master Esthetician Apprenticeship Requirements.**

In accordance with Subsection 58-11a-102(3), the requirements for an approved master esthetician apprenticeship [~~shall~~]include:

(1) The [~~supervisor~~]instructor shall have no more than [~~two~~]one apprentice[~~s~~] at a time.

(2) [~~The apprentice shall be licensed as an esthetician.~~

~~(3)~~ ]There shall be a conspicuous sign near the workstation of the apprentice stating, "Apprentice in Training."

([~~4~~]3) The [~~supervisor~~]instructor and apprentice shall keep a daily record, which shall include the hours of theory instruction, the hours of practical instruction, the number and type of client services performed, and other services, which will document the total number of hours of training. The record shall be available to the division upon request.

([~~5~~]4) A complete set of esthetics texts shall be available to the apprentice.

([~~6~~]5) An apprentice may be compensated for services performed.

([~~7~~]6) The [~~supervisor~~]instructor shall provide training and technical instruction of 1,500 hours using the curriculum defined in Section R156-11a-703:

([~~8~~]7) The [~~supervisor~~]instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days.

([~~9~~]8) An apprentice may not perform work on the public until the apprentice has received at least 10% of the required hours of technical training, with at least a portion of that time devoted to each of the subjects specified in Subsection R156-11a-703.

([~~10~~]9) Hours obtained while enrolled in an esthetics school shall not be used to satisfy the required 1,500 hours of apprentice training.

**R156-11a-804. Approved Nail Technician Apprenticeship Requirements.**

In accordance with Subsection 58-11a-102(4), the requirements for an approved nail technician apprenticeship [~~shall~~]include:

(1) The [~~supervisor~~]instructor shall have no more than two apprentices at a time.

(2) There shall be a conspicuous sign near the workstation of the apprentice stating, "Apprentice in Training."

(3) The [~~supervisor~~]instructor and apprentice shall keep a daily record, which shall include the hours of theory instruction, the hours of practical instruction, the number and type of client services performed, and other services, which will document the total number of hours of training. The record shall be available to the division upon request.

(4) A complete set of nail technician texts shall be available to the apprentice.

(5) An apprentice may be compensated for services performed.

(6) The [~~supervisor~~]instructor shall provide training and technical instruction of [~~250~~]375 hours using the curriculum defined in Section R156-11a-704.

(7) The [~~supervisor~~]instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days.

(8) An apprentice may not perform work on the public until the apprentice has received at least 10% of the hours of technical training, with at least a portion of that time devoted to each of the subjects specified in Subsection R156-11a-704.

(9) Hours obtained while enrolled in a nail technology school shall not be used to satisfy the required [~~250~~]375 hours of apprentice training.

**KEY: cosmetologists/barbers, estheticians, electrologists, nail technicians**
**Date of Enactment or Last Substantive Amendment: [~~December 3, 2002~~]2006**
**Notice of Continuation: July 11, 2002**
**Authorizing, and Implemented or Interpreted Law: 58-11a-101; 58-1-106(1)(a); 58-1-202(1)(a)**

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# Education, Administration
# R277-419
## Pupil Accounting

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29038
FILED: 09/15/2006, 17:22

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to address the growing number of nontraditional methods of instructional delivery, to address new accounting procedures for Youth in Custody and Career and Technical Education (CTE) students, and to clarify other public accounting issues.

SUMMARY OF THE RULE OR CHANGE: The amendment provides changes to existing definitions and new definitions; provides new eligibility standards for funding students, provides funding for electronic high school students, and explains the student identification and tracking system.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 53A-1-401(3) and 53A-1-402(1)(e)

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: There are no known costs or savings to the state budget. There may be costs as the Utah State Office of Education develops the student tracking system and there may be savings as the accounting system requires more consistent student data from school districts.
❖ LOCAL GOVERNMENTS: School districts may receive additional funds for students in nontraditional instructional settings. These savings are speculative at this point.
❖ OTHER PERSONS: There are no anticipated costs or savings to other persons. The Utah State Office of Education and school districts are the only entities responsible for implementation of this rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The Utah State Office of Education and school districts are the only entities responsible for implementation of this rule.

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. Patti Harrington, 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 carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/08/2006

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

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**R277. Education, Administration.**
**R277-419. Pupil Accounting.**
**R277-419-1. Definitions.**

[~~A. "Add-on WPU" means additional weighted pupil units earned in accordance with the Minimum School Program Act, 53A-17a-104 in the areas of special education, applied technology education, adult education, youth in custody, and necessarily existent small schools.~~

~~B. "Adult education" means organized public educational programs, other than regular full-time and summer elementary and secondary day school, which provide opportunities for adult and out-of-school youth who have not graduated, to further their education.~~

~~C~~]A. "Aggregate[~~Days of~~] Membership" means the sum of all days [~~of~~]in membership [~~of all students~~]during a school year for the student, program, school, LEA, or state.

[~~D. "Alternative High School" means a non-standard high school for students with special needs, interests, or learning styles, which meets all of the following criteria:~~

~~(1) the local school has been officially designated as a high school by the local board of education;~~

~~(2) a principal and staff are assigned to the school as a primary assignment;~~

~~(3) extra costs are associated with the school such as counseling staff, library, and other support costs;~~

~~(4) an approved applied technology education program is operated at the school;~~

~~(5) the school is primarily for youth in continuous education who have not graduated from high school but are working toward graduation. Its programs qualify students as candidates for graduation.~~

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

[~~F. "Continuous education" means regular full-time and summer day school programs outlined by the Board for the purpose of students completing the education process.~~

~~G. "Dropout" means an individual in grades 7-12 who leaves a public school or a district or state approved school program and is not re-enrolled in or transferred to, as evidenced by an official request for the student's records by the school or approved program, a public school or a district or state approved school program on October 1 of the next school year. This definition does not include a student who satisfies one or more of the exceptions listed in Section 5B of this rule.~~

~~H. "F.T.E." means full time enrollment of a student for computation of adult education funding.~~

~~]~~C. "Compulsory school age" means:

(1) a person who is at least five years old and no more than 17 years old on or before September 1;

(2) with respect to special education, a person who is at least three years old and no more than 21 years old on or before September 1.

D. "Data Clearinghouse" means the electronic data collection system used by the USOE to collect information required by law from LEAs about individual students at certain points throughout the school year to support the allocation of funds and accountability reporting.

E. "Electronic high school" means a rigorous program offering 9-12 grade level courses delivered over the Internet and coordinated by the USOE.

[~~I~~]F. "LEA" means a local education agency, including local school boards/public school districts and [~~post-secondary institutions~~]charter schools.

[~~J~~]G. "Membership" means [~~the number of pupils~~]a public school student is on the current roll of a public school class or public school as of a given date[~~.~~]:

(1) A [~~pupil~~]student is a member of a class or school from the date of entrance at the school and is placed on the current roll until official [~~withdrawal~~]removal from the class or school [~~because of completion, dismissal, death, transfer, or administrative withdrawal. The date of withdrawal is the date on which it is officially known that the pupil has left school for one of the above reasons and is not necessarily the first day after the date of last attendance. In no case may the date of withdrawal violate the Ten-day Membership Rule, except for reasons of sickness, hospitalization, pending court investigation or action, prior approved trip, or earnest and persistent efforts of two or more contact hours per week to keep a child in school with services provided by certificated school district staff~~]due to the student having left the school.

(2) Removal from the roll does not mean that the LEA should delete the student's record, only that the student should no longer be counted in membership.

[~~K. "Part-time student" means a student carrying less than a full course load, as determined by the Board or the local board of education.~~

~~L. "Pupil in Average Daily Membership (ADM)" means a full-day equivalent pupil.~~

~~]~~H. "Minimum School Program (MSP)" means public school programs for kindergarten, elementary, and secondary schools described in Section 53A-17a-103(5).

I. "Resource" means a student who receives 1 to 179 minutes of special education services during a typical school day consistent with the student's IEP provided for under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Sec. 1400 et seq., amended in 2004.

J. "Retained senior" means a student beyond the general compulsory education age who is authorized by the LEA to remain in enrollment as a high school senior in the year(s) after the cohort has graduated.

K. "S1" means the record maintained by the USOE containing individual student demographic and school membership data in a Data Clearinghouse file.

L. "S2" means the record maintained by the USOE containing individual student data related to participation in a special education program in a Data Clearinghouse file.

M. "School day" means:

(1) a minimum of two hours per day per session in kindergarten[~~:~~] and a minimum of four hours per day in grades one through twelve[~~-~~], subject to the following constraints:

(2)(a) All school day calculations shall exclude lunch periods and pass time between classes but may include recess periods that include organization or instruction from school staff.

(b) Each day that satisfies hourly instruction time shall count as a school day, regardless of the number or length of class periods or whether or not particular classes meet.

N. "School membership" means membership other than in a special education or YIC program in the context of the Data Clearinghouse.

[~~N~~]O. "School [~~Y~~]year" means [~~a minimum of 990 hours of instruction in a minimum of 180 school days required to qualify for full minimum funding. The 180 school days shall be scheduled during~~ ]the 12 month period [~~beginning~~]from July 1 through June 30[~~, 1995 with the following exceptions:~~

~~(1) The kindergarten program is a half-day program providing a minimum of 450 hours of instruction in a minimum of 180 school days during a school year to qualify for full minimum school funding.~~

~~(2) In grade one, the school shall provide a minimum of 810 hours of instruction in a minimum of 180 school days during a school year to qualify for full minimum school funding.~~

~~(3) An exception for schools using a modified 45-day 15-day year round schedule is provided for in R277-419-8D.~~

~~O. "Ten-day Membership Rule" means subject to Section 1A, a student shall not be counted in membership for funding purposes after 10 consecutive school days of unexcused absences or that the date of withdrawal shall not be later than the day after 10 consecutive school days of unexcused absences. Each day a school is officially in session shall be counted as a school day, regardless of the number or length of class periods or whether or not particular classes meet such as the 8-period per day high school classes.~~]

P. "Self-contained" means a public school student with an IEP who receives 180 minutes or more of special education services during a typical school day.

Q. "Self-Contained Resource Attendance Management (SCRAM)" means a record that tracks the aggregate membership of public school special education students for state funding purposes.

R. "SSID" means Statewide Student Identifier.

S. "UCAT" means any public institution of higher education affiliated with the Utah College of Applied Technology.

T. "Unexcused absence" means an absence charged to a student when the student was not physically present at school at any of the times attendance checks were made in accordance with Section R277-419-3B(3) and the student's absence could not be accounted for by evidence of a legitimate or valid excuse in accordance with local board policy on truancy as defined in Section 53A-11-101.

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

[~~Q. "Weighted Pupil Unit (WPU)" means the unit of measure of factors that is computed in accordance with the Minimum School Program Act for the purpose of determining the costs of a program on a uniform basis for each district.~~

] V. "Virtual education" means the use of information and communication technologies to offer educational opportunities to students in a manner that transcends traditional limitations of time and space with respect to their relationships with teachers, peers, and instructional materials.

W. "Year End upload" means the Data Clearinghouse file due annually by July 15 from school districts and charter schools to the USOE for the prior school year.

X. "YIC" means Youth in Custody.

Y. "YICSIS" means YIC Student Information System.

**R277-419-3. [~~Operation~~]Minimum School Days, LEA Records, and Audits.**

A. Minimum standards for school days

(1) [~~School districts~~]LEAs [~~are required to~~]shall conduct school for at least 990 instructional hours and 180 school days each school year; exceptions to the number of days for individual students and schools are provided for in R277-419-7.

(2) The required days [~~or~~]and hours may be offered at any time during the school year[~~, provided that each school day is consistent with R277-419-1(M), July 1 to June 30, except for Sunday. A student who is in membership in a regular school program for one full school year generates the full WPU possible under the law. No student may generate WPU monies for more than 990 hours in any school year~~], consistent with the law.

(3) Minimum standards shall apply to all public schools in all settings unless Utah law or this rule provides for specific exceptions.

B. Official records

(1) To determine student membership, [~~school districts~~]LEAs shall ensure that records of daily student attendance are [~~kept~~]maintained in each school which clearly and accurately show for each student the:

(a) [~~the~~ ]entry date[~~,~~];

(b) exit date;

(c) exit or high school completion status;

(d) whether or not an absence was excused; and

(e) disability status (resource or self-contained, if applicable)[~~ and attendance record of each student. These records shall show when a student has been absent from school ten consecutive school days~~].

[~~(2) All children with disabilities in the self-contained programs shall be identified with their disability code, in the individual school's records of attendance.~~

] ([~~3~~]2)(a) Computerized or manually produced records for [~~applied technology~~]Career and Technical Education (CTE) programs shall be kept by teacher, class and Classification of Instructional Program (CIP) code.

(b) These records shall clearly and accurately show for each student in a CTE class the:

(i) entry date;

(ii) [~~and~~ ]exit date; and

(iii) [~~of each student and whether a student has been absent from school ten consecutive days~~]excused or unexcused status of absence.

([~~4~~]3) A minimum of one attendance check shall be made by [~~the~~]each public school each school day.

C[~~-~~](1) [~~Because of~~]Due to school activities requiring schedule and program modification during the first days and last days of the school year, an [~~district~~]LEA may report for the first five days, aggregate days of membership equal to the number recorded for the second five-day period of the school year.

(2) For the last three-day period, an [~~district~~]LEA may report aggregate days of membership equal to the number recorded for the immediately preceding three-day period.

(3) Schools shall continue instructional activities throughout required calendared instruction days.

D. [~~School District~~ ]Audits

(1) An independent auditor shall be employed under contract by each [~~school district~~]LEA to audit its student accounting records annually and report the findings to the [~~district~~]LEA board of education and to the Finance and Statistics Section of the USOE;

(2) Reporting[~~ due~~] dates, [~~and suggested~~ ]forms, and procedures are found in the [~~Guidelines and Procedures for Conducting the Annual Statistical Audits of Fall Enrollment and Student Membership~~]State of Utah Legal Compliance Audit Guide, provided to [~~school districts~~]LEAs by the USOE in cooperation with the State Auditor's Office and published under the heading of APP C-5;

(3) The USOE shall review student membership and fall enrollment audits as they relate to the allocation of state funds and may periodically or for cause review LEA records and practices for compliance with the laws and this rule.

**R277-419-4. Student Membership.**

[~~A. For purposes of funding the regular basic school program, a student can only be a pupil in average daily membership once on any day. A student may be counted in full-time membership in the regular school program, or full-time membership in some other program, or in part-time membership in the regular school program and part-time membership in some other program. If a student's day is part-time in the regular school program and part-time in some other program (e.g., Adult Basic Education, Youth in Custody), the student's membership is reported on a pro-rated basis for each program. A student shall not be funded for more than one regular WPU for any school year. However, in addition, add-on WPUs may be generated.~~

~~B. Full-time students in grades 2-12 may be in average daily membership whenever district-approved classes are available.~~

~~C. Minimum criteria for homebound/hospitalized services~~

~~(1) A student requiring homebound or hospitalized teacher services shall receive a minimum of two contact hours of instruction per week to qualify for full membership in the regular program.~~

~~(2) A district shall provide the minimum of two contact hours per week and document that contact or it may not claim the state WPU for the student.~~

~~(3) The circumstances requiring the services shall be clearly stated and may include specific injuries, surgery, illness, other disabilities, pregnancy, or a district determination that a student~~

~~should receive home instruction and supervision for a designated period of time. The expected period of absence must be estimated.~~

~~(4) A student with disabilities meeting these requirements may be accounted for under the special education homebound instruction program and receive the appropriate special education funding.~~

~~D. A student suspended in accordance with the law may be counted in membership, after 10 consecutive days of suspension, if the school continues to provide educational services at the minimum level provided in R277-419-4C, above, to the student during the suspension period.~~

~~E. Student enrollment~~

~~(1) the membership of students enrolled part-time in public schools is determined by the ratio of the number of hours or periods that the student is in membership per day or week to the total number of hours or periods in the school day or week. For example, a student in membership 3 periods in a 7 period school day generates 3/7 membership;~~

~~(2) to count membership in measuring eligibility for state funds, enrollment of a public school student in either of the following shall be counted as if the student were enrolled in a public school class or classes during that portion of the school day or week:~~

~~(a) released time for religious instruction or individual learning activity, shall not exceed the equivalent of one class period per day and shall be consistent with a Student Education/Occupation Plan signed by the student, parent/guardian, and school representative;~~

~~(b) a private school, not including a parochial school, under a contract between the private school and a public school district which requires the instruction to be paid for from public funds. Membership is calculated on the basis of fractional daily membership;~~

~~(3) except as provided above, a student enrolled in a public school and any of the following shall be credited for membership for state funding purposes only for the public school portion of the school day:~~

~~(a) a private school;~~

~~(b) a home school.~~

~~F. A student concurrently enrolled in a post-secondary institution and the public schools during a year may be counted in membership if the public school approves the post-secondary program and receives the progress reports and membership and attendance reports from the institution.~~

~~G. Districts may claim membership for students who are regularly enrolled in youth in custody classes, and who are also regularly enrolled during other times of the day in non-youth in custody classes. If the student is enrolled in YIC classes for up to two hours a day, the district may claim full membership; from two to four hours, 1/2 membership; for more than four hours, no membership. No subtraction in district membership shall be made for students who are enrolled in youth in custody classes for two or fewer hours per day or who receive tutoring, tracking, or other support services which do not result in a reduction in regular class enrollment.~~

~~H. The district providing the educational services for the following students may count them in full membership:~~

~~(1) students between the ages of five and eighteen who are residents of another school district in the state, who have received written permission for entry from the receiving district, and for whom the receiving district has given written notification to the board of education of the district of residence;~~

~~(2) exchange students under Section 53A-2-206 which requires the student to be sponsored by an agency approved by the Board prior to the students' arrival in the United States; and~~

~~(3) students beyond the age of eighteen remaining in continuous education.~~

~~I. High school completion options and funding~~

~~(1) Students eighteen years of age or over who have not graduated from high school with their graduating class shall not be enrolled as continuous education students, except students who do not graduate with their graduating class due to:~~

~~(a) sickness;~~

~~(b) hospitalization;~~

~~(c) pending court investigation or action or both;~~

~~(d) other extenuating circumstances beyond the control of the student; or~~

~~(e) special education students attending school in accordance with the provisions of a valid Individualized Education Program (IEP) who may be enrolled until age 22 or until graduated. School districts are encouraged to handle these students in the regular programs with approval by the local boards of education.~~

~~(2) A student under eighteen years of age who has not graduated and who is a resident of the district, may, with approval under the state administered Adult Education Standards, enroll in the Adult Basic and Adult High School Completion Program and generate regular state WPUs at the rate of 990 clock hours of membership per one weighted pupil unit per year, 1 F.T.E. on a yearly basis. The clock hours of students enrolled part-time must be pro-rated;~~

~~(3) A student eighteen years of age or over who has not graduated, who is domiciled in the state of Utah, and who intends to graduate from high school, may, with approval under the state administered Adult Education Standards, enroll in the State Adult High School Completion Program and attend up to 990 clock hours of membership per year, 1 F.T.E. on a yearly basis. Weighted pupil units are generated for Adult High School Completion students at the rate of 72 days or 396 clock hours of membership per WPU.~~

~~(a) The clock hours of students enrolled part-time must be pro-rated.~~

~~(b) As an alternative, equivalent weighted pupil units may be generated for competencies mastered on the basis of prior authorization of a district plan by the Adult Education and USOE School Finance and Business Sections.~~

~~(c) The ten-day membership rule of R277-419-1(O) for Adult High School Completion students is 10 clock hours.~~

~~J. Applied Technology Class Attendance~~

~~(1) A student may be in a full-time membership and generate the regular WPU even though spending part of the day at an applied technology center.~~

~~(2) Students may generate regular WPUs hour-for-hour spent in bus travel to and from applied technology centers, if the students are traveling during their regular school day.~~

~~(3) Add-on WPUs are generated during approved applied technology instruction, but not during bus travel.~~

~~K. Alternative High School Membership~~

~~(1) The following conditions shall exist in order to generate WPUs for Alternative High School Membership:~~

~~(a) the Alternative High School must have on file an assignment transfer from the district of residence for eligible students; and~~

~~(b) only students in continuous education generate regular WPUs.~~

~~(2) Students involved only with course work at the school have ADM calculated in the same manner as part-time or full-time students in the regular school;~~

~~(3) A student whose program consists of seminars or course work part time and participating in work experience part time in the community with or without pay, has ADM computed by dividing the hours of membership by 990. For the purposes of computing ADM, work experience is limited to a maximum of ten hours per week;~~

~~(4) Students who are engaged in independent or home study have ADM calculated by dividing the student contact credits earned from independent study by the number of contact credits earned by a regular full-time student during the regular school year in the district. For example, to determine the fraction of one ADM for which a student will be counted, if in the high school a full-time student earns seven contact credits, seven is the denominator and the numerator will be the contact credits earned from independent study.~~ ] A. Eligibility

(1) In order to generate membership for funding through the MSP for any clock hour of instruction on any school day, a student shall:

(a) not have previously earned a basic high school diploma or certificate of completion;

(b) not be enrolled in a YIC program with a YIC service code other than RSM, ISI-1 or ISI-2;

(c) not have unexcused absences on all of the prior ten consecutive school days;

(d) be a resident of Utah as defined under Sections 53A-2-201 through 213;

(e) be of compulsory school age or a retained senior;

(f)(i) be expected to attend a regular learning facility operated or recognized by the LEA on each regularly scheduled school day; or

(ii) have direct instructional contact with a licensed educator provided by the LEA at an LEA-sponsored center for tutorial assistance or at the student's place of residence or convalescence for at least 120 minutes each week during an expected period of absence, if physically excused from such a facility for an extended period of time, due to:

(A) injury, illness, surgery, suspension, pregnancy, pending court investigation or action; or

(B) an LEA determination that home instruction is necessary.

(2) Students may generate MSP funding by participation in an LEA-sponsored or LEA-supported virtual education program other than the Utah Electronic High School that is consistent with the student's SEOP, has been approved by the student's counselor, and includes regular face-to-face instruction or facilitation by a designated employee of the LEA.

B. Reporting

(1) LEAs shall report aggregate membership for each student via the School Membership field in the S1 record and special education membership in the SCRAM Membership field in the S2 record of the Year End upload of the Data Clearinghouse file.

(2) In the Data Clearinghouse, aggregate membership shall be expressed in days.

(3) YIC membership for traditional and special education students shall be reported via YICSIS, but special education membership for YIC students shall be reported via the Data Clearinghouse.

C. Calculations

(1) If a student was enrolled for only part of the school day or only part of the school year, the student's membership shall be prorated according to the number of hours, periods or credits for which the student actually was enrolled in relation to the number of hours, periods or credits for which a full-time student normally would have been enrolled. For example:

(a) If the student was enrolled for 4 periods each day in a 7 period school day for all 180 school days, the student's aggregate membership would be 4/7 of 180 days or 103 days.

(b) If the student was enrolled for 7 periods each day in a 7 period school day for 103 school days, the student's membership would also be 103 days.

(2) For students in grades 2 through 12, days in membership shall be calculated by the LEA using a method equivalent to the following: total clock hours of instruction for which the student was enrolled during the school year divided by 990 hours and then multiplied by 180 days and finally rounded up to the nearest whole day. For example, if a student was enrolled for only 900 hours during the school year, the student's aggregate membership would be (900/990)*180, and the LEA would report 164 days.

(3) For students in grade 1, the first term of the formula shall be adjusted to use 810 hours as the denominator.

(4) For students in kindergarten, the first term of the formula shall be adjusted to use 450 hours as the denominator.

D. Constraints

(1) The sum of regular and self-contained special education membership days may not exceed 180 days;

(2) The sum of regular and resource special education membership days may not exceed 360 days.

E. Exceptions

LEAs may also count a student in membership for the equivalent in hours of up to:

(1) one period each school day, if the student has been:

(a) released by school upon parent's request during the school day for religious instruction or individual learning activity consistent with the student's SEOP; or

(b) exempted from school attendance under 53A-11-102 for home schooling and participates in one or more extracurricular activities under R277-438;

(2) two periods each school day for time spent in bus travel during the regular school day to and from UCAT facilities, if the student is enrolled in CTE instruction consistent with the student's SEOP;

(3) four periods each school day, if the student is enrolled in a YIC program with a YIC secure service code of ISI-2. State-funded YIC programs operating in facilities that provide residential care may receive funding for a maximum of 205 days, with prior USOE approval;

(4) all periods each school day, if the student is enrolled in:

(a) a concurrent enrollment program that satisfies all the criteria of R277-713;

(b) a private school without religious affiliation under a contract initiated by an LEA which directs that the instruction be paid by public funds. Contracts shall be approved by the LEA board in an open meeting.

(c) a foreign exchange student program under 53A-2-206(2)(i)(B).

(d) Electronic High School or UCAT classes for credit which meet curriculum requirements, consistent with the student's SEOP and following written school counselor approval.

(e) a school operated by an LEA under a Utah Schools for the Deaf and the Blind IEP:

(i) students may only be counted in (S1) membership and shall not have an S2 record;

(ii) the S2 record for these students shall only be submitted by the Utah Schools for the Deaf and the Blind.

[~~**R277-419-5. Dropout Determination.**~~

~~A. The Board shall use the U.S. Department of Education, National Center for Education Statistics, Common Core of Data Committee's dropout definition and reporting procedures available from the Finance Section of the USOE. School districts shall provide the data as specified in the Fall Enrollment Report beginning with the 1997 report.~~

~~B. A student in grades 7-12 enrolled during the school year shall be reported as a dropout for that school year if the student does not complete the school year, unless the student:~~

~~(1) is enrolled on October 1 of the following school year;~~

~~(2) is not in attendance due to suspension, illness, or other extenuating circumstances beyond the control of the student, provided that the school is officially notified and services are provided consistent with this rule;~~

~~(3) transfers to another public school, a state or district approved program, or a regularly organized private school, as evidenced by an official request for the student's records by the receiving school by October 1 of the following year;~~

~~(4) transfers to a home school, if the student receives a release annually from the public school district of residence, and the student provides verification to the school district's satisfaction that the student is being taught consistent with Section 53A-11-102;~~

~~(5) graduates early; or~~

~~(6) dies.~~

~~C. A student who completes the school year in grades 7-12, but is not enrolled on October 1 of the following year, is reported as a dropout for the year and grade for which the student fails to enroll. The student is commonly known as a summer drop-out or fall no-show.~~

]**R277-419-[~~6~~]5. High School Completion Status.**

[~~A. An individual is recorded as completing school when the student graduates in the traditional sense from high school or completes a state or district approved educational program and receives official recognition of graduation or completion from school administrators.~~

~~(1) State or district approved programs may be special education programs as defined by the student's IEP consistent with the law, home school when officially authorized on an annual basis by school or district administrators, GED preparation, Youth in Custody, alternative high school programs, and adult high school programs.~~

~~(2) Adult or alternative high school may be a combination of traditional high school credits, GED credits and adult or alternative high school credits.~~

~~B. Approval of programs for school completion - presentation of a high school diploma and participation in formal graduation exercises - are solely within school district discretion consistent with the law and Board rules.~~

]A. LEAs shall use the following decision rules and associated codes in the Data Clearinghouse to indicate the high school completion or exit status of each student who leaves the Utah public education system:

(1) dropped out (DO), when no other status code legitimately represents the reason for departure or absence from school;

(2) died (DE);

(3) expelled (EX);

(4) graduated with a high school diploma, (G*) by satisfying one of the options specified in R277-705-4B;

(5) received a certificate of completion (CT):

(a) to qualify for a certificate, a student shall be in membership in twelfth grade on the last day of the school year; and

(b) meet any additional criteria established by the LEA consistent with its authority under R277-705-4C;

(6) suspended (SU);

(7) transferred out of state (TO);

(8) transferred out of the country (TC);

(9) transferred to a private school (TP);

(10) transferred to home schooling (TH);

(11)(a) U.S. citizen who enrolled in another country as a foreign exchange student (FE);

(b) non-U.S. citizen who enrolled in a Utah public school as a foreign exchange student under Section 53A-2-206(2)(i)(B) shall be identified by resident status (F), not by an exit code;

(12) withdrawn (WD) due to a situation so serious that educational services cannot be continued even under the conditions of R277-419-4(A)(1)(f)(ii).

B. LEAs shall report the high school completion status or exit code of each student to the USOE as specified in Data Clearinghouse documentation.

**R277-419-[~~7~~]6. Student Identification and Tracking.**

A(1) Pursuant to Section 53A-1-603.5, LEAs shall use the SSID system maintained by the USOE to assign every public school student a unique student identifier; and

(2) shall display the SSID on student transcripts exchanged with LEAs and Utah public institutions of higher education.

B(1) [~~School districts~~]LEAs shall [~~request~~]require all students to provide their [~~district with a social security number for purposes of identification and electronic record transfer~~]legal first, middle, and last names at the time of registration to ensure that the correct SSID follows students who transfer among LEAs.

(2)(a) Names shall be transcribed from the student's birth certificate or other reliable proof of the student's identity and age, consistent with Section 53A-11-503;

(b) The direct transcription of student names from birth certificates or other reliable proof of student identity and age shall be the student's legal name for purposes of maintaining school records; and

(c) Schools or school districts may modify the order of student names, provide for nicknames, or allow for different surnames, consistent with court documents or parent preferences, so long as legal names are maintained on student records and used in transmitting student information to the USOE.

C. The USOE and LEAs shall track students and maintain data using students' legal names.

D. If there is a compelling need to protect a student by using an alias, the LEA should exercise discretion in recording the name of the student.

E. The SSID shall be an arbitrary number and may not contain any personally identifying information about the student.

**R277-419-[~~8~~]7. Variances.**

A. An exception for school attendance for public school students may be made at the discretion of the local board, in the length of the school day or year, for students with [~~unusual problems~~]compelling circumstances. The time an excepted student is required to [~~be in~~]attend school [~~is established in view of the student's particular needs~~]shall be established by the student's IEP or SEOP.

B. Emergency/activity/weather-related exigency time [~~should~~]shall be [~~included~~]planned for in an [~~school district~~]LEA's annual calendaring[~~ for each school~~]. If school is closed for any reason, the instructional time missed shall be made up under the emergency/activity time as part of the minimum required time to qualify for full MSP funding.

C. Staff Planning, Professional Development, Student Assessment Time, and Parent-Teacher and Student Education Plan (SEP) Conferences.

(1) To provide planning and professional development time for staff, [~~districts~~]LEAs may hold school longer some days of the week and shorter other days so long as minimum school day requirements, as provided for in R277-419-1M, are satisfied.

(2) Schools may conduct parent-teacher and student education plan conferences during the school day.

(3) Such conferences may only be held for a total of the equivalent of three full school days or a maximum of 16.5 hours for the school year. [~~ADM~~]Student membership for professional development or parent-teacher conference days shall be [~~is~~] counted as that of the previous school day.

(4) LEAs may designate no more than 12 instructional days at the beginning of the school year or at the end of the school year or both for the assessment of students entering or completing kindergarten. If instruction days are designated for kindergarten assessment:

(a) the days shall be designated by the LEA board in an open meeting;

(b) adequate notice and explanation shall be provided to kindergarten parents well in advance of the assessment period;

(c) assessment shall be conducted by qualified school employees consistent with Section 53A-3-410; and

(d) assessment time per student shall be adequate to justify the forfeited instruction time.

([4]5) The final decision and approval regarding planning time, parent-teacher and SEP conferences rests with the local board of education, consistent with Utah law and Board administrative rules.

(6) Total instructional time and school calendars shall be approved by local boards in an open meeting.

D. A school participating in the School Professional Development Days Pilot Program, consistent with R277-418, may use a maximum of 22 hours of the 990 hours of student instructional time required under R277-419-3A(1) for professional development days. Use of this time, consistent with R277-418, requires prior Board approval.

[~~D~~]E. A school using a modified 45-day 15-day year round schedule initiated prior to July 1, 1995 shall be considered to be in compliance with this rule if a school's schedule includes a minimum of 990 hours of instruction time in a minimum of 172 days.

**KEY: education finance, school enrollment**
**Date of Enactment or Last Substantive Amendment: [~~August 15, 2003~~]2006**
**Notice of Continuation: October 18, 2002**
**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-1-402(1)(e); 53A-1-404(2); 53A-1-301(3)(d); 53A-3-404; 53A-3-410**

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# Education, Administration
# R277-422
# State Supported Voted Leeway, Local Board-Approved Leeway and Local Board Leeway for Reading Improvement Programs

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29039
FILED: 09/15/2006, 17:23

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to allow school districts to be exempt from the advertisement (notice) requirements of the property tax law when increasing the voted leeway levy above the certified tax rate if an election to consider the leeway is held within four years. This amendment brings the rule in compliance with changes in state law.

SUMMARY OF THE RULE OR CHANGE: The amended rule adds a definition and allows a school district to budget an increased amount of ad valorem property tax revenue without required advertising requirements based on the date of voted leeway approval.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 53A-1-402(1)(e) and 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. Any savings will benefit school districts.

❖ LOCAL GOVERNMENTS: There are no anticipated costs to local government. School districts may save a modest amount of money in their exemption from advertising certain increases usually required by law.

❖ OTHER PERSONS: There are no anticipated costs or savings to other persons. Any savings may affect school districts, not individuals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. There may be savings, not costs, 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. Patti Harrington, 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 carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/08/2006

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

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**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. "Ad valorem property tax" means a tax based on the assessed value of real estate or personal property.

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

[~~B~~]C. "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 the state-supported minimum school program in a district.

[~~C~~]D. "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~~]E. "Local board" means the school board members elected to govern a school district.

[~~E~~]F. "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.

[~~F~~]G. "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).

**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~~]e) which directs the Board to establish rules for [~~the minimum school program~~]school productivity and cost effectiveness measures, federal programs, school budget formats, and financial, statistical, and student accounting 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 specify requirements, timelines, and clarifications for the state-supported voted, local board-approved, and local board leeway for reading improvement programs.

**R277-422-3. Requirements and Timelines for State-Supported Voted Leeway.**

A. 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. 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.

C. Effective January 1, 2007, a school district may budget an increased amount of ad valorem property tax revenue from a voted leeway in addition to revenue from new growth without required compliance with the advertisement requirements if the voted leeway is or was approved:

(1) on or after January 1, 2003; and

(2) within the four-year period immediately preceding the year in which the school district seeks to budget an increased amount of ad valorem property tax.

D. Effective January 1, 2007, a school district may levy a tax rate without having to comply with the advertisement requirements of Sections 59-2-918 and 919 if:

(1) the levy exceeds the certified tax rate as the result of a school district budgeting an increased amount of ad valorem property tax derived from a voted leeway;

(2) the voted leeway was approved on or after January 1, 2003; and

(3) the voted leeway was approved within the four-year period immediately preceding the year in which the school district seeks to budget an increased amount of ad valorem property tax revenue derived from the voted leeway.

[~~C~~]E. An election to consider adoption or modification of a state-approved voted leeway program is required.

[~~D~~]F. 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~~]G. 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.

[~~F~~]H. 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).

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

[~~H~~]J. 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~~]K. 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.

**KEY: education, finance**
**Date of Enactment or Last Substantive Amendment: [~~July 16, 2004~~]2006**
**Notice of Continuation: October 18, 2002**
**Authorizing, and Implemented or Interpreted Law: 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; 59-2-918; 59-2-919**

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# Education, Administration
# R277-604
## Private School, Home School, Electronic High School (EHS), and Bureau of Indian Affairs (BIA) Student Participation in Public School Achievement Tests

**NOTICE OF PROPOSED RULE**
(New Rule)
DAR FILE NO.: 29040
FILED: 09/15/2006, 17:23

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this new rule is to provide for private school students, home school students, electronic high school (EHS) students, and Bureau of Indian Affairs (BIA) students to participate in public education school achievement testing.

SUMMARY OF THE RULE OR CHANGE: The new rule provides definitions, criteria and procedures for private school students, home school students, EHS students, and BIA students to participate in public education school achievement tests. The rule requires school districts to develop policies for all students identified in this rule.

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

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: There may be some cost to test these additional groups of students. The state will absorb most of the cost. Any costs are speculative.
❖ LOCAL GOVERNMENTS: There may be minimal costs for school districts in providing testing for identified students. Because testing is optional for these groups of students, we have no estimate of how many students will avail themselves of this opportunity. School districts will be flexible in absorbing unexpected costs for an unknown number of students in the first year of this opportunity.
❖ OTHER PERSONS: There may be costs to private schools that choose to coordinate with school districts to provide testing for private school students.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be compliance costs for affected persons. It is uncertain whether private schools will absorb any costs, charge parents individually for testing, or raise tuition to cover testing costs if private schools choose to participate.

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. Patti Harrington, 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 carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/08/2006

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

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**R277. Education, Administration.**
**R277-604. Private School, Home School, Electronic High School (EHS), and Bureau of Indian Affairs (BIA) Student Participation in Public School Achievement Tests.**
**R277-604-1. Definitions.**

A. Utah Basic Skills Competency Test (UBSCT) means the test required under Section 53A-1-611 for Utah students seeking a high school diploma.

B. "Private school" means a school that is not a public school but:

(1) has a location or space in Utah where teachers have regularly scheduled face-to-face classes with students;

(2) has a current business license through the Utah Department of Commerce;

(3) is accredited through Northwest or another regional accrediting agency;

(4) has and makes available a written policy for maintaining and securing student records;

(5) charges tuition generally consistent with other private schools in Utah; and

(6) employs teachers with licenses, credentials or demonstrable skills and expertise for instructing students in Core Curriculum courses or areas.

C. "Home school student" means a student who has been excused from compulsory education and for whom documentation has been completed under 53A-11-102.

D. "Public school achievement test" means a standardized test which measures or attempts to measure the level of performance which a student has attained in one or more courses of study. Achievement tests shall mean criterion-referenced tests consistent with 53A-1-602(3)(b)(c) and (d).

**R277-604-2. 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 allows the Board to adopt rules in accordance with its responsibilities, and Section 53A-1-603(1)(a) which directs the Board to require school districts to implement the Utah Performance Assessment System for Students.

B. The purpose of this rule is:

(1) to provide opportunities for Utah private school students and home school students who are Utah residents, and Utah students attending BIA schools to participate in U-PASS;

(2) to maintain the integrity and security of U-PASS;

(3) to provide an orderly and manageable administrative process for public schools to include Utah private school students and home school students who are Utah residents, and Utah students attending BIA schools to participate in U-PASS if they so desire; and

(4) to protect the public investment in U-PASS by making assessments available to students who are not funded by the public education system through fair, reasonable, and consistent practices.

**R277-604-3. Private Schools.**

A. Private school students who are Utah residents, as defined under 53A-2-201, may be allowed to participate in U-PASS.

B. Private school students who are not Utah residents may participate in U-PASS only by payment in advance of the full cost of individual assessments as determined by local board policy.

C. Private schools that are interested in participating in U-PASS may, at the public school district's discretion, do so only in the public school district in which the private school is located.

(1) School districts shall determine at which public schools within the district private school students may take achievement tests.

(2) A private school may request from the school district in which the private school is located an annual schedule of U-PASS dates, the locations at which private schools may be tested and written policies for private school student participation. An annual U-PASS schedule may be available online on school district websites.

D. School district policies shall include:

(1) reasonable costs for the participation of Utah private school students in U-PASS to be paid in advance by either the student or the school;

(2) an explanation of reasonable costs including costs for materials, scoring, reporting, and any state-related costs as determined by the state, to be passed on to the state. School district administration costs, determined by local boards, shall remain in the district.

(3) notice to private school administrators of any required private school administrator participation in monitoring or proctoring of tests;

(4) reasonable time lines for private school requests for participation and school district/school response;

(5) limits, if any, of numbers of non-public students that can be accommodated by the public school for all tests; and

(6) written notice to private schools of testing rules, including required identification for staff and students of implements or materials that private schools or private school students may or may not bring or use for each test.

**R277-604-4. Home School Students.**

A. Home school students who are Utah residents, as defined under 53A-2-201, shall be allowed to participate in U-PASS as provided in this rule.

B. Home school students shall be allowed to participate in U-PASS only if they have satisfied the home schooling requirements of 53A-11-102.

C. Home school student participation:

(1) Elementary-age home school students who desire to participate in U-PASS may do so only in the public school district in which the home school student's parent/legal guardian resides.

(2) Secondary home school students who desire to participate in U-PASS may do so only in the public school district in which the home school student's parent/legal guardian resides only if the student is enrolled in one or more Core program(s) or course(s) at the resident public school.

(3) School districts shall determine at which public school(s) within the district qualifying home school students may take achievement tests.

(4) A home school student/parent may request from the school district in which the home school student/parent resides an annual schedule of U-PASS dates, the locations at which home school students may be tested and written policies for home school student participation.

D. School district policies shall include:

(1) any costs required from traditional students.

(2) notice to home school students/parents of any required parent/adult participation in monitoring or proctoring of tests;

(3) reasonable time lines for home school requests for participation and school district/school response;

(4) limits, if any, of numbers of non-public students that can be accommodated by the public school for all tests; and

(5) written notice to home school students/parents of testing rules, including required identification and proof of residency for adults and students and implements or materials that home school students may or may not bring or use for each test.

E. The USOE shall absorb the costs for testing qualifying (enrolled in one or more Core program(s) or course(s) at the public school) home school students unless or until the number of home school students requesting testing in all districts exceeds two percent of the public education students enrolled in the state.

**R277-604-5. Utah Electronic High School (EHS) Students.**

A. EHS students may participate in testing in the school district and school of residence, consistent with Section 53A-2-201, if:

(1) the student has been enrolled in EHS by the school counselor consistent with the student's SEOP; and

(2) the student has met all requirements and standards for Utah home school students.

B. The USOE shall absorb the costs for testing of Utah EHS students until and unless the number of EHS students exceeds two percent of the number of traditionally enrolled Utah public school students.

**R277-604-6. Bureau of Indian Affairs (BIA) Students.**

A. BIA school administrators shall be responsible to meet all U-PASS requirements for all Utah students.

B. Materials and training shall be provided to BIA schools from the public school district in which the school is located on the schedule that applies to Utah school districts.

C. BIA school administrators shall be notified of all information and training by the public school district in which the school is located.

**KEY: home school, private school, electronic high school, achievement tests**
**Date of Enactment or Last Substantive Amendment: 2006**
**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-1-603(1)(a)**

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# Education, Administration
# R277-616
# Education for Homeless and Emancipated Students and State Funding for Homeless and Economically Disadvantaged Ethnic Minority Students

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29041
FILED: 09/15/2006, 17:24

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to align the language of the rule with new federal regulations regarding the education of homeless students.

SUMMARY OF THE RULE OR CHANGE: The amendments provide for a new definition and an amended definition, add new language in the criteria for determining where a homeless or emancipated student shall attend school, and provide for inclusion of charter schools within the rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 53A-17a-121(2) and 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. The rule has amended requirements for school districts; not state requirements.

❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. School districts are currently serving homeless students consistent with previous and current law.

❖ OTHER PERSONS: There are no anticipated costs or savings to other persons. All homeless students will be served without cost consistent with the law and this rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. All homeless students will be served without cost consistent with the law and this rule.

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. Patti Harrington, 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 carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/08/2006

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

**R277. Education, Administration.**
**R277-616. Education for Homeless and Emancipated Students and State Funding for Homeless and Economically Disadvantaged Ethnic Minority Students.**
**R277-616-1. Definitions.**

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

[~~A~~]B. "Domicile" means the place which a person considers to be the permanent home, even though temporarily residing elsewhere.

[~~B~~]C. "Economically disadvantaged" means a student who is eligible for reduced price or free school lunch.

[~~C~~]D. "Emancipated minor" means:

(1) a child under the age of 18 who has become emancipated by order of a court or through marriage, or

(2) a child recommended for school enrollment as an emancipated or independent or homeless child by an authorized representative of the Utah State Department of Social Services.

E. "Enrolled" for purposes of this rule means a student has the opportunity to attend classes and participate fully in school and extracurricular activities based on academic and citizenship requirements of all students.

[~~E~~]F. "Ethnic minority student" means non-Caucasian students as identified below:

(1) American Indian or Alaskan native;

(2) Hispanic/Latino;

(3) Asian;

(4) Pacific Islander;

(5) Black/African American, not of Hispanic origin;

(6) Other;

(7) The total of ethnic minority students per school shall be determined annually on October 1.

[~~D~~]G. "Homeless child" means a child who:

(1) lacks a fixed, regular, and adequate residence;

(2) has primary nighttime residence in a homeless shelter, welfare hotel, congregate shelter, or domestic violence shelter;

(3) sleeps in a public or private place not ordinarily used as a regular sleeping accommodation for human beings;

(4) is, out of necessity, living with relatives or friends usually on a temporary or emergency basis due to lack of housing; or

(5) is a runaway.

[~~F~~]H. "Parent" means a parent or guardian having legal custody of a minor child.

[~~G~~]I. "School district of residence for a homeless child" means the district in which the student or the student's legal guardian or both currently resides or the charter school that the student is attending for the period that the student or student's family satisfies the homeless criteria.

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

**R277-616-2. Authority and Purpose.**

A. This rule is authorized under Article X, Section 3 of the Utah State Constitution, Section 53A-17a-121(2) which directs the Board to develop [~~standards~~]rules for districts and charter schools to spend[~~ing~~] monies for homeless and ethnic minority students, Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities, Section 53A-11-101 which requires that minors between the ages of 6 and 18 attend school during the school year of the district of residence, and by Section 53A-2-201([~~3~~]5) which makes each school district or charter school responsible for providing educational services for all children of school age who reside in the district or attend the school.

B. The purpose of this rule is to ensure that homeless children have the opportunity to attend school with as little disruption as reasonably possible and that funds for homeless and economically disadvantaged ethnic minority students are distributed equitably and efficiently to school districts and charter schools.

**R277-616-3. Criteria for Determining Where a Homeless or Emancipated Student Shall Attend School.**

A. Under the McKinney-Vento Homeless Assistance Act of 1987, Title VII, Subtitle B, as amended, 42 U.S.C. 11431 through 11435, homeless students are entitled to immediate enrollment and full participation even if they are unable to produce records normally required for enrollment.

[~~A~~]B. A homeless student [~~may~~]shall:

(1) be immediately enrolled even if the student does not have documentation required under Sections 53A-11-201, 301, 302, 302.5 and Section 53A-2-201 through 213;

([~~1~~]2) be allowed to continue [~~for the remainder of the school year, to attend the school which the child attended prior to becoming homeless,~~]to attend his school of origin, to the extent feasible, unless it is against the parent/guardian's wishes; be permitted to remain in the student's school of origin for the duration of the homelessness and until the end of any academic year in which the student moves into permanent housing; or

([~~2~~]3) transfer to the school district of residence or charter school if space is available as defined under Subsection R277-616-1[~~G~~]I.

B. Determination of residence or domicile may include consideration of the following criteria:

(1) the place, however temporary, where the child actually sleeps;

(2) the place where an emancipated child or an unemancipated child's family keeps its belongings;

(3) the place which an emancipated child or an unemancipated child's parent considers to be home; or

(4) such recommendations concerning a child's domicile as made by the State Department of Human Services.

C. Determination of residence or domicile may not be based upon:

(1) rent or lease receipts for an apartment or home;

(2) the existence or absence of a permanent address; or

(3) a required length of residence in a given location.

D. If there is a dispute as to residence or the status of a child as an emancipated minor, the issue may be referred to the USOE for resolution.

E. The purpose of federal homeless education legislation is to ensure that a child's education is not needlessly disrupted because of homelessness.[~~(See P.L. 177, July 22, 1989, Stuart B. McKinney, Subtitle B, Education for Homeless Children and Youths, Sections 721 and 722)~~] If a child's residence or eligibility is in question, the child shall be admitted to school until the issue is resolved.

**R277-616-4. Transfer of Guardianship.**

A. If guardianship of a minor child is awarded to a resident of a school district by action of a court or through appointment by a school district under Section 53A-2-202, the child becomes a resident of the district in which the guardian resides.

B. If a child's residence has been established by transfer of legal guardianship, no tuition may be charged by the new district of residence.

**R277-616-5. School District Funding for Homeless Students and Economically Disadvantaged Ethnic Minority Students.**

A. Funds appropriated for homeless and economically disadvantaged ethnic minority students shall be distributed as outlined under 53A-17a-121([~~4~~]3).

B. For purposes of determining the homeless student count, a district[~~s~~] or a charter school shall count annually the number of homeless students served in the district or charter school.

C. If a student satisfies the homeless criteria at more than one time during the school year in the same district or charter school, the student shall be counted once.

**KEY: compulsory education, students' rights**
**Date of Enactment or Last Substantive Amendment: [~~July 2, 1998~~]2006**
**Notice of Continuation: November 23, 2005**
**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-2-201([~~3~~]5); 53A-2-202; 53A-17a-121([~~4~~]3)**

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# Environmental Quality, Air Quality
# R307-101-2
## Definitions

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29000
FILED: 09/07/2006, 16:04

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment moves one definition, deletes other unused definitions, and modifies another definition. This amendment is part of revisions to rules related to the ozone maintenance plan (see separate filings on Section R307-110-13; and Rules R307-320, R307-325, R307-326, R307-327, R307-328, R307-332, R307-335, R307-340, R307-341, R307-342, and R307-343 in this issue.) (DAR NOTE: The other filings are under: Section R307-110-13 (DAR No. 29001); and Rules R307-320 (DAR No. 29002); R307-325 (DAR No. 29003); R307-326 (DAR No. 29006); R307-327 (DAR No. 29004); R307-328 (DAR No. 29005); R307-332 (DAR No. 29007); R307-335 (DAR No. 29008); R307-340 (DAR No. 29009); R307-341 (DAR No. 29010); R307-342 (DAR No. 29011); and R307-343 (DAR No. 29012) in this issue.)

SUMMARY OF THE RULE OR CHANGE: Several definitions are deleted because they are no longer used in any rules. In addition, the definition for "Maintenance Area" is revised to include the date when Provo City was redesignated to attainment for carbon monoxide. A correction is also made to clarify that the eastern portion of Tooele County will not be considered a maintenance area for sulfur dioxide (SO2) until the SO2 maintenance plan has been approved by the Environmental Protection Agency. Also, the definition of "Asphalt or Asphalt Cement" is moved to Rule R307-341 because it is the only rule that uses this definition. This amendment is part of revisions to rules related to the ozone maintenance plan (see DAR NOTE above).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: Because these revisions do not create any new requirements, no change in costs is expected to the state budget.
❖ LOCAL GOVERNMENTS: Because these revisions do not create any new requirements, no change in costs is expected for local governments.
❖ OTHER PERSONS: Because these revisions do not create any new requirements, no change in costs is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because these revisions do not create any new requirements, no change in costs is expected for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because these revisions do not create new requirements, no change to costs is expected for businesses. Dianne R. Nielson, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller or Mat E. Carlile at the above address, by phone at 801-536-4042 or 801-536-4136, by FAX at 801-536-0085 or 801-536-0085, or by Internet E-mail at janmiller@utah.gov or MCARLILE@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 10/17/2006 at 2:00 PM, DEQ Building, 168 N 1950 W, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 12/07/2006

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

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**R307. Environmental Quality, Air Quality.**
**R307-101. General Requirements.**
**R307-101-2. Definitions.**

Except where specified in individual rules, definitions in R307-101-2 are applicable to all rules adopted by the Air Quality Board.

"Actual Emissions" means the actual rate of emissions of a pollutant from an emissions unit determined as follows:

(1) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operations. The Executive Secretary shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(2) The Executive Secretary may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(3) For any emission unit, other than an electric utility steam generating unit specified in (4), which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

(4) For an electric utility steam generating unit (other than a new unit or the replacement of an existing unit) actual emissions of the unit following the physical or operational change shall equal the representative actual annual emissions of the unit, provided the source owner or operator maintains and submits to the executive secretary, on an annual basis for a period of 5 years from the date the unit resumes regular operation, information demonstrating that the physical or operational change did not result in an emissions increase. A longer period, not to exceed 10 years, may be required by the executive secretary if the executive secretary determines such a period to be more representative of normal source post-change operations.

"Acute Hazardous Air Pollutant" means any noncarcinogenic hazardous air pollutant for which a threshold limit value - ceiling (TLV-C) has been adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, pages 15 - 72 (2000)."

"Air Contaminant" means any particulate matter or any gas, vapor, suspended solid or any combination of them, excluding steam and water vapors (Section 19-2-102(1)).

"Air Contaminant Source" means any and all sources of emission of air contaminants whether privately or publicly owned or operated (Section 19-2-102(2)).

"Air Pollution" means the presence in the ambient air of one or more air contaminants in such quantities and duration and under conditions and circumstances, as is or tends to be injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or use of property as determined by the standards, rules and regulations adopted by the Air Quality Board (Section 19-2-104).

"Allowable Emissions" means the emission rate of a source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the emission limitation established pursuant to R307-401-8.

"Ambient Air" means the surrounding or outside air (Section 19-2-102(4)).

"Appropriate Authority" means the governing body of any city, town or county.[

~~"Asphalt or Asphalt Cement" means the dark brown to black cementitious material (solid, semisolid, or liquid in consistency) of which the main constituents are bitumens which occur naturally or as a residue of petroleum refining.~~]

"Atmosphere" means the air that envelops or surrounds the earth and includes all space outside of buildings, stacks or exterior ducts.

. . . . . .

"Hazardous Air Pollutant (HAP)" means any pollutant listed by the EPA as a hazardous air pollutant in conformance with Section 112(b) of the Clean Air Act. A list of these pollutants is available at the Division of Air Quality.[

~~"Heavy Fuel Oil" means a petroleum product or similar material with a boiling range higher than that of diesel fuel.~~]

"Household Waste" means any solid or liquid material normally generated by the family in a residence in the course of ordinary day-to-day living, including but not limited to garbage, paper products, rags, leaves and garden trash.

"Incinerator" means a combustion apparatus designed for high temperature operation in which solid, semisolid, liquid, or gaseous combustible wastes are ignited and burned efficiently and from which the solid and gaseous residues contain little or no combustible material.

"Installation" means a discrete process with identifiable emissions which may be part of a larger industrial plant. Pollution equipment shall not be considered a separate installation or installations.

"LPG" means liquified petroleum gas such as propane or butane.

"Maintenance Area" means an area that is subject to the provisions of a maintenance plan that is included in the Utah state implementation plan, and that has been redesignated by EPA from nonattainment to attainment of any National Ambient Air Quality Standard.

(a) The following areas are considered maintenance areas for ozone:

(i) Salt Lake County, effective August 18, 1997; and

(ii) Davis County, effective August 18, 1997.

(b) The following areas are considered maintenance areas for carbon monoxide:

(i) Salt Lake City, effective March 22, 1999;

(ii) Ogden City, effective May 8, 2001; and

(iii) Provo City, effective [~~on the date that EPA approves the maintenance plan that was adopted by the Board on March 31, 2004~~]January 3, 2006.

(c) The following areas are considered maintenance areas for PM10:

(i) Salt Lake County, effective on the date that EPA approves the maintenance plan that was adopted by the Board on July 6, 2005; and

(ii) Utah County, effective on the date that EPA approves the maintenance plan that was adopted by the Board on July 6, 2005; and

(iii) Ogden City, effective on the date that EPA approves the maintenance plan that was adopted by the Board on July 6, 2005.

(d) The following area[~~s are~~] is considered a maintenance area[~~s~~] for sulfur dioxide:[

~~(i)~~] Salt Lake County and the eastern portion of Tooele County above 5600 feet, effective on the date that EPA approves the maintenance plan that was adopted by the Board on January 5, 2005[~~; and~~

~~(ii) the eastern portion of Tooele County above 5600 feet~~].

"Major Modification" means any physical change in or change in the method of operation of a major source that would result in a significant net emissions increase of any pollutant. A net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone. Within Salt Lake and Davis Counties or any nonattainment area for ozone, a net emissions increase that is significant for nitrogen oxides shall be considered significant for ozone.

Within areas of nonattainment for PM10, a significant net emission increase for any PM10 precursor is also a significant net emission increase for PM10. A physical change or change in the method of operation shall not include:

(1) routine maintenance, repair and replacement;

(2) use of an alternative fuel or raw material by reason of an order under section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(3) use of an alternative fuel by reason of an order or rule under section 125 of the federal Clean Air Act;

(4) use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(5) use of an alternative fuel or raw material by a source:

(a) which the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any enforceable permit condition; or

(b) which the source is otherwise approved to use;

(6) an increase in the hours of operation or in the production rate unless such change would be prohibited under any enforceable permit condition;

(7) any change in ownership at a source

(8) the addition, replacement or use of a pollution control project at an existing electric utility steam generating unit, unless the executive secretary determines that such addition, replacement, or use renders the unit less environmentally beneficial, or except:

(a) when the executive secretary has reason to believe that the pollution control project would result in a significant net increase in representative actual annual emissions of any criteria pollutant over levels used for that source in the most recent air quality impact analysis in the area conducted for the purpose of Title I of the Clean Air Act, if any, and

(b) the executive secretary determines that the increase will cause or contribute to a violation of any national ambient air quality standard or PSD increment, or visibility limitation.

(9) the installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:

(a) the Utah State Implementation Plan; and

(b) other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

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"PSD" Area means an area designated as attainment or unclassifiable under section 107(d)(1)(D) or (E) of the federal Clean Air Act.

"PM10" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by an EPA reference or equivalent method.

"PM10 Precursor" means any chemical compound or substance which, after it has been emitted into the atmosphere, undergoes chemical or physical changes that convert it into particulate matter, specifically PM10.

"Part 70 Source" means any source subject to the permitting requirements of R307-415.[

~~"Peak Ozone Season" means June 1 through August 31, inclusive.~~]

"Person" means an individual, trust, firm, estate, company, corporation, partnership, association, state, state or federal agency or entity, municipality, commission, or political subdivision of a state. (Subsection 19-2-103(4)).

"Pollution Control Project" means any activity or project at an existing electric utility steam generating unit for purposes of reducing emissions from such unit. Such activities or projects are limited to:

(1) The installation of conventional or innovative pollution control technology, including but not limited to advanced flue gas desulfurization, sorbent injection for sulfur dioxide and nitrogen oxides controls and electrostatic precipitators;

(2) An activity or project to accommodate switching to a fuel which is less polluting than the fuel used prior to the activity or project, including, but not limited to natural gas or coal reburning, or the cofiring of natural gas and other fuels for the purpose of controlling emissions;

(3) A permanent clean coal technology demonstration project conducted under Title II, sec. 101(d) of the Further Continuing Appropriations Act of 1985 (sec. 5903(d) of title 42 of the United States Code), or subsequent appropriations, up to a total amount of $2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency; or

(4) A permanent clean coal technology demonstration project that constitutes a repowering project.

"Potential to Emit" means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

"Process Level" means the operation of a source, specific to the kind or type of fuel, input material, or mode of operation.

"Process Rate" means the quantity per unit of time of any raw material or process intermediate consumed, or product generated, through the use of any equipment, source operation, or control apparatus. For a stationary internal combustion unit or any other fuel burning equipment, this term may be expressed as the quantity of fuel burned per unit of time.[

~~"Production Equipment Exhaust System" means a device for collecting and directing out of the work area VOC fugitive emissions from reactor openings, centrifuge openings, and other vessel openings for the purpose of protecting employees from excessive VOC exposure.~~]

"Reactivation of a Very Clean Coal-Fired Electric Utility Steam Generating Unit" means any physical change or change in the method of operation associated with the commencement of commercial operations by a coal-fired utility unit after a period of discontinued operation where the unit:

(1) Has not been in operation for the two-year period prior to the enactment of the Clean Air Act Amendments of 1990, and the emissions from such unit continue to be carried in the emission inventory at the time of enactment;

(2) Was equipped prior to shutdown with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85 percent and a removal efficiency for particulates of no less than 98 percent;

(3) Is equipped with low-NOx burners prior to the time of commencement of operations following reactivation; and

(4) Is otherwise in compliance with the requirements of the Clean Air Act.[

~~"Reactor" means any vat or vessel, which may be jacketed to permit temperature control, designed to contain chemical reactions.~~]

"Reasonable Further Progress" means annual incremental reductions in emission of an air pollutant which are sufficient to provide for attainment of the NAAQS by the date identified in the State Implementation Plan.

. . . . . .

"Significant" means:

(1) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Carbon monoxide: 100 ton per year (tpy);

Nitrogen oxides: 40 tpy;

Sulfur dioxide: 40 tpy;

PM10: 15 tpy;

Particulate matter: 25 tpy;

Ozone: 40 tpy of volatile organic compounds;

Lead: 0.6 tpy.

"Solid Fuel" means wood, coal, and other similar organic material or combination of these materials.

"Solvent" means organic materials which are liquid at standard conditions (Standard Temperature and Pressure) and which are used as dissolvers, viscosity reducers, or cleaning agents.

"Source" means any structure, building, facility, or installation which emits or may emit any air pollutant subject to regulation under the Clean Air Act and which is located on one or more continuous or adjacent properties and which is under the control of the same person or persons under common control. A building, structure, facility, or installation means all of the pollutant-emitting activities which belong to the same industrial grouping. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e. which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (US Government Printing Office stock numbers 4101-0065 and 003-005-00176-0, respectively).

"Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

"Standards of Performance for New Stationary Sources" means the Federally established requirements for performance and record keeping (Title 40 Code of Federal Regulations, Part 60).

"State" means Utah State.[

~~"Synthesized Pharmaceutical Manufacturing" means the manufacture of pharmaceutical products by chemical synthesis.~~]

"Temporary" means not more than 180 calendar days.

"Temporary Clean Coal Technology Demonstration Project" means a clean coal technology demonstration project that is operated for a period of 5 years or less, and which complies with the Utah State Implementation Plan and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

"Threshold Limit Value - Ceiling (TLV-C)" means the airborne concentration of a substance which may not be exceeded, as adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, pages 15 - 72 (2000)."

"Threshold Limit Value - Time Weighted Average (TLV-TWA)" means the time-weighted airborne concentration of a substance adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, pages 15 - 72 (2000)."

"Total Suspended Particulate (TSP)" means minute separate particles of matter, collected by high volume sampler.

"Toxic Screening Level" means an ambient concentration of an air contaminant equal to a threshold limit value - ceiling (TLV- C) or threshold limit value -time weighted average (TLV-TWA) divided by a safety factor.

"Trash" means solids not considered to be highly flammable or explosive including, but not limited to clothing, rags, leather, plastic, rubber, floor coverings, excelsior, tree leaves, yard trimmings and other similar materials.

"Volatile Organic Compound (VOC)" as defined in 40 CFR 51.100(s)(1), as effective on July 1, 2004, and amended on November 29, 2004, by 69 FR 69290 and 69 FR 69298, is hereby adopted and incorporated by reference.

"Waste" means all solid, liquid or gaseous material, including, but not limited to, garbage, trash, household refuse, construction or demolition debris, or other refuse including that resulting from the prosecution of any business, trade or industry.

"Zero Drift" means the change in the instrument meter readout over a stated period of time of normal continuous operation when the VOC concentration at the time of measurement is zero.

**KEY: air pollution, definitions**
**Date of Enactment or Last Substantive Amendment: [~~September 8, 2005~~]2006**
**Notice of Continuation: June 16, 2006**
**Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)**

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# Environmental Quality, Air Quality
# R307-110-13
## Section IX, Control Measures for Area and Point Sources, Part D, Ozone

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29001
FILED: 09/07/2006, 16:05

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to incorporate by reference the new Section IX.D of the state implementation plan (SIP) (ozone eight-hour maintenance plan) in Section R307-110-13, which replaces the current one-hour ozone maintenance plan and the current one-hour ozone SIP. This amendment is part of revisions to rules related to the ozone maintenance plan (see separate filings on Section R307-101-2; and Rules R307-320, R307-325, R307-326, R307-327, R307-328, R307-332, R307-335, R307-340, R307-341, R307-342, and R307-343 in this issue.) (DAR NOTE: The other filings are under: Section R307-101-2 (DAR No. 29000); and Rules R307-320 (DAR No.

29002); R307-325 (DAR No. 29003); R307-326 (DAR No. 29006); R307-327 (DAR No. 29004); R307-328 (DAR No. 29005); R307-332 (DAR No. 29007); R307-335 (DAR No. 29008); R307-340 (DAR No. 29009); R307-341 (DAR No. 29010); R307-342 (DAR No. 29011); and R307-343 (DAR No. 29012) in this issue.)

SUMMARY OF THE RULE OR CHANGE: This amendment revises Section R307-110-13 by replacing Section IX.D of the SIP that is incorporated by reference by Section R307-110-13. There are several important changes in the eight-hour maintenance plan. The following is a list of major differences between this draft plan and the existing one-hour maintenance plan: 1) the previous one-hour maintenance plan established a mobile source budget for purposes of transportation conformity. When the one-hour standard was revoked, effective June 15, 2005, transportation conformity no longer applied. Therefore, the mobile source budgets for Salt Lake and Davis Counties are not included in this plan and the Wasatch Front Regional Council is not required to demonstrate conformity with the mobile source inventory that is included in this plan; 2) the previous plan included a case-by-case volatile organic compound (VOC) reasonably available control technology (RACT) determination for Hill Air Force Base (Hill) and Olympia Sales. The intent of that determination was to demonstrate that current operations at these two sources were RACT, and that any future changes would be covered by the new source review (NSR) program. The Environmental Protection Agency (EPA) interpreted this SIP provision in a more stringent manner than intended, and considered every provision in the applicable approval orders to be a SIP condition. To resolve this unworkable interpretation, the Division of Air Quality (DAQ) has worked with Hill to develop a new RACT determination for Hill to reflect underlying standards such as Utah's RACT rules and federal maximum achievable control technology (MACT) standards. Because the MACT standards were implemented since the previous one-hour maintenance plan was adopted, the overall RACT level will now be more stringent than what was considered RACT in the mid-1990s; 3) when the one-hour ozone maintenance plan was originally adopted in 1993, EPA required Utah to include contingency measures that were already adopted and could be implemented quickly. It was later discovered that the contingency measures did not need to be adopted, but could be identified as potential contingency measures that could be evaluated and adopted within a reasonable time period after an ozone violation occurred. In this eight-hour maintenance plan, a list of possible contingency measures is included. However, DAQ is recommending deleting the pre-approved rules for Stage II Vapor Recovery and several other contingencies because if and when they may be triggered in the future, those contingencies that are implemented will be selected based on information available at that time; 4) the Inspection and Maintenance Program performance standards for Salt Lake and Davis Counties are reestablished using EPA MOBILE6 software and the target years have been extended through 2014; and 5) the old one-hour maintenance plan in Section IX.D.1 of the SIP is deleted. This plan was adopted in the early 1980s and is no longer applicable because it was developed to attain the one-hour ozone standard. This plan was developed according to current EPA guidance and demonstrates that Salt Lake and Davis Counties will remain in compliance to the Ozone National Ambient Air Quality Standards (NAAQS) through 2014. The proposed maintenance plan is available at: http://www.airquality.utah.gov/Public-Interest/Current-Issues/ozone_maintenance/index.htm.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(3)(e)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part D, Ozone Maintenance Provisions for Salt Lake and Davis Counties

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: Because these revisions do not create any new requirements, no change in costs is expected to the state budget.
- ❖ LOCAL GOVERNMENTS: Because these revisions do not create any new requirements, no change in costs is expected for local governments.
- ❖ OTHER PERSONS: Because these revisions do not create any new requirements, no change in costs is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because these revisions do not create any new requirements, no change in costs is expected for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because these revisions do not create new requirements, no change to costs is expected for businesses. Dianne R. Nielson, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jan Miller or Mat E. Carlile at the above address, by phone at 801-536-4042 or 801-536-4136, by FAX at 801-536-0085 or 801-536-0085, or by Internet E-mail at janmiller@utah.gov or MCARLILE@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 10/17/2006 at 2:00 PM, DEQ Building, 168 N 1950 W, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 12/07/2006

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

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**R307. Environmental Quality, Air Quality.**
**R307-110. General Requirements: State Implementation Plan.**
**R307-110-13. Section IX, Control Measures for Area and Point Sources, Part D, Ozone.**

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part D, Ozone, as most recently amended by the Utah Air Quality Board on [~~September 9, 1998~~]December 6, 2006, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

**KEY: air pollution, PM10, PM2.5, ozone**
**Date of Enactment or Last Substantive Amendment: [~~June 16, ~~]2006**
**Notice of Continuation: June 16, 2006**
**Authorizing, and Implemented or Interpreted Law: 19-2-104(3)(e)**

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# Environmental Quality, Air Quality
# R307-320
## Davis, Salt Lake and Utah Counties, and Ogden City: Employer-Based Trip Reduction Program

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29002
FILED: 09/07/2006, 16:05

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify Rule R307-320 by adding language to align the rule with the new ozone maintenance plan and making other grammatical corrections throughout Rule R307-320 to improve the readability of the rule. This amendment is part of revisions to rules related to the ozone maintenance plan (see separate filings on Sections R307-101-2 and R307-110-13; and Rules R307-325, R307-326, R307-327, R307-328, R307-332, R307-335, R307-340, R307-341, R307-342, and R307-343 in this issue.) In addition, language that would trigger Rule R307-320 as a contingency measure for the PM10 State Implementation Plan (SIP) was removed because the Trip Reduction Program is no longer listed as a contingency measure in the PM10 Maintenance Plan. (DAR NOTE: The other filings are under: Sections R307-101-2 (DAR No. 29000) and R307-110-13 (DAR No. 29001); and Rules R307-325 (DAR No. 29003); R307-326 (DAR No. 29006); R307-327 (DAR No. 29004); R307-328 (DAR No. 29005); R307-332 (DAR No. 29007); R307-335 (DAR No. 29008); R307-340 (DAR No. 29009); R307-341 (DAR No. 29010); R307-342 (DAR No. 29011); and R307-343 (DAR No. 29012) in this issue.)

SUMMARY OF THE RULE OR CHANGE: References to Salt Lake and Davis Counties were replaced by the term "ozone maintenance area". Other grammatical corrections were made throughout Rule R307-320 to improve the readability of the rule. This amendment is part of revisions to rules related to the ozone maintenance plan (see DAR NOTE above). In addition, language that would trigger Rule R307-320 as a contingency measure for the PM10 SIP was removed because the Trip Reduction Program is no longer listed as a contingency measure in the PM10 Maintenance Plan.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(h)

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: Because these revisions do not create any new requirements, no change in costs is expected to the state budget.
❖ LOCAL GOVERNMENTS: Because these revisions do not create any new requirements, no change in costs is expected for local governments.
❖ OTHER PERSONS: Because these revisions do not create any new requirements, no change in costs is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because these revisions do not create any new requirements, no change in costs is expected for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because these revisions do not create new requirements, no change to costs is expected for businesses. Dianne R. Nielson, Executive Director

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INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 10/17/2006 at 2:00 PM, DEQ Building, 168 N 1950 W, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 12/07/2006

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

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**R307. Environmental Quality, Air Quality.**
**R307-320. [~~Davis, Salt Lake and Utah Counties,~~ ]Ozone Maintenance Areas and Ogden City: Employer-Based Trip Reduction Program.**
**R307-320-1. Purpose.**

The purpose of this program is to reduce the number of measurable vehicle miles driven by employees commuting to and from work by requiring employers with work sites within [~~Davis and Salt Lake Counties~~]ozone maintenance areas to implement strategies designed to reduce the employee drive-alone rate. [~~Under the authority of 19-2-104(1)(h) and (2), a~~]An employer-based trip reduction program is authorized under 19-2-104(1)(h) and (2). It is a state implementation plan control strategy to reduce ambient [~~measures of air pollution~~]ozone and is a potential contingency measure for carbon monoxide. An added benefit of the program is reducing the number of cars on increasingly congested roadways.

**R307-320-2. Applicability.**

(1) R307-320 applies to any federal, state, or local entity, or any other public department, district (including public universities and public school districts), or agency in Davis or Salt Lake County.

(2)[~~If the Contingency Requirements for fine particulate are triggered as outlined in Section IX.A.8.b of the State Implementation Plan, R307-320 applies to any federal, state, or local entity, or any other public department, district (including public universities and public school districts), or agency in Utah County.~~

~~(3)~~] If the [~~C~~]contingency [~~R~~]requirements for carbon monoxide are triggered as outlined in Section IX.C.8.[~~h~~]f of the State Implementation Plan, R307-320 applies to any federal, state, or local entity, or any other public department, district (including public universities and public school districts), or agency in Ogden City.

**R307-320-3. Definitions.**

The following additional definitions apply to R307-320:

"Compressed Work Week" means any work schedule [~~which~~]that eliminates at least one commute trip to a work site in each two week period.

"Drive-alone Rate" means the number of single-occupancy vehicles divided by the sum of single-occupancy vehicles, plus employees using mass transit, ridesharing, biking, walking, telecommuting or having credit for a compressed work week. The drive-alone rate calculation must be based on a typical Monday through Friday work week.

Drive-alone Rate = single-occupancy vehicles/(single-occupancy vehicles + mass transit users + rideshare participants + bikers + walkers + telecommuters + credit for compressed work week).

"Employee" means any person including persons employed by public universities or school districts, who works at or reports to a single work site at least three days per week for at least six months of the year.

"Employee Transportation Coordinator" means a person assigned the responsibility of developing, implementing, monitoring, tracking, and marketing the trip reduction plan for the employer.

"Employer" means federal, state, or local entity, or any other public department, district (including public universities or public school districts), or agency.

"Peak Travel Period" means the period beginning at 6 a.m. and ending at 10 a.m., Mondays through Fridays.

"Ridesharing" means transportation of more than one person for commute purposes in a vehicle.

"Single-occupancy Vehicles" means vehicles traveling to the work site with a driver and no passengers during the peak travel period.

"Target Drive-alone Rate" means a twenty percent reduction in the drive alone rate based on the 1990 census data for modes of travel in each county. The target drive-alone rate schedule is as follows:

TABLE
TARGET DRIVE-ALONE RATE SCHEDULE

| | Davis County Drive-Alone Rate | Salt Lake County Drive-Alone Rate |
|---|---|---|
| From 1990 Census Data | 0.76 | 0.77 |
| 1st year interim target drive-alone rate | 0.72 | 0.73 |
| 2nd year interim target drive-alone rate | 0.68 | 0.69 |
| 3rd year interim target drive-alone rate | 0.67 | 0.67 |
| 4th year interim target drive-alone rate | 0.65 | 0.65 |
| 5th year interim target drive-alone rate | 0.63 | 0.64 |
| 6th year interim target drive-alone rate | 0.61 | 0.62 |
| Target drive-alone rate | 0.61 | 0.62 |

"Telecommuting" means working at home or at a satellite work site, provided the employee does not use a single-occupancy vehicle to travel to the satellite work site.

"Trip Reduction Plan" means a set of strategies designed to reduce the drive-alone rate.

"Vehicle" means motorcycles and on-road vehicles powered by a gasoline or diesel internal combustion engine with nine or less seating positions for adults.

"Work Site" means a building and any group of buildings [~~which~~]that are on physically contiguous parcels of land or on parcels separated solely by private or public roadways or rights-of way.

**R307-320-4. Employer Requirements.**

(1) Each employer shall assign an employee trip reduction coordinator within 30 days after the effective date of R307-320.

(2) Each employer shall determine the drive-alone rate per work site on an annual basis for a typical Monday through Friday work week during the peak travel period. The drive-alone rate can be determined by one of the following methods in (a), (b) or (c) below.

(a) Information from an annual employee survey.

(i) The employer must use a standardized survey approved by the executive secretary. The survey shall ask the travel distance from the employee's home to the work site, what frequency and mode of transportation the employee used to get to work, and how often the employee participates in a telecommuting program or compressed work week schedule.

(ii) The employer shall administer the survey and shall capture, at a minimum, 75% of the employee population arriving at the work site during the peak travel period.

(b) Verifiable information, less than one year old of the submittal due date, from employer records including:

(i) employee work schedules;
(ii) employee participation in telecommuting schedules;
(iii) employee participation of mass transit;
(iv) employee participation in rideshare arrangements; and
(v) employee participation in non-vehicular transit.

(c) Another method of the employer's choosing, with written approval from the executive secretary.

(3) Each employer shall design and submit to the executive secretary an approvable trip reduction plan for each work site to meet the target drive-alone rate as specified by the target drive-alone rate schedule in R307-320-3.

(a) An employer may combine more than one work site in a trip reduction plan submittal.

(i) The target drive-alone rate for a multi-work site submission shall be a weighted average of the drive-alone rates for the individual work sites.

(ii) The employer may combine a trip reduction plan for any work site within the same county.

(b) The trip reduction plan submittal shall adhere to the following schedule:

(i) Submittal of a trip reduction plan shall be annually on or before the anniversary of the initial due date.

(ii) For employers within Salt Lake and Davis Counties:

(A) The trip reduction plan must be submitted for approval within 90 days after the employer has been notified.

(B) If the employer has not been notified, then the trip reduction plan must be submitted no later than 360 days after the effective date of this rule.

[~~(iii) For employers within Utah County, the trip reduction plan must be submitted within 90 days after notification by the Division of Air Quality following triggering of contingency measures for PM10 under the provisions of Section IX.A.8.b of the State Implementation Plan.~~

] (c) Materials and information submitted to the executive secretary shall include:

(i) A letter of commitment to fully implement an approved trip reduction plan signed by an authorized employee at the work site.

(ii) The name and signature of the employee transportation coordinator;

(iii) The drive-alone rate for the work site;

(iv) General work site information including name and address of organization; general layout of buildings and parking areas; location of major streets; location of nearby mass transit stops; number of total employees; number of employees arriving at the work site during peak travel periods; current and planned incentives, disincentives, and facilities available encouraging alternatives to single-occupant vehicle commuting; the type of activities conducted at the work site; and the time spent by the employee transportation coordinator in complying with the plan.

(d) A trip reduction plan designed to meet the target drive-alone rate schedule may include but is not limited to employer involvement in the following:

(i) Subsidized bus passes;
(ii) Rideshare matching programs;
(iii) Vanpool leasing programs;
(iv) Telecommuting programs;
(v) Compressed work week schedule programs and flexible work schedule programs;
(vi) Work site parking fee programs;
(vii) Preferential parking for rideshare participants;
(viii) Transportation for business related activities;
(ix) A guaranteed ride home program;
(x) On-site facility improvements;
(xi) Soliciting feedback from employees;
(xii) On-site daycare facilities;
(xiii) Coordination with local transit authorities for improved mass transit service and information on mass transit programs; and
(xiv) Recognition and rewards for employee participation.

(e) An approvable plan shall contain all the information required in R307-320-4. The executive secretary shall approve or request revision of the trip reduction plan within 60 days of the plan submittal.

(4) Each employer shall implement a trip reduction plan approved by the executive secretary.

(5) Each employer shall inform employees of the trip reduction plan and options available to them for participation.

**R307-320-7. Exemptions.**

(1) An employer with less than 100 employees at a work site is exempt from the requirements of this rule.

(2) An employer who has met the target drive-alone rate is exempt from requirements stated in R307-320-4(3) and (4). The employer must still submit the drive-alone rate information to the executive secretary annually.

(3) Employees using vehicles for commute purposes as part of their job responsibility for emergency response are exempt from the drive-alone rate determination if they do not have the option, because of employer policies, to participate in telecommuting programs, compressed work week schedules, or as a rideshare driver, as approved by the executive secretary.

(a) An employer seeking exemption status shall comply with all requirements of the rule until an exemption is granted.

(b) The executive secretary shall approve or deny a request for exemption within 90 days of application.

(4) Other exemptions may be granted on a case by case basis and must be approved by the executive secretary.

(a) The employer seeking exemption must be able to demonstrate that the trip reduction program causes an adverse impact on the employer's ability to provide services or creates an undue hardship[~~s~~].

(b) The employer may also seek an exemption by providing an alternative to the Trip Reduction Program that shows, at a minimum, for the work site seeking exemption, a reduction in oxides of nitrogen equivalent to that achieved by the Trip Reduction Program when implemented to the target drive-alone rate schedule in the table in R307-320-3. The employer shall provide all substantiating information and calculations.

(c) An employer seeking exemption status shall comply with all requirements of the rule until an exemption is granted.

(d) The executive secretary shall approve or deny a request for exemption within 90 days of application.

**KEY: air pollution, motor vehicles, trip reduction[~~*~~]**
**Date of Enactment or Last Substantive Amendment: [~~September 15, 1998~~]2006**
**Notice of Continuation: July 7, 2005**
**Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(h)**

# Environmental Quality, Air Quality
# R307-325
## Davis and Salt Lake Counties and Ozone Nonattainment Areas: Ozone Provisions

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29003
FILED: 09/07/2006, 16:05

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify the rule by moving language to other appropriate rules, adding language to align the rule with the new ozone maintenance plan, deleting obsolete language, and making other grammatical corrections throughout Rule R307-325 to improve the readability of the rule. This amendment is part of revisions to rules related to the ozone maintenance plan (see separate filings on Sections R307-101-2 and R307-110-13; and Rules R307-320, R307-326, R307-327, R307-328, R307-332, R307-335, R307-340, R307-341, R307-342, and R307-343 in this issue.) (DAR NOTE: The other filings are under: Sections R307-101-2 (DAR No. 29000) and R307-110-13 (DAR No. 29001); and Rules R307-320 (DAR No. 29002); R307-326 (DAR No. 29006); R307-327 (DAR No. 29004); R307-328 (DAR No. 29005); R307-332 (DAR No. 29007); R307-335 (DAR No. 29008); R307-340 (DAR No. 29009); R307-341 (DAR No. 29010); R307-342 (DAR No. 29011); and R307-343 (DAR No. 29012) in this issue.)

SUMMARY OF THE RULE OR CHANGE: References to Salt Lake and Davis Counties were replaced by the term "ozone maintenance area". Other grammatical corrections were made throughout Rule R307-325 to improve the readability of the rule. Other changes that are proposed are divided into the following three areas: 1) General Compliance Provisions -- The ozone reasonably available control technology (RACT) requirements were originally grouped together as one subsection of the Utah Air Conservation Rules. In 1998, the Board adopted a major restructuring of the rules and separated the RACT requirements into individual rules. The general provisions at the beginning of the old RACT subsection became a new rule, Rule R307-325, that established applicability, testing, and compliance provisions for all of the new RACT rules. This was an awkward solution, and the Board is proposing that the applicability, testing, and compliance provisions that are currently in Rule R307-325 be included separately in each of the ozone RACT rules. The applicability and testing provisions are deleted from Rule R307-325 because these provisions are not needed for the general requirements; 2) Generic RACT provisions -- The 1990 Clean Air Act required the Environmental Protection Agency (EPA) to develop 11 new Control Technique Guideline documents for sources of volatile organic compounds (VOC) and Alternative Control Techniques for sources of NOx by November 1993. EPA did not meet this deadline; however, the State was still required to adopt RACT regulations for these source categories. The one-hour ozone maintenance plan addressed this issue by adopting generic RACT provisions for both VOC and NOx in Section R307-325-2. EPA did not accept this approach, and later versions of the maintenance plan established case-by-case VOC RACT for all major sources of VOC. In addition, EPA granted a NOx waiver that addressed the requirement for NOx RACT. When EPA approved the one-hour maintenance plan in 1997, the Federal Register notice stated that the generic RACT rules were not required, and did not meet federal guidelines. The case-by case determinations were all that was needed. The Division of Air Quality recommends deleting all of Section R307-325-2 because the generic RACT provisions are not required, and no longer serve a useful purpose; and 3) Low-NOx Burner Contingency Measure -- When the one-hour ozone maintenance plan was originally adopted, a series of contingency measures was added to Utah's rules that could be implemented immediately if the area violated the ozone standard. Several of the contingency measures that would reduce VOC emissions were implemented proactively in 1999 because the area was not meeting the new 8-hour ozone standard. The eight-hour maintenance plan is not required to contain contingency measures that have been pre-adopted. Instead, the plan must include a list of potential measures and a schedule for adopting rules expeditiously if the ozone standard is violated. The proposal deletes Section R307-325-4 that requires the installation of low-NOx burners as a contingency measure for the ozone maintenance plan. Current modeling indicates that VOC reductions are more effective than NOx reductions to reduce ambient concentrations of ozone, and therefore, this control strategy may not be the best approach to address a future violation of the 8-hour ozone standard. This strategy is included in the list of possible contingency measures in the ozone plan and would be evaluated as one of many possible choices if the standard is violated in the future. This amendment is part of revisions to rules related to the ozone maintenance plan (see DAR NOTE above).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

ANTICIPATED COST OR SAVINGS TO:
- ❖ THE STATE BUDGET: Because these revisions do not create any new requirements, no change in costs is expected to the state budget.
- ❖ LOCAL GOVERNMENTS: Because these revisions do not create any new requirements, no change in costs is expected for local governments.
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COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because these revisions do not create new requirements, no change to costs is expected for businesses. Dianne R. Nielson, Executive Director

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THIS RULE MAY BECOME EFFECTIVE ON: 12/07/2006

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

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**R307. Environmental Quality, Air Quality.**
**R307-325. [~~Davis and Salt Lake Counties and~~ ]Ozone Nonattainment and Maintenance Areas: General Requirements [~~Ozone Provisions~~].**
**R307-325-1. Purpose.**

Establish general requirements for control of volatile organic compounds in nonattainment and maintenance areas.

**R307-325-2. Applicability.**

R307-325 applies to all sources located in any nonattainment or maintenance area for ozone.

**R307-325-[~~1~~]3. Definition[s][~~, Applicability~~] and General Requirement[s].**

[~~(1) R307-325 applies to all sources in R307-326 through 341, major sources as defined and outlined in section 182 of the Clean Air Act and non-major sources located in Davis and Salt Lake Counties and in any nonattainment area for ozone as defined in the State Implementation Plan. For permitting of any new source or modification of any existing source, see R307-401; for operating permits, see R307-415.~~

~~(2)~~ ]No person [~~may permit~~]shall allow or cause volatile organic compounds [~~(VOCs)~~ ]to be spilled, discarded, stored in open containers, or handled in any other manner, which would result in evaporation in excess of that which would result from the application of [~~reasonably available control technology (RACT) (as defined in 40 CFR 51.100(o))~~]control technology that is reasonably available considering technological and economic feasibility.

[~~(3) Any person may apply to the executive secretary for approval of an alternative test method, an alternative method of control, an alternative compliance period, an alternative emission limit, or an alternative monitoring schedule. The application must include a demonstration that the proposed alternative produces an equal or greater air quality benefit than those required by R307-325 through 341, or that the alternative test method is equivalent to that required by these regulations. The executive secretary shall obtain concurrence from EPA when approving an alternative test method, an alternative method of control, an alternative compliance period, an alternative emission limit, or an alternative monitoring schedule.~~

~~(4) Manufacturer's operational specifications, records, and testings of any control system shall use the applicable EPA Reference Methods of 40 CFR Part 60, the most recent EPA test methods, or EPA approved state methods, to determine the efficiency of the control device. In addition, any control device must meet the applicable requirements, (including record keeping) of R307-340-2 and 13. A record of all tests, monitoring, and inspections required by R307-325 through 341 shall be maintained by the owner or operator for a minimum of 2 years and shall be made available to the executive secretary or his representative upon request. Any malfunctioning control device shall be repaired within 15 calendar days of when it was found by the owner or operator to be malfunctioning, unless otherwise approved by the executive secretary.~~

~~(5) For purposes of determining compliance with emission limits, VOCs and nitrogen oxides will be measured by the test methods identified in federal regulation or approved by the executive secretary. Where such a method also inadvertently measures compounds with negligible photochemical reactivity, an owner or operator may exclude these negligibly reactive compounds when determining compliance with an emissions standard.~~

**~~R307-325-2. Existing Sources.~~**

~~(1) Existing Major Sources.~~

~~(a) Any source of VOCs as of June 14, 1995, for which no specific emission limitations or other control requirement has been set forth in R307-325 through 341 and which is classified as a major source as defined and outlined in section 182 of the Clean Air Act shall utilize reasonably available control technology (RACT) as defined in 40 CFR 51.100(o).~~

~~(b) Existing sources of nitrogen oxides for which no specific emission limitations or other control requirement has been set forth in R307-325 through 341 and which are classified as a major source as defined and outlined in Section 182 of the federal Clean Air Act shall utilize Reasonably Available Control Technology (RACT) as outlined in R307-325 through 341 for specific source categories or as defined in 40 CFR 51.100(o). RACT determinations shall be made on a case by case basis and may, to the extent allowable by the executive secretary, be applied on a regionally averaged basis for the pertinent nonattainment area. Application of RACT to sources of oxides of nitrogen within the area of nonattainment for ozone and in Davis and Salt Lake Counties may, in some instances, have been predicated on other requirements of state or federal rule. In such instances, the executive secretary may determine that such prior application of RACT has satisfied all applicable requirements, regardless of whether or not the level of controlled emissions due to application of RACT for one purpose meet the presumptive level of RACT for another. In other instances, where RACT may also be required for reasons other than Section 182 of the Act, the executive~~

~~secretary may require the most stringent level of control which satisfies RACT.~~

~~(c) The uncontrolled emissions of such sources shall be based upon design capacity or maximum production rate, whichever is greater, at 8760 hours/year operation, and before add-on controls. The emissions from all emission points within the source which are not specifically regulated in R307-325 through 341, and which are not pending regulation as per Section 183 of the Clean Air Act, are combined to determine capacity.~~

~~(d) Sources with potential uncontrolled emissions of VOC or nitrogen oxides in excess of the threshold for a major source outlined in Section 182 of the federal Clean Air Act, but with actual emissions of a lesser amount, may avoid the requirement to apply RACT as defined in 40 CFR 51.100(o) by obtaining an enforceable approval order limiting emissions to actual rates, by restriction of production capacity or hours of operation.~~

~~(2) For sources subject to specific rules which have a cutoff limit for applicability, including (1) above, once a source exceeds the cutoff limit, future operation at emission limits below the cutoff does not preclude RACT (as defined in 40 CFR 51.100(o)) requirements and rule applicability as stated in R307-401.~~

~~(3) For unknown sources existing on June 14, 1995, which are major or Control Techniques Guidance applicable sources and which are found by either the State or EPA in the future, the State will expeditiously develop a specific RACT determination based on the existing Control Techniques Guidance or as defined in 40 CFR 51.100(o) for such sources within a reasonable time after their discovery and submit such determination to EPA for approval as specific SIP revisions.~~

**~~R307-325-3. Compliance Schedule.~~**

~~By September 29, 1981, 180 days after the effective date of R307-325 through 341, all sources shall be in compliance.~~

**~~R307-325-4. Contingency Requirement for Ozone Nonattainment Areas and Salt Lake and Davis Counties.~~**

~~If the Contingency Requirements for nitrogen oxides are triggered as outlined in Section IX.D.2.h(2) of the State Implementation Plan, all existing sources excluding non-commercial residential dwellings shall install either low oxides of nitrogen burner technology as described in R307-401-4(3), unless such requirement is not physically practical or cost-effective, or controls resulting from application of an equivalent technology, both of which shall be determined by the executive secretary. All sources required to install new controls under R307-325-4 shall submit, within two months after the trigger date, either a schedule for installing the equipment or a request for an exemption. The required equipment shall be operational as soon as practicable or within a reasonable time agreed upon by the source and the executive secretary.~~

]

**R307-325-4. Compliance Schedule.**

All sources within any newly designated nonattainment area for ozone shall be in compliance with this rule within 180 days of the effective date of designation to nonattainment.

**KEY: air pollution, emission controls, ozone, RACT**
**Date of Enactment or Last Substantive Amendment: [~~June 16,~~ ]2006**
**Notice of Continuation: August 1, 2003**
**Authorizing, and Implemented or Interpreted Law: [~~19-2-101;~~ ]19-2-104(1)(a)**

♦ ♦

# Environmental Quality, Air Quality
# R307-326
## Davis and Salt Lake Counties and Ozone Nonattainment Areas: Control of Hydrocarbon Emissions in Refineries

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29006
FILED: 09/07/2006, 16:06

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify the rule by deleting obsolete language, adding language to align the rule with the new ozone maintenance plan, and making other grammatical corrections throughout Rule R307-326 to improve the readability of the rule. This amendment is part of revisions to rules related to the ozone maintenance plan (see separate filings on Sections R307-101-2 and R307-110-13; and Rules R307-320, R307-325, R307-327, R307-328, R307-332, R307-335, R307-340, R307-341, R307-342, and R307-343 in this issue.) (DAR NOTE: The other filings are under: Sections R307-101-2 (DAR No. 29000) and R307-110-13 (DAR No. 29001); and Rules R307-320 (DAR No. 29002); R307-325 (DAR No. 29003); R307-327 (DAR No. 29004); R307-328 (DAR No. 29005); R307-332 (DAR No. 29007); R307-335 (DAR No. 29008); R307-340 (DAR No. 29009); R307-341 (DAR No. 29010); R307-342 (DAR No. 29011); and R307-343 (DAR No. 29012) in this issue.)

SUMMARY OF THE RULE OR CHANGE: References to Salt Lake and Davis Counties were replaced by the term "ozone maintenance area". Other grammatical corrections were made throughout Rule R307-326 to improve the readability of the rule. Obsolete language was deleted throughout Rule R307-326. In addition, the applicability, testing, and compliance provisions that were located in Section R307-325-1 were moved into Rule R307-326. This amendment is part of revisions to rules related to the ozone maintenance plan (see DAR NOTE above).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: Because these revisions do not create any new requirements, no change in costs is expected to the state budget.

❖ LOCAL GOVERNMENTS: Because these revisions do not create any new requirements, no change in costs is expected for local governments.

❖ OTHER PERSONS: Because these revisions do not create any new requirements, no change in costs is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because these revisions do not create any new requirements, no change in costs is expected for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because these revisions do not create new requirements, no change to costs is expected for businesses. Dianne R. Nielson, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Mat E. Carlile or Jan Miller at the above address, by phone at 801-536-4136 or 801-536-4042, by FAX at 801-536-0085 or 801-536-0085, or by Internet E-mail at MCARLILE@utah.gov or janmiller@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 10/17/2006 at 2:00 PM, DEQ Building, 168 N 1950 W, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 12/07/2006

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

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**R307. Environmental Quality, Air Quality.**
**R307-326. [~~Davis and Salt Lake Counties and~~ ]Ozone Nonattainment and Maintenance Areas: Control of Hydrocarbon Emissions in Refineries.**

**R307-326-1. Purpose.**

The purpose of R307-326 is to establish Reasonably Available Control Technology (RACT), as required by section 182(2)(A) of the Clean Air Act, for the control of hydrocarbon emissions from refineries that are located in ozone nonattainment and maintenance areas. The rule is based on federal control technique guidance documents.

**R307-326-2. Applicability.**

R307-326 applies to the owner or operator of any refinery located in any ozone nonattainment or maintenance area.

**R307-326-[~~1~~]3. [~~Applicability and~~ ]Definitions.**

[~~(1) R307-325 establishes applicability and general requirements for R307-326.~~

~~(2)~~ ]The following additional definitions apply to R307-326[~~:~~].

"Accumulator" means the reservoir of a condensing unit receiving the condensate from the condenser.

"Condens[~~o~~]er" means any device [~~which~~]that removes condensable vapors by a reduction in the temperature of [~~the~~ ]captured gases.

"Control System" means any number of control devices, including condens[~~o~~]ers, [~~which~~]that are designed and operated to reduce the quantity of volatile organic compounds (VOC) emitted to the atmosphere.

"Hot Well" means the reservoir of a condensing unit receiving the warm condensate consisting primarily of water from the condenser.

"Petroleum Refinery Complex" means any source or installation engaged in producing gasoline, aromatics, kerosene, distillate fuel oils, residual fuel oils, lubricants, asphalt, or other products through distillation of petroleum or through redistillation, cracking, rearrangement, or reforming of unfinished petroleum derivatives.

"Process Drain" means any drain used in a refinery complex on equipment [~~which~~]that processes[~~,~~] or transfers a volatile organic compound or a mixture of volatile organic compounds.

"Process Unit Turnaround" means the procedure of shutting a refinery unit down after a run to do necessary maintenance and repair work and putting the unit back in operation.

"Vacuum Producing System" means any reciprocating, rotary, or centrifugal blower or compressor, or any jet ejector or device that takes suction from a pressure below atmospheric and discharges against atmospheric pressure.

**R307-326-[~~2~~]4. Vacuum Producing Systems.**

The emission of noncondensable volatile organic compounds from the condensers, hot wells, or accumulators of vacuum producing systems shall be controlled by:

(1) piping the noncondensable vapors to a firebox or incinerator, or

(2) compressing the vapors and adding them to the refinery fuel gas, or

(3) other equally effective means provided the design and effectiveness of such means are documented,[~~ and~~] submitted to, and approved by the executive secretary.

**R307-326-[~~3~~]5. Wastewater (Oil/Water) Systems.**

Any wastewater separator handling volatile organic compounds shall be equipped with:

(1) covers and seals approved by the executive secretary on all separators and forebays,

(2) lids or seals on all openings in covers, separators, and forebays. Such lids or seals shall be in the closed position at all times except when in actual use.

**R307-326-[4]6. Process Unit Turnaround.**

The owner or operator of a petroleum refinery shall insure that a minimum of [~~volatile organic compounds (~~]VOC[~~)~~] are emitted to the atmosphere during process unit turnarounds. The owner or operator shall develop and submit to the executive secretary for approval a procedure for minimizing VOC emissions during turnarounds.[~~ The~~

~~procedure shall be submitted by April 1, 1990.~~] As a minimum the procedure shall provide for:

(1) venting of the process unit or vessel during depressurization and purging to a vapor recovery system, flare or firebox, and

(2) preventing discharge to the atmosphere of emissions of volatile organic compounds from a process unit or vessel until its internal pressure is 136 kPa (19.7 psia) or less; or

(3) an equally effective system provided the design and effectiveness of such system are documented and submitted to and approved by the executive secretary.

(4) keeping records of the following items:

(a) every date that each process unit or vessel is shut down;

(b) the approximate vessel VOC concentration when the VOCs were first discharged to the atmosphere; and

(c) the approximate total quantity of VOCs emitted to the atmosphere.

(5) maintaining records. The records required in (4) above shall be kept for at least two years and shall be made available for review by the executive secretary or [~~his~~]the executive secretary's representative.

**R307-326-[~~5~~]7. Catalytic Cracking Units.**

Flue gas produced by catalytic cracker catalyst regeneration units shall be vented to a waste heat boiler[~~,~~] or a process heater firebox, or incinerated, or controlled by other methods, provided the design and effectiveness of such methods are documented, [~~and~~ ]submitted to, and approved by the executive secretary.

**R307-326-[~~6~~]8. Safety Pressure Relief Valves.**

All safety pressure relief valves handling organic material shall be vented to a flare, firebox, or vapor recovery system, or controlled by the inspection, monitoring, and repair requirements described in R307-326-[~~7~~]9.

**R307-326-[~~7~~]9. Monitoring of Leaks from Petroleum Refinery Equipment.**

(1) The owner or operator of a petroleum refinery complex shall develop and conduct a VOC monitoring program and shall follow the recording, reporting, and operating requirements consistent with R307-326-[~~7~~]9. The monitoring program shall be submitted 30 days prior to start up of the petroleum refinery complex or as determined necessary by the executive secretary.

(2) Any affected component within a petroleum refinery complex found to be leaking shall be repaired and retested as soon as practicable, but not later than fifteen (15) days after the leak is detected. A leaking component is defined as one [~~which~~]that has a VOC concentration exceeding 10,000 parts per million by volume (ppmv) when tested by a VOC detection instrument at the leak source in the manner described in 40 CFR 60, Appendix A, Reference Method 21, using methane or hexane as the calibration gas. Components not subject to New Source Performance Standards Subpart GGG shall use methane or hexane as calibration gas, provided a relative response factor for each individual instrument is determined for the calibration gas used. Those leaks that cannot be repaired until the unit is shut down for turnaround shall be identified with a tag and recorded as per (6) below and shall be reported as [~~required by~~ ]per (7) below. The executive secretary, in coordination with the refinery owner or operator, may require early unit turnaround based on the number and severity of tagged leaks awaiting turnaround.

(3) Monitoring Requirements.

(a) In order to ensure that all existing VOC leaks are identified and that new VOC leaks are located as soon as practicable, the refinery owner or operator shall perform necessary monitoring using visual observations when specified or the method described in 40 CFR 60, Appendix A, Reference Method 21, as follows:

(i) Monitor at least one time per year (annually) all pump seals, valves in liquid service, and process drains;

(ii) [~~m~~]Monitor four times per year (quarterly) all compressor seals, valves in gaseous service, and pressure relief valves in gaseous service[~~-~~];

(iii) Monitor visually 52 times per year (weekly) all pump seals;

(iv) Monitor within 24 hours (with a portable VOC detection device) or repair within 15 days any pump seal from which liquids are observed dripping;

(v) Monitor any relief valve within 24 hours after it has been vented to the atmosphere;

(vi) Monitor immediately after repair any component that was found leaking;

(vii) [~~f~~]For all other valves considered "unsafe-to-monitor" or inaccessible during an annual inspection, the owner[~~/~~] or operator shall document to the executive secretary the number of valves considered "unsafe-to-monitor" or inaccessible, the dangers involved or reasons for inaccessibility, the location of these valves, and the procedures that the owner[~~/~~] or operator shall follow to ensure that the valves do not leak. The documentation for each calendar year shall be submitted for approval to the executive secretary 15 days after the last day of each calendar year. At a minimum, the inaccessible valves shall be monitored at least once per year (annually).[~~- This documentation shall be submitted for approval to the executive secretary 15 days after the last day of each calendar year.~~]

(b) For the purpose of R307-326, gaseous service for pipeline valves and pressure relief valves is defined as the VOC being gaseous at conditions that prevail in the components during normal operations. Pipeline valves and pressure relief valves in gaseous service and other components subject to leaks shall be noted or marked so that their location within the refinery complex is obvious to the refinery operator performing the monitoring and to the State of Utah, Division of Air Quality.

(4) Exemptions. The following are exempt from the monitoring requirements of (3) above:

(a) Pressure relief devices [~~which~~]that are connected to an operating flare header, firebox, or vapor recovery devices, storage tank valves, and valves that are not externally regulated;[~~- and~~]

(b) Refinery equipment containing a stream composition less than 10 percent by weight VOC; and

(c) Refinery equipment containing natural gas supplied by a public utility as defined by the Utah Public Service Commission.

(5) Alternat[~~iv~~]e Monitoring Methods and Requirements.

(a) If at any time after two complete liquid service inspections and five complete gaseous service inspections, the owner or operator of a petroleum refinery can demonstrate that modifications to (3) above are in order, he may apply in writing to the Air Quality Board for a variance from the requirements of (3) above.

(b) This submittal shall include data that have been developed to justify the modification to (3) above. As a minimum, the submittal should contain the following information:

(i) the name and address of the company;

(ii) the name and telephone number of the responsible company representative;

(iii) a description of the proposed alternat[~~iv~~]e monitoring procedures; and

(iv) a description of the proposed alternat[~~iv~~]e operational or equipment controls.

(6) Recording Requirements. Identified leaks shall be noted and affixed with a readily visible and weatherproof tag bearing the identification of the leak and the date the leak was detected. The tag shall remain in place until the leaking component is repaired. The presence of the leak shall also be noted in a log maintained by the operator or owner of the refinery. The log shall contain, at a minimum, the name of the process unit where the component is located, the type of component, the tag number, the date the leak [~~was~~]is detected, the date repaired, and the date and instrument reading when the recheck of the component is made. The log should also indicate those leaks [~~which~~]that cannot be repaired until turnaround, and summarize the total number of components found leaking. The operator or owner of the refinery complex shall retain the leak detection log for two years after the leak has been repaired and shall make the log available to the executive secretary upon request.

(7) Reporting Requirements. The operator or owner of a petroleum refinery complex shall submit a report to the executive secretary by the 15th day of January, April, July, and October of each year listing the total number of components inspected, all leaks that have been located during the previous 3 calendar months but not repaired within 15 days, all leaking components awaiting unit turnaround and the total number of components found leaking. In addition, the refinery operator or owner shall submit a signed statement with each report that all monitoring has been performed as stipulated in R307-326-[~~7~~]9.

(8) Additional Requirements. Any time a valve, with the exception of safety pressure relief valves, is located at the end of a pipe or line containing VOC, the end of the line shall be sealed with one of the following: a second valve, a blind flange, a plug or a cap. This sealing device shall only be removed when the line is in use for sampling.

**R307-326-10. Alternate Methods of Control.**

(1) Any person may apply to the executive secretary for approval of an alternate test method, an alternate method of control, an alternate compliance period, an alternate emission limit, or an alternate monitoring schedule. The application must include a demonstration that the proposed alternate produces an equal or greater air quality benefit than that required by R307-326, or that the alternate test method is equivalent to that required by these rules. The executive secretary shall obtain concurrence from EPA when approving an alternate test method, an alternate method of control, an alternate compliance period, an alternate emission limit, or an alternate monitoring schedule.

(2) Manufacturer's operational specifications, records, and testings of any control system shall use the applicable EPA Reference Methods of 40 CFR Part 60, the most recent EPA test methods, or EPA-approved state methods, to determine the efficiency of the control device. In addition, the owner or operator must meet the applicable requirements of record keeping for any control device. A record of all tests, monitoring, and inspections required by R307-326 shall be maintained by the owner or operator for a minimum of 2 years and shall be made available to the executive secretary or the executive secretary's representative upon request. Any malfunctioning control device shall be repaired within 15 calendar days after it is found by the owner or operator to be malfunctioning, unless otherwise approved by the executive secretary.

(3) For purposes of determining compliance with emission limits, VOCs and nitrogen oxides will be measured by the test methods identified in federal regulation or approved by the executive secretary. Where such a method also inadvertently measures compounds with negligible photochemical reactivity, an owner or operator may exclude these negligibly reactive compounds when determining compliance with an emissions standard.

**R307-326-11. Compliance Schedule.**

All sources within any newly designated nonattainment area for ozone shall be in compliance with this rule within 180 days of the effective date of designation to nonattainment.

**KEY: air pollution, refinery, gasoline, ozone**
**Date of Enactment or Last Substantive Amendment: [~~September 15, 1998~~]2006**
**Notice of Continuation: August 1, 2003**
**Authorizing, and Implemented or Interpreted Law: 19-2-101; 19-2-104(1)(a)**

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# Environmental Quality, Air Quality
# R307-327
## Davis and Salt Lake Counties and Ozone Nonattainment Areas: Petroleum Liquid Storage

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29004
FILED: 09/07/2006, 16:05

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify the rule by deleting obsolete language, adding language to align the rule with the new ozone maintenance plan, and making other minor grammatical corrections. This amendment is part of revisions to rules related to the ozone maintenance plan (see separate filings on Sections R307-101-2 and R307-110-13; and Rules R307-320, R307-325, R307-326, R307-328, R307-332, R307-335, R307-340, R307-341, R307-342, and R307-343 in this issue.) (DAR NOTE: The other filings are under: Sections R307-101-2 (DAR No. 29000) and R307-110-13 (DAR No. 29001); and Rules R307-320 (DAR No. 29002); R307-325 (DAR No. 29003); R307-326 (DAR No. 29006); R307-328 (DAR No. 29005); R307-332 (DAR No. 29007); R307-335 (DAR No. 29008); R307-340 (DAR No. 29009); R307-341 (DAR No. 29010); R307-342 (DAR No. 29011); and R307-343 (DAR No. 29012) in this issue.)

SUMMARY OF THE RULE OR CHANGE: References to Salt Lake and Davis Counties were replaced by the term "ozone maintenance area". Other grammatical corrections were made throughout Rule R307-327 to improve the readability of the rule. Obsolete language was deleted throughout Rule R307-327. In addition, the applicability, testing, and compliance provisions that were located in Section R307-325-1 were moved into Rule R307-327. This amendment is part of revisions to rules related to the ozone maintenance plan (see DAR NOTE above).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: Because these revisions do not create any new requirements, no change in costs is expected to the state budget.
❖ LOCAL GOVERNMENTS: Because these revisions do not create any new requirements, no change in costs is expected for local governments.
❖ OTHER PERSONS: Because these revisions do not create any new requirements, no change in costs is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because these revisions do not create any new requirements, no change in costs is expected for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because these revisions do not create new requirements, no change to costs is expected for businesses. Dianne R. Nielson, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Mat E. Carlile or Jan Miller at the above address, by phone at 801-536-4136 or 801-536-4042, by FAX at 801-536-0085 or 801-536-0085, or by Internet E-mail at MCARLILE@utah.gov or janmiller@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 10/17/2006 at 2:00 PM, DEQ Building, 168 N 1950 W, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 12/07/2006

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

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**R307. Environmental Quality, Air Quality.**
**R307-327. [~~Davis and Salt Lake Counties and~~ ]Ozone Nonattainment and Maintenance Areas: Petroleum Liquid Storage.**
**R307-327-1. Purpose.**
The purpose of R307-327 is to establish Reasonably Available Control Technology (RACT), as required by section 182(2)(A) of the Clean Air Act, for refineries and petroleum liquid storage facilities that are located in any ozone nonattainment or maintenance area. The rule is based on federal control technique guidance documents.

**R307-327-2. Applicability.**
R307-327 applies to the owner or operator of any refinery or petroleum liquid storage facility located in any ozone nonattainment or maintenance area.

**R307-327-[~~1~~]3. [~~Applicability and~~ ]Definitions.**
[~~(1) R307-325 establishes applicability and general requirements for R307-327.~~
~~(2)~~ ]The following additional definitions apply to R307-327:
"Average Monthly Storage Temperature" means the average daily storage temperature measured over a period of one month.
"Waxy, Heavy Pour Crude Oil" means a crude oil with a pour point of 50 degrees F or higher as determined by the American Society for Testing and Materials Standard D97-66, "Test for pourpoint of petroleum oils."

**R307-327-4. General Requirements.**
[~~(3)~~](1) Any existing stationary storage tank, reservoir or other container with a capacity greater than 40,000 gallons (150,000 liters) [~~which~~]that is used to store volatile petroleum liquids with a true vapor pressure greater than 10.5 kilo pascals (kPa) (1.52 psia) at storage temperature shall be fitted with control equipment [~~which~~]that will minimize vapor loss to the atmosphere. S[~~uch s~~]torage tanks, except [~~storage tanks~~]those erected before January 1, 1979, which are equipped with external floating roofs, shall be fitted with an internal floating roof [~~which~~]that shall rest on the surface of the liquid contents and shall be equipped with a closure seal or seals to close the space between the roof edge and the tank wall, or alternative equivalent controls, provided the design and effectiveness of such equipment is documented and submitted to and approved by the executive secretary. The owner or operator shall maintain a record of the type and maximum true vapor pressure of stored liquid.
[~~(4)~~](2) The owner or operator of a petroleum liquid storage tank not subject to [~~(3)~~](1) above, but containing a petroleum liquid with a true vapor pressure greater than 7.0 kPa (1.0 psia), shall maintain records of the average monthly storage temperature, the type of liquid, throughput quantities, and the maximum true vapor pressure.

**R307-327-[~~2~~]5. Installation and Maintenance.**
(1) The owner or operator shall ensure that all control equipment on storage vessels [~~shall be~~]is properly installed and maintained.
(a) There shall be no visible holes, tears or other openings in any seal or seal fabric and[~~;~~] all openings, except stub drains, shall be equipped with covers, lids, or seals.
(b) All openings in floating roof tanks, except for automatic bleeder vents, rim space vents, and leg sleeves, shall provide a projection below the liquid surface.
(c) The openings shall be equipped with a cover, seal, or lid.
(d) The cover, seal, or lid is to be in a closed position at all times except when the device is in actual use.
(e) Automatic bleeder vents shall be closed at all times except when the roof is floated off or landed on the roof leg supports. Rim vents shall be set to open when the roof is being float[~~ing~~]ed off the leg supports or at the manufacturer's recommended setting.
(f) Any emergency roof drain shall be provided with a slotted membrane fabric cover or equivalent cover that covers at least 90 percent of the area of the opening.
(2) The owner or operator shall conduct routine inspections from the top of the tank for external floating roofs or through roof hatches for internal floating roofs at six month or shorter intervals to insure there are no holes, tears, or other openings in the seal or seal fabric.

(a) The cover must be uniformly floating on or above the liquid and there must be no visible defects in the surface of the cover or petroleum liquid accumulated on the cover.

(b) The seal(s) must be intact and uniformly in place around the circumference of the cover between the cover and tank wall.

(3) A close visible inspection of the primary seal of an external floating roof is to be conducted at least once per year from the roof top unless such inspection requires detaching the secondary seal, which would result in damage to the seal system.

(4) Whenever a tank is emptied and degassed for maintenance, an emergency, or any other similar purpose, a close visible inspection of the cover and seals [~~is to~~]shall be made.

(5) The executive secretary must be notified 7 days prior to the refilling of a tank [~~which~~]that has been emptied, degassed for maintenance, an emergency, or any other similar purpose. Any non-compliance with this [~~regulation~~]rule must be corrected before the tank is refilled.

**R307-327-[~~3~~]6. Retrofits for Floating Roof Tanks.**

(1) Except where specifically exempted in (3) below, all existing external floating roof tanks with capacities greater than 950 barrels (40,000 gals) shall be retrofitted with a continuous secondary seal extending from the floating roof to the tank wall (a rim-mounted secondary seal) if:

(a) The tank is a welded tank, the true vapor pressure of the contained liquid is 27.6 kPa (4.0 psia) or greater and the primary seal is one of the following:

(i) A metallic type shoe seal, a liquid-mounted foam seal, a liquid-mounted liquid-filled seal, or

(ii) Any other primary seals [~~which~~]that can be demonstrated equivalent to the above primary seals.

(b) The tank is a riveted tank, the true vapor pressure of the contained liquid is 10.5 kPa (1.5 psia) or greater, and the primary seal is as described in (a) above.

(c) The tank is a welded or riveted tank, the true vapor pressure of the contained liquid is 10.5 kPa (1.5 psia) or greater and the primary seal is vapor-mounted. When such primary seal closure device can be demonstrated equivalent to the primary seals described in (a) above, these processes apply.

(2) The owner or operator of a storage tank subject to this rule shall ensure that all the seal closure devices [~~shall~~ ]meet the following requirements:

(a) There shall be no visible holes, tears, or other openings in the seals or seal fabric.

(b) The seals must be intact and uniformly in place around the circumference of the floating roof between the floating roof and the tank wall.

(c) For vapor mounted primary seals, the accumulated area of gaps between the secondary seal and the tank wall shall not exceed 21.2 $cm^2$ per meter of tank diameter (1.0 $in^2$ per ft. of tank diameter) and the width of any gap shall not exceed 1.27 cm (1/2 in.). The owner or operator shall measure the secondary seal gap annually and make a record of the measurement.

(3) The following are specifically exempted from the requirements of (1) above:

(a) External floating roof tanks having capacities less than 10,000 barrels (420,000 gals) used to store produced crude oil and condensate prior to custody transfer.

(b) A metallic type shoe seal in a welded tank [~~which~~]that has a secondary seal from the top of the shoe seal to the tank wall (a shoe mounted secondary seal).

(c) External floating roof tanks storing waxy, heavy pour crudes.

(d) External floating roof tanks with a closure seal device or other devices installed [~~which~~]that will control volatile organic compounds (VOC) emissions with an effectiveness equal to or greater than the seals required in (1) above. It shall be the responsibility of the owner or operator of the source to demonstrate the effectiveness of the alternative seals or devices to the executive secretary. No exemption under (3) shall be granted until the alternative seals or devices are approved by the executive secretary.

**R307-327-7. Alternate Methods of Control.**

(1) Any person may apply to the executive secretary for approval of an alternate test method, an alternate method of control, an alternate compliance period, an alternate emission limit, or an alternate monitoring schedule. The application must include a demonstration that the proposed alternate produces an equal or greater air quality benefit than that required by R307-327, or that the alternate test method is equivalent to that required by these rules. The executive secretary shall obtain concurrence from EPA when approving an alternate test method, an alternate method of control, an alternate compliance period, an alternate emission limit, or an alternate monitoring schedule.

(2) Manufacturer's operational specifications, records, and testings of any control system shall use the applicable EPA Reference Methods of 40 CFR Part 60, the most recent EPA test methods, or EPA-approved state methods, to determine the efficiency of the control device. In addition, the owner or operator must meet the applicable requirements of record keeping for any control device. A record of all tests, monitoring, and inspections required by R307-327 shall be maintained by the owner or operator for a minimum of 2 years and shall be made available to the executive secretary or the executive secretary's representative upon request. Any malfunctioning control device shall be repaired within 15 calendar days after it is found by the owner or operator to be malfunctioning, unless otherwise approved by the executive secretary.

(3) For purposes of determining compliance with emission limits, VOCs and nitrogen oxides will be measured by the test methods identified in federal regulation or approved by the executive secretary. Where such a method also inadvertently measures compounds with negligible photochemical reactivity, an owner or operator may exclude these negligibly reactive compounds when determining compliance with an emissions standard.

**R307-327-8. Compliance Schedule.**

All sources within any newly designated nonattainment area for ozone shall be in compliance with this rule within 180 days of the effective date of designation to nonattainment.

**KEY: air pollution, petroleum, gasoline, ozone**
**Date of Enactment or Last Substantive Amendment: [~~September 15, 1998~~]2006**
**Notice of Continuation: August 1, 2003**
**Authorizing, and Implemented or Interpreted Law: [~~19-2-101;~~ ]19-2-104(1)(a)**

# Environmental Quality, Air Quality
# R307-328
## Davis, Salt Lake, Utah, and Weber Counties and Ozone Nonattainment Areas: Gasoline Transfer and Storage

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29005
FILED: 09/07/2006, 16:06

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify the rule by deleting obsolete language, clarifying distinction between Rules R307-342 and R307-328, adding language to align the rule with the new ozone maintenance plan, and making other minor grammatical corrections. This amendment is part of revisions to rules related to the ozone maintenance plan (see separate filings on Sections R307-101-2 and R307-110-13; and Rules R307-320, R307-325, R307-326, R307-327, R307-332, R307-335, R307-340, R307-341, R307-342, and R307-343 in this issue.) (DAR NOTE: The other filings are under: Sections R307-101-2 (DAR No. 29000) and R307-110-13 (DAR No. 29001); and Rules R307-320 (DAR No. 29002); R307-325 (DAR No. 29003); R307-326 (DAR No. 29006); R307-327 (DAR No. 29004); R307-332 (DAR No. 29007); R307-335 (DAR No. 29008); R307-340 (DAR No. 29009); R307-341 (DAR No. 29010); R307-342 (DAR No. 29011); and R307-343 (DAR No. 29012) in this issue.)

SUMMARY OF THE RULE OR CHANGE: Rules R307-328 and R307-342 work together to establish the Stage I Vapor Recovery requirements. In general, the provisions in Rule R307-328 apply to the refinery or bulk storage plant where gasoline is loaded into a truck for delivery, the transport vehicle, and the gas station where the gasoline is unloaded into the underground storage tank. Rule R307-342 establishes the requirements for the vapor tightness testing contractor. However, there are some provisions that do not follow this general split. Both rules have been revised to make this division clearer, so that each entity will find all of the applicable requirements in one rule, rather than split between two rules. In addition, references to Salt Lake and Davis Counties were replaced by the term "ozone maintenance area". Other grammatical corrections were made throughout Rule R307-328 to improve the readability of the rule. Obsolete language was deleted throughout Rule R307-328. Further, the applicability, testing, and compliance provisions that were located in Section R307-325-1 were moved into Rule R307-328. This amendment is part of revisions to rules related to the ozone maintenance plan (see DAR NOTE above).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

ANTICIPATED COST OR SAVINGS TO:
- THE STATE BUDGET: Because these revisions do not create any new requirements, no change in costs is expected to the state budget.
- LOCAL GOVERNMENTS: Because these revisions do not create any new requirements, no change in costs is expected for local governments.
- OTHER PERSONS: Because these revisions do not create any new requirements, no change in costs is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because these revisions do not create any new requirements, no change in costs is expected for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because these revisions do not create new requirements, no change to costs is expected for businesses. Dianne R. Nielson, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Mat E. Carlile or Jan Miller at the above address, by phone at 801-536-4136 or 801-536-4042, by FAX at 801-536-0085 or 801-536-0085, or by Internet E-mail at MCARLILE@utah.gov or janmiller@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 10/17/2006 at 2:00 PM, DEQ Building, 168 N 1950 W, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 12/07/2006

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

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**R307. Environmental Quality, Air Quality.**
**R307-328. [~~Davis, Salt Lake, Utah and Weber Counties and~~ ]Ozone Nonattainment and Maintenance Areas and Utah and Weber Counties: Gasoline Transfer and Storage.**
**R307-328-1. Purpose.**
The purpose of R307-328 is to establish Reasonably Available Control Technology (RACT) for control of gasoline vapors during the filling of gasoline transport vehicles and storage tanks in ozone non-attainment and maintenance areas and Utah and Weber Counties. The rule is based on federal control technique guidance documents. This requirement is commonly referred to as stage I vapor recovery.

**R307-328-[1]2. Applicability[ and Definitions].**

[(1) Applicability.

(a)](1) Transport Vehicles. R307-328 applies to the owner or operator of any gasoline tank truck, railroad tank car, or other gasoline transport vehicle that loads or unloads gasoline in[ Davis, Salt Lake,] Utah or Weber County or any ozone nonattainment or maintenance area.

[(b)](2) Gasoline Dispensing. R307-328 applies to the owner or operator of any bulk terminal, bulk plant, or service station located in [Davis, Salt Lake, ]Utah[,] or Weber County or any ozone nonattainment or maintenance area.[

(2) R307-325 establishes general requirements for R307-328.]

**R307-328-3. Definitions.**

[(3) ]The following additional definitions apply to R307-328[:].

"Bottom Filling" means the filling of a tank through an inlet at or near the bottom of the tank designed to have the opening covered by the liquid after the pipe normally used to withdraw liquid can no longer withdraw any liquid.

"Qualified contractor" means a contractor who has been qualified by the executive secretary in accordance with R307-342 to perform vapor tightness tests on gasoline transport vehicles.

"Submerged Fill Pipe" means any fill pipe with a discharge opening which is entirely submerged when the liquid level is 6 inches above the bottom of the tank and the pipe normally used to withdraw liquid from the tank can no longer withdraw any liquid.

[**R307-328-2. Compliance Schedule.**

(1) Sources located in Davis and Salt Lake Counties are subject to the compliance schedule in R307-325-4.

(2) Sources located in Utah and Weber Counties shall be in compliance with R307-328 by May 1, 2000. The executive secretary may grant a one-year waiver from this compliance schedule if the source submits adequate documentation that the compliance date would create undue hardship.

(3) Sources located in any other area that is designated nonattainment for ozone shall be in compliance within six months of the date the EPA designates the area nonattainment.

]

**R307-328-[3]4. Loading of Tank Trucks, Trailers, Railroad Tank Cars, and Other Transport Vehicles.**

(1) No person shall load or permit the loading of gasoline into any tank truck, trailer, railroad tank car, or other transport vehicle unless the emissions from such vehicle are controlled by use of a vapor collection and control system and submerged or bottom filling. [Reasonably available control technology]RACT shall be required and in no case shall vapor emissions to the atmosphere exceed 0.640 pounds per 1,000 gallons transferred.

(2) Such vapor collection and control system shall be properly installed and maintained.

(3) The loading device shall not leak.

(4) The loading device shall utilize the dry-break loading design couplings and shall be maintained and operated to allow no more than an average of 15 cc drainage per disconnect for 5 consecutive disconnects.

(5) All loading and vapor lines shall be equipped with fittings which make a vapor tight connection and shall automatically close upon disconnection to prevent release of the organic material.

(6) A gasoline storage and transfer installation that receives inbound loads and dispatches outbound loads ("bulk plant") need not comply with R307-328-[3]4 if it does not have a daily average throughput of more than 3,900 gallons (15,000 or more liters) of gasoline based upon a 30-day rolling average. Such installations shall on-load and off-load gasoline by use of bottom or submerged filling or alternat[iv]e equivalent methods. The emission limitation is based on operating procedures and equipment specifications using Reasonably Available Control Technology as defined in EPA documents EPA 450/2-77-026 October 1977, "Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals," and EPA-450/2-77-035 December 1977, "Control of Volatile Organic Emissions from Bulk Gasoline Plants." The design effectiveness of such equipment and the operating procedures must be documented and submitted to and approved by the executive secretary.

(7) Hatches of transport vehicles shall not be opened at any time during loading operations except to avoid emergency situations or during emergency situations. Pressure relief valves on storage tanks and transport vehicles shall be set to release at the highest possible pressure, in accordance with State or local fire codes and National Fire Prevention Association guidelines. Pressure in the vapor collection system shall not exceed the transport vehicle pressure relief setting.

(8) Each owner or operator of a gasoline storage and dispensing installation shall conduct testing of vapor collection systems used at such installation and shall maintain records of all tests for no less than two years. Testing procedures of vapor collection systems shall be approved by the executive secretary and shall be consistent with the procedures described in the EPA document, "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems," EPA-450/2-78-051.

(9) Semi-annual testing shall be conducted and records maintained of such test. The frequency of tests may be altered by the executive secretary upon submittal of documentation which would justify a change.

(10) The vapor collection and vapor processing equipment shall be designed and operated to prevent gauge pressure in the delivery vessel from exceeding 18 inches of water and prevent vacuum from exceeding 6 inches of water. During testing and monitoring, there shall be no reading greater than or equal to 100 percent of the lower explosive limit measured at 1.04 inches around the perimeter of a potential leak source as detected by a combustible gas detector. Potential leak sources include, but are not limited to, piping, seals, hoses, connections, pressure or vacuum vents, and vapor hoods. In addition, no visible liquid leaks are permitted during testing or monitoring.

**R307-328-[4]5. Stationary Source Container Loading.**

(1) No person shall transfer or permit the transfer of gasoline from any delivery vessel (i.e. tank truck or trailer) into any stationary storage container with a capacity of 250 gallons or greater unless such container is equipped with a submerged fill pipe and at least 90 percent of the gasoline vapor, by weight, displaced during the filling of the stationary storage container is prevented from being released to the atmosphere. This requirement shall not apply to:

(a) the transfer of gasoline into any stationary storage container of less than 550 gallons used primarily for the fueling of implements of husbandry if such container is equipped with a permanent submerged fill pipe;

(b) the transfer of gasoline into any stationary storage container having a capacity of less than 2,000 gallons which was installed prior to January 1, 1979, if such container is equipped with a permanent submerged fill pipe;

(c) the transfer of gasoline to storage tanks equipped with floating roofs or their equivalent which have been approved by the executive secretary.

(2) The 90 percent performance standard of the vapor control system shall be based on operating procedures and equipment specifications. The design effectiveness of such equipment and the operating procedure must be documented and submitted to and approved by the executive secretary.

(3) Each owner or operator of a gasoline storage tank or the owner or operator of the gasoline delivery vessel subject to (1) above shall install vapor control equipment, which includes, but is not limited to:

(a) vapor return lines and connections sufficiently free of restrictions to allow transfer of vapor to the delivery vessel or to the vapor control system, and to achieve the required recovery;

(b) a means of assuring that the vapor return lines are connected to the delivery vessel, or vapor control system, and storage tank during tank filling;

(c) restrictions in the storage tank vent line designed and operated to prevent:

(i) the release of gasoline vapors to the atmosphere during normal operation; and

(ii) gauge pressure in the delivery vessel from exceeding 18 inches of water and vacuum from exceeding 6 inches of water.

**R307-328-[~~5~~]6. Transport Vehicles.**

(1) Gasoline transport vehicles must be designed and maintained to be vapor tight during loading and unloading operations as well as during transport, except for normal pressure venting required under United States Department of Transportation Regulations.

(2) The design of the vapor recovery system shall be such that when the delivery tank is connected to an approved storage tank vapor recovery system or loading terminal, 90% vapor recovery efficiencies are realized. The connectors of the delivery tanks shall be compatible with the fittings on the fill pipes and vapor vents at the storage containers and gasoline loading terminals where the delivery tank will service or be serviced. Adapters may be used to achieve compatibility.

[~~(2)~~](3) No person shall knowingly allow the introduction of gasoline into, dispensing of gasoline from, or transportation of gasoline in a gasoline transport vehicle without a current Utah Vapor Tightness Certificate.

[~~(3)~~](4) A vapor-laden transport vehicle may be refilled only at installations equipped to recover, process or dispose of vapors. Transport vehicles [~~which~~]that only service locations with storage containers specifically exempted from the requirements of R307-328-[~~4~~]5 need not be retrofitted to comply with R307-328-[~~5~~]6(1)-(3) above, provided such transport vehicles are loaded through a submerged fill pipe or equivalent equipment provided the design and effectiveness of such equipment are documented and submitted to and approved by the executive secretary.

**R307-328-[~~6~~]7. Leak Tight Testing.**

(1) Gasoline tank trucks and their vapor collection systems shall be tested for leakage by a qualified contractor using procedures approved by the executive secretary and consistent with the procedures described in R307-342.

(2) Gasoline tank trucks and their vapor collection systems shall be tested for leakage annually between December 1 and May 1.

(3) The tank shall not sustain a pressure change of more than 750 pascals (3 inches of $H_2O$) in five minutes when pressurized (by air or inert gas) to 4500 pascals (18 inches of $H_2O$) or evacuated to 1500 pascals (6 inches of $H_2O$).

(4) No visible liquid leaks are permitted during testing.

(5) Gasoline tank trucks shall be certified leak tight at least annually by a qualified contractor approved by the executive secretary.

(6) Each owner or operator of a gasoline tank truck shall have in his possession a valid vapor tightness certification, which:

(a) shows the date that the gasoline tank truck last passed the Utah vapor tightness certification test; and

(b) shows the identification number of the gasoline tank truck.

(7) Records of certification inspections, as well as any maintenance performed, shall be retained by the owner or operator of the tank truck for a two year period and be available for review by the executive secretary or [~~his~~]the executive secretary's representative.

**R307-328-8. Alternate Methods of Control.**

(1) Any person may apply to the executive secretary for approval of an alternate test method, an alternate method of control, an alternate compliance period, an alternate emission limit, or an alternate monitoring schedule. The application must include a demonstration that the proposed alternate produces an equal or greater air quality benefit than that required by R307-328, or that the alternate test method is equivalent to that required by these rules. The executive secretary shall obtain concurrence from EPA when approving an alternate test method, an alternate method of control, an alternate compliance period, an alternate emission limit, or an alternate monitoring schedule.

(2) Manufacturer's operational specifications, records, and testings of any control system shall use the applicable EPA Reference Methods of 40 CFR Part 60, the most recent EPA test methods, or EPA-approved state methods, to determine the efficiency of the control device. In addition, the owner or operator must meet the applicable requirements of record keeping for any control device. A record of all tests, monitoring, and inspections required by R307-328 shall be maintained by the owner or operator for a minimum of 2 years and shall be made available to the executive secretary or the executive secretary's representative upon request. Any malfunctioning control device shall be repaired within 15 calendar days after it is found by the owner or operator to be malfunctioning, unless otherwise approved by the executive secretary.

(3) For purposes of determining compliance with emission limits, volatile organic compounds and nitrogen oxides will be measured by the test methods identified in federal regulation or approved by the executive secretary. Where such a method also inadvertently measures compounds with negligible photochemical reactivity, an owner or operator may exclude these negligibly reactive compounds when determining compliance with an emissions standard.

**R307-328-9. Compliance Schedule.**

Sources located within any newly designated nonattainment area for ozone shall be in compliance with this rule within 180 days of the effective date of designation to nonattainment.

**KEY: air pollution, gasoline transport, ozone**
**Date of Enactment or Last Substantive Amendment: [~~July 15, 1999~~]2006**
**Notice of Continuation: August 5, 2003**
**Authorizing, and Implemented or Interpreted Law: 19-2-101; 19-2-104(1)(a)**

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# Environmental Quality, Air Quality
# R307-332
## Davis and Salt Lake Counties and Ozone Nonattainment Areas: Stage II Vapor Recovery Systems

**NOTICE OF PROPOSED RULE**
(Repeal)
DAR FILE NO.: 29007
FILED: 09/07/2006, 16:06

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to delete a rule that is no longer required. The repeal of this rule is part of revisions to rules related to the ozone maintenance plan (see separate filings on Sections R307-101-2 and R307-110-13; and Rules R307-320, R307-325, R307-326, R307-327, R307-328, R307-335, R307-340, R307-341, R307-342, and R307-343 in this issue.) (DAR NOTE: The other filings are under: Sections R307-101-2 (DAR No. 29000) and R307-110-13 (DAR No. 29001); and Rules R307-320 (DAR No. 29002); R307-325 (DAR No. 29003); R307-326 (DAR No. 29006); R307-327 (DAR No. 29004); R307-328 (DAR No. 29005); R307-335 (DAR No. 29008); R307-340 (DAR No. 29009); R307-341 (DAR No. 29010); R307-342 (DAR No. 29011); and R307-343 (DAR No. 29012) in this issue.)

SUMMARY OF THE RULE OR CHANGE: The Stage II Vapor Recovery System rule was originally established under Section 182(b)(3) of the Clean Air Act (CAA). Stage II Vapor Recovery is no longer required by the CAA after on-board refueling vapor recovery (ORVR) systems began being installed on new vehicles in 1998. A Stage II Vapor Recovery System (VRS) program is very expensive to implement and with a large proportion of the automobile fleet already equipped with ORVR systems, the expected emission reductions no longer justify the expense of implementing Stage II VRS. Therefore, the Air Quality Board is proposing repealing Rule R307-332. This rule will be repealed in its entirety. This repeal is part of revisions to rules related to the ozone maintenance plan (see DAR NOTE above).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

ANTICIPATED COST OR SAVINGS TO:
- THE STATE BUDGET: A Stage II Vapor Recovery System program was never implemented; therefore, repealing this rule will not change costs.
- LOCAL GOVERNMENTS: A Stage II Vapor Recovery System program was never implemented; therefore, repealing this rule will not change costs for local governments.
- OTHER PERSONS: A Stage II Vapor Recovery System program was never implemented; therefore, repealing this rule will not change costs for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: A Stage II Vapor Recovery System program was never implemented; therefore, repealing this rule will not change costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: A Stage II Vapor Recovery System program was never implemented; therefore, repealing this rule will not change costs for business. Dianne R. Nielson, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Mat E. Carlile or Jan Miller at the above address, by phone at 801-536-4136 or 801-536-4042, by FAX at 801-536-0085 or 801-536-0085, or by Internet E-mail at MCARLILE@utah.gov or janmiller@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 10/17/2006 at 2:00 PM, DEQ Building, 168 N 1950 W, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 12/07/2006

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

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**R307. Environmental Quality, Air Quality.**
**[~~R307-332. Davis and Salt Lake Counties and Ozone Nonattainment Areas: Stage II Vapor Recovery Systems.~~**
**~~R307-332-1. Definitions.~~**
~~The following additional definitions apply to R307-332:~~
~~"Control" of a corporation means ownership of more than 50% of its stock.~~
~~"Dispense" means to transfer or allow the transfer of gasoline from a stationary gasoline tank into a motor vehicle fuel tank.~~
~~"Effective" means the percent recovery of gasoline vapors emitted during dispensing of gasoline into motor vehicle fuel tanks.~~
~~"Installation" means a public, private, or government-owned or operated establishment that dispenses gasoline at a single location and is subject to R307-332.~~
~~"Independent small business marketer of gasoline" means a person engaged in the retail dispensing and marketing of gasoline unless such person:~~
~~(1) is a refiner, whose total refinery capacity (including the refinery capacity of any person who controls, is controlled by, or is under common control with such refiner) exceeds 65,000 barrels per day;~~

(2) controls, is controlled by, or is under common control with such a refiner; or

(3) is otherwise directly or indirectly affiliated with such a refiner or with a person who controls, is controlled by, or is under a common control with such a refiner (unless the sole affiliation referred to herein is by means of a supply contract or an agreement or contract to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or any such person), or

(4) receives less than 50% of his annual income from refining or marketing of gasoline.

"Stage II trigger date" means the date on which is triggered the Contingency Action Level specified in Section IX.D.2.h(2) of the State Implementation Plan.

"Stage II vapor recovery system" means a system that meets the requirements of R307-332-2.

**R307-332-2. Specifications and Approval.**

(1) For a Stage II vapor recovery system to be used in Utah to comply with this rule the manufacturer or vendor of the system shall submit to the executive secretary documentation that its Stage II vapor recovery system is capable of recovering 95% of gasoline vapor emissions resulting from dispensing gasoline into the motor vehicle fuel tanks. Minimum documentation consists of the California Air Resources Board (CARB) Executive Order pertaining to the Stage II vapor recovery system in question, including all attachments and exhibits or the findings of a testing program that the executive secretary and EPA determines to be equivalent to a California Air Resources Board Stage II vapor recovery equipment certification.

(2) The executive secretary shall review the submitted documentation and certify his approval or disapprove use of the system for compliance with R307-332.

(3) Only Stage II vapor recovery systems approved by the executive secretary may be used to comply with this rule.

**R307-332-3. Applicability.**

(1) R307-332 applies to installations:

(a) located in Salt Lake County or Davis County and

(b) which dispense more than 10,000 gallons of gasoline per month or, in the case of an independent small business marketer of gasoline, which dispense more than 50,000 gallons of gasoline per month; or

(c) have ever met the conditions of (a) and (b) above.

(2) Installations located in Salt Lake County or Davis County and which dispense 10,000 gallons or less of gasoline per month, or in the case of an independent small business marketer of gasoline, which dispense 50,000 gallons or less of gasoline per month are exempt from all the requirements of R307-332 except R307-332-4(6) and R307-332-8(4).

**R307-332-4. Compliance Schedule.**

(1) No person shall dispense gasoline from an installation for which R307-332 is applicable except by means of a Stage II vapor recovery system after the dates specified in this subsection.

(2) The owners or operators of all installations at which construction or gasoline tank replacement commenced after the Stage II trigger date are required to install and operate a Stage II vapor recovery system before dispensing any gasoline.

(3) Compliance Date.

(a) Owners or operators of all installations existing before the Stage II trigger date, except independent small business marketers of gasoline, are required to install and operate a Stage II vapor recovery system no later than:

(i) May 1 of the year after the Stage II trigger date, in the case of installations which dispense 100,000 or more gallons of gasoline per month or for which construction commenced after November 15, 1990 and before the Stage II trigger date or

(ii) May 1 of the year two years after the year in which the Stage II trigger date occurred, in the case of installations which dispense 10,001 to 99,999 gallons of gasoline per month.

(b) Any installation described by more than one clause of (2)(a) shall meet the earliest applicable compliance date.

(4) In the case of installations existing before the Stage II trigger date for which R307-332 is applicable on the Stage II trigger date, and which are owned by an independent small business marketer of gasoline, which dispense 50,000 or more gallons per month, a three-year phase-in period for the installation and operation of Stage II vapor recovery systems at installations owned by that marketer shall be as follows:

(a) 33% of such installations in compliance no later than May 1 of the year after the Stage II trigger date;

(b) 66% of such installations in compliance no later than May 1 of the year two years after the year in which the Stage II trigger date occurred; and

(c) 100% of such installations in compliance no later than May 1 of the year three years after the year in which the Stage II trigger date occurred.

(5) Installations existing before the Stage II trigger date, which met the exemption provisions of R307-332-3(2) and which dispense more than 10,000 gallons of gasoline per month or, in the case of an independent small business marketer of gasoline which dispense more than 50,000 gallons of gasoline per month, are required to install and operate a Stage II vapor recovery system no later than six months after the end of the month for which the gallons of gasoline dispensed or sold by the installation exceeds the number of gallons per month specified in this subsection.

(6) Initially the volume of gasoline sold or dispensed per month for purposes of compliance with R307-332 shall be determined by the average volume dispensed or sold per month over the twenty-four month period immediately preceding the Stage II trigger date. Thereafter, the volume of gasoline sold per month for purposes of compliance with R307-332 shall be determined by a rolling twenty-four month average of the volume dispensed or sold per month. If an installation was inactive for any period during the twenty-four month calculation period, the period shall be extended to include a total of twenty-four months of activity. If an installation has not operated a total of twenty-four months, the average shall be of the portion for which the installation was active. Within 90 days after the Stage II trigger date and by February 1 of every year thereafter, owners or operators of installations shall submit the following information to the executive secretary on forms provided by the executive secretary:

(a) the name and address of the installation owner;

(b) the name and address of the installation;

(c) the number of nozzles and pumps at the installation;

(d) the California Air Resources Board Executive Order Number or identification of non-California Air Resources Board certification approved by the executive secretary of any Stage II vapor recovery systems or portions of systems already installed;

(e) a compliance schedule, if applicable; and

(f)(i) in the case of the submittal due 90 days after the Stage II trigger date, the installation's monthly and annual gasoline throughput

for twenty-four months of active operation immediately preceding the Stage II trigger date or

(ii) in the case of the submittal due on February 1 of every year thereafter, the gasoline throughput for each month of the previous calendar year.

**R307-332-5. Installation.**

(1) Owners or operators of installations are required to submit, to the executive secretary, Stage II vapor recovery system installation specifications no later than thirty days prior to installation. The submittal shall include the following information:

(a) the name, address, and phone number of the installation owner;

(b) the name, address, and phone number of the installation;

(c) number of gasoline nozzles and pumps at the installation;

(d) the California Air Resources Board Executive Order Number or identification of non-California Air Resources Board certification approved by the executive secretary of the Stage II vapor recovery system to be installed;

(e) the certification number issued by the executive secretary to the manufacturer or vendor of the Stage II vapor recovery system to be installed to verify approval of the system for use to comply with this rule;

(f) a site plan of all tanks, dispensers, and underground piping; and

(g) the date or dates on which construction and installation of the Stage II vapor recovery system is expected to occur.

(2) Stage II vapor recovery systems shall be installed in accordance with manufacturer specifications and the submittal described in (1) above.

(3) The installation owner must verify that the Stage II vapor recovery system installed at least meets the requirements of the following tests for which specifications may be obtained from the executive secretary:

(a) AQB Leak Test Procedure (after "Bay Area ST-30 Leak Test Procedure") or AQB Pressure Decay/Leak Test (after "San Diego Test Procedure TP-92-1 Pressure Decay/Leak Test Procedure"); and

(b) AQB Pressure Drop vs Flow/Liquid Blockage Test Procedure (after "San Diego Test Procedure TP-91-2 Pressure Drop vs Flow/Liquid Blockage Test Procedure").

(4) The executive secretary may approve alternatives to the tests specified in (3) above, if requested by the owner or operator and approved by EPA.

(5) The tests specified in (3) and (4) above shall be performed after notifying the executive secretary as specified in R307-332-11. The test results must be dated and include the name, address, and phone number of the person that performed the tests. Initial testing shall be conducted after the above ground equipment is installed, and must be completed in time to meet the compliance schedule specified in R307-332-4. Testing shall be conducted at the gasoline dispensing pumps.

(6) A copy of the results of tests conducted in accordance with (3) above shall be maintained on the premises of the installation.

**R307-332-6. Installation Owner/Operator and Employee Training.**

(1) Owners or operators of installations shall provide every installation employee, including the operator, that is responsible for the use, operation, or maintenance of a Stage II vapor recovery system with training on the purpose, effects, and operation of the installation's Stage II vapor recovery system as specified by the system manufacturer.

(2) Owners or operators of installations shall provide at least one employee that is responsible for the maintenance of a Stage II vapor recovery system with training specified in (1) above and on the maintenance schedules and requirements, manufacturer contacts for parts and service, and warranty provisions of the installation's Stage II vapor recovery system as specified by the system manufacturer.

(3) No installation operator or employee may operate or be responsible for the operation of a Stage II vapor recovery system prior to completion of the training specified in (1) above.

(4) No installation operator or employee may repair; authorize or supervise repair; or perform, authorize, or supervise maintenance of a Stage II vapor recovery system prior to completion of the training specified in (2) above.

(5) Proof of the training specified in (1) above shall be maintained on the installation premises for each installation operator and employee for which such training is required.

(6) Proof of the training specified in (2) above shall be maintained for each installation operator and employee for which such training is required.

(7) Records of training specified in R307-332-6 will be made available to representatives of the executive secretary upon request.

**R307-332-7. Operation and Maintenance.**

(1) A copy of the operating and maintenance documentation provided by the Stage II vapor recovery system manufacturer shall be maintained at the installation and be available to installation employees.

(2) The system shall be operated and maintained in accordance with operating and maintenance documentation provided by the Stage II vapor recovery system manufacturer.

(3) Modification or repair of Stage II vapor recovery systems shall be conducted in accordance with manufacturer specifications and using parts approved by California Air Resources Board or the executive secretary.

(4) The owner or operator of a Stage II vapor recovery system shall upgrade the system to comply with any modification of the California Air Resources Board executive order for the system no later than six months after the California Air Resources Board executive order for the system is modified.

(5) The owner or operator of the Stage II vapor recovery system shall maintain a record of all maintenance and repairs for the system. The record shall include a general description of any parts replaced or repaired, the date of the repair or replacement, the manufacturer and part number of any part replaced, a general description of the part location in the system, and a description of the problem.

**R307-332-8. Records.**

Owners or operators of installations shall maintain up-to-date copies of:

(1) Stage II vapor recovery system installation, testing documentation, and maintenance records as long as the system is in place;

(2) Stage II vapor recovery system inspection and compliance reports and records filed in chronological order for the preceding two years;

(3) records of current employee Stage II vapor recovery system training; and

(4) records of the volume of gasoline delivered and dispensed each month of the preceding twenty-four month period.

**R307-332-9. Pump Labeling Requirements.**

(1) The owner or operator of any installation that dispenses gasoline by means of a Stage II vapor recovery system is required to label pumps as follows.

~~(a) The label letters shall be in block letters of no less than 20-point type, at least 1/16 inch stroke (width of type), and of a color that contrasts with the label background color.~~

~~(b) The label shall affixed to the front upper half of the vertical surface of the gasoline pump on each side with gallonage and dollar amount meters from which gasoline can be dispensed and shall be clearly readable to the pump user.~~

~~(c) Information on the label shall include:~~

~~(i) a general explanation of how the Stage II vapor recovery system works and how it should be operated;~~

~~(ii) notice that the user should not attempt to overfill the motor vehicle gas tank;~~

~~(iii) notice that the purpose of Stage II vapor recovery systems is to minimize gasoline emissions from motor vehicle refueling; and~~

~~(iv) the name and telephone number of the Division of Air Quality.~~

**~~R307-332-10. Self Inspections.~~**

~~(1) The owner or operator of an installation shall ensure that the following tests and inspections are performed as specified.~~

~~(a) After notification as specified in R307-332-11, one of the tests specified in R307-332-5(3)(a) or another test or tests approved by the executive secretary and EPA, shall be conducted for every Stage II vapor recovery system at each installation every third year after the initial test required by R307-332-5(3)(a) or at any installation that the executive secretary has any indication that leaks may exist.~~

~~(b) After notification as specified in R307-332-11, the test specified in R307-332-5(3)(b), the AQB Dynamic Back Pressure Test, or another test or tests approved by the executive secretary and EPA, shall be conducted for every Stage II vapor recovery system at each installation every fourth year after the initial test required by R307-332-5(3)(b) or at any installation that the executive secretary has any indication that a blockage may exist.~~

~~(c) After notification as specified in R307-332-11, a functional test shall be conducted every year on any and all auto shut-off mechanisms and flow-prohibiting mechanisms on all dispensing nozzles to determine if the mechanisms are functional.~~

~~(d) Visual inspections shall be conducted at a frequency sufficient to ensure:~~

~~(i) that all the Stage II vapor recovery equipment is present, is maintained in the certified configuration, and is in proper working order, including, but not limited to: nozzles and nozzle parts (facecone, bellows, springs, latches, check valves), hoses and hose hanger/retractors, flow limiters, swivels, collection units, control panels, system pumps, processing units, vent pipes and any and all other system related parts;~~

~~(ii) compliance with all Stage II vapor recovery system label requirements as specified in R307-332-9; and~~

~~(iii) that all Stage II vapor recovery system equipment is being operated properly, including dispensing units, processors, handling units, and any other system-related equipment.~~

~~(2) Stage II vapor recovery systems or portions of Stage II vapor recovery systems found to be malfunctioning shall be taken out of service until repaired.~~

**~~R307-332-11. Test Notification Requirements.~~**

~~(1) The owner or operator of an installation shall notify the executive secretary in writing at least thirty days before conducting a test to comply with R307-332-5(3) or (4), or R307-332-10(1)(a), (b) or (c).~~

~~(2) The notification required in (1) above shall include:~~

~~(a) the name, address, and phone number of the installation;~~

~~(b) the name of the test;~~

~~(c) the name and telephone number of the person that will conduct the test; and~~

~~(d) the time and date on which the test shall be conducted.~~

~~(3) If the results of a test listed in (1) above do not show compliance with standards specified in the appropriate test specification, the owner or operator of an installation shall notify the executive secretary by five P.M. on the first working day after the test. Notification shall include the name, address, and phone number of the installation and the name of the test.~~

**~~KEY: air pollution, motor vehicles, gasoline, ozone~~**
**~~Date of Enactment or Last Substantive Amendment: September 15, 1998~~**
**~~Notice of Continuation: August 5, 2003~~**
**~~Authorizing, and Implemented or Interpreted Law: 19-2-101; 19-2-104~~]**

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# Environmental Quality, Air Quality
# R307-335
## Davis and Salt Lake Counties and Ozone Nonattainment Areas: Degreasing and Solvent Cleaning Operations

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29008
FILED: 09/07/2006, 16:07

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify the rule by deleting obsolete language, adding language to align the rule with the new ozone maintenance plan, and making other minor grammatical corrections. This amendment is part of revisions to rules related to the ozone maintenance plan (see separate filings on Sections R307-101-2 and R307-110-13; and Rules R307-320, R307-325, R307-326, R307-327, R307-328, R307-332, R307-340, R307-341, R307-342, and R307-343 in this issue.) (DAR NOTE: The other filings are under: Sections R307-101-2 (DAR No. 29000) and R307-110-13 (DAR No. 29001); and Rules R307-320 (DAR No. 29002); R307-325 (DAR No. 29003); R307-326 (DAR No. 29006); R307-327 (DAR No. 29004); R307-328 (DAR No. 29005); R307-332 (DAR No. 29007); R307-340 (DAR No. 29009); R307-341 (DAR No. 29010); R307-342 (DAR No. 29011); and R307-343 (DAR No. 29012) in this issue.)

SUMMARY OF THE RULE OR CHANGE: References to Salt Lake and Davis Counties were replaced by the term "ozone maintenance area". Other grammatical corrections were made throughout Rule R307-335 to improve the readability of the rule. Obsolete language was deleted throughout Rule R307-335. In addition, the applicability, testing, and

compliance provisions that were located in Section R307-325-1 were moved into Rule R307-335. This amendment is part of revisions to rules related to the ozone maintenance plan (see DAR NOTE above).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Because these revisions do not create any new requirements, no change in costs is expected to the state budget.

❖ LOCAL GOVERNMENTS: Because these revisions do not create any new requirements, no change in costs is expected for local governments.

❖ OTHER PERSONS: Because these revisions do not create any new requirements, no change in costs is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because these revisions do not create any new requirements, no change in costs is expected for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because these revisions do not create new requirements, no change to costs is expected for businesses. Dianne R. Nielson, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Mat E. Carlile or Jan Miller at the above address, by phone at 801-536-4136 or 801-536-4042, by FAX at 801-536-0085 or 801-536-0085, or by Internet E-mail at MCARLILE@utah.gov or janmiller@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 10/17/2006 at 2:00 PM, DEQ Building, 168 N 1950 W, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 12/07/2006

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

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**R307. Environmental Quality, Air Quality.**
**R307-335. [~~Davis and Salt Lake Counties and~~ ]Ozone Nonattainment and Maintenance Areas: Degreasing and Solvent Cleaning Operations.**
**R307-335-1. Purpose.**

The purpose of this rule is to establish Reasonably Available Control Technology (RACT) for degreasing and solvent cleaning operations that are located in an ozone nonattainment or maintenance area. The rule is based on federal control technique guidance documents.

**R307-335-2. Applicability.**

R307-335 applies to all degreasing or solvent cleaning operations that use volatile organic compounds (VOCs) and are located in any ozone nonattainment or maintenance area.

**R307-335-[~~1~~]3. [~~Applicability and~~ ]Definitions.**

[~~(1) The provisions of this section are applicable to the use of all volatile organic compounds.~~

~~(2) R307-325 establishes applicability and general requirements for R307-335.~~

~~(3)~~ ]The following additional definitions apply to R307-335:

"Batch Open Top Vapor Degreasing" means the batch process of cleaning and removing grease and soils from metal surfaces by condensing hot solvent vapor on the colder metal parts.

"Cold Cleaning" means the batch process of cleaning and removing soils from metal surfaces by spraying, brushing, flushing or immersing while maintaining the solvent below its boiling point.

"Conveyorized Degreasing" means the continuous process of cleaning and removing greases and soils from metal surfaces by using either cold or vaporized solvents.

"Freeboard Ratio" means the freeboard height divided by the width of the degreaser.

"Open Top Vapor Degreaser" means the batch process of cleaning and removing soils from metal surfaces by condensing low solvent vapor on the colder metal parts.

"Separation Operation" means any process that separates a mixture of compounds and solvents into two or more components. Specific mechanisms include extraction, centrifugation, filtration, and crystallization.

"Solvent Metal Cleaning" means the process of cleaning soils from metal surfaces by cold cleaning, open top vapor degreasers, or conveyorized degreasing.

**R307-335-[~~2~~]4. Cold Cleaning Facilities.**

No owner or operator shall operate a degreasing or solvent cleaning operation unless [~~the~~ ]conditions [~~contained in~~ ](1) through (7) below are met.

(1) A cover shall be installed which shall remain closed except during actual loading, unloading or handling of parts in cleaner. The cover shall be designed so that it can be easily operated with one hand if:

(a) the volatility of the solvent is greater than 2 kPa (15 mm Hg or 0.3 psi) measured at 38 degrees C (100 degrees F),

(b) the solvent is agitated, or

(c) the solvent is heated.

(2) An internal draining rack for cleaned parts shall be installed on which parts shall be drained until all dripping ceases. If the volatility of the solvent is greater than 4.3 kPa (32 mm Hg at 38 degrees C (100 degrees F)), the drainage facility must be internal, so that parts are enclosed under the cover while draining. The drainage facility may be external for applications where an internal type cannot fit into the cleaning system.

(3) Waste or used solvent shall be stored in covered containers. Waste solvents or waste materials which contain solvents shall be disposed of by recycling, reclaiming, by incineration in an incinerator approved to process hazardous materials, or by an alternate means approved by the executive secretary.

(4) Tanks, containers and all associated equipment shall be maintained in good operating condition and leaks shall be repaired immediately or the degreaser shall be shutdown.

(5) Written procedures for the operation and maintenance of the degreasing or solvent cleaning equipment shall be permanently posted in an accessible and conspicuous location near the equipment.

(6) If the solvent volatility is greater than 4.3 kPa (33 mm Hg or 0.6 psi) measured at 38 degrees C (100 degrees F), or if solvent is heated above 50 degrees C (120 degrees F), then one of the following control devices shall be used:

(a) freeboard that gives a freeboard ratio greater than 0.7;

(b) water cover if the solvent is insoluble in and heavier than water);

(c) other systems of equivalent control, such as a refrigerated chiller or carbon absorption.

(7) If used, the solvent spray shall be a solid fluid stream at a pressure [~~which~~]that does not cause excessive splashing and may not be a fine, atomized or shower type spray.

**R307-335-[~~3~~]5. Open Top Vapor Degreasers.**

Owners or operators of open top vapor degreasers shall, in addition to meeting the requirements of R307-335-[~~2~~]4(3), (4) and (5),

(1) Equip the vapor degreaser with a cover that can be opened and closed without disturbing the vapor zone. The cover shall be closed except when processing work loads through the degreaser;

(2) Install one of the following control devices:

(a) Equipment necessary to sustain:

(i) a freeboard ratio greater than or equal to 0.75, and

(ii) a powered cover if the degreaser opening is greater than 1 square meter (10 square feet),

(b) Refrigerated chiller,

(c) Enclosed design (cover or door opens only when the dry part is actually entering or exiting the degreaser),

(d) Carbon adsorption system, with ventilation greater than or equal to 15 cubic meters per minute per square meter (50 cubic feet per minute per square foot) of air/vapor area when cover is open and exhausting less than 25 parts per million of solvent averaged over one complete adsorption cycle;

(3) Minimize solvent carryout by:

(a) Racking parts to allow complete drainage,

(b) Moving parts in and out of the degreaser at less than 3.3 meters per minute (11 feet per minute),

(c) Holding the parts in the vapor zone at least 30 seconds or until condensation ceases,

(d) Tipping out any pool of solvent on the cleaned parts before removal, and

(e) Allowing the parts to dry within the degreaser for at least 15 seconds or until visibly dry.

(4) Spray parts only in or below the vapor level,

(5) Not use ventilation fans near the degreaser opening, nor provide exhaust ventilation exceeding 20 cubic meters per minute per square meter (65 cubic feet per minute per square foot) in degreaser open area, unless necessary to meet State and Federal occupational, health, and safety requirements. The exhaust ventilation flow indicated above shall be measured using EPA Reference Methods 1 and 2 of 40 CFR Part 60, or by EPA-approved equivalent state methods;

(6) Not degrease porous or absorbent materials, such as cloth, leather, wood or rope;

(7) Not allow work loads to occupy more than half of the degreaser's open top area;

(8) Ensure that solvent is not visually detectable in water exiting the water separator;

(9) Install safety switches on the following:

(a) Condenser flow switch and thermostat (shuts off sump heat if condenser coolant is either not circulating or too warm); and

(b) Spray switch (shuts off spray pump if the vapor level drops excessively, i.e., greater than 10 cm (4 inches); and

(10) Ensure that the control device specified by (2)(b) or (d) above meet the applicable requirements of R307-340-[~~2~~]4 and [~~13~~]15.

Open top vapor degreasers with an open area smaller than one square meter (10.9 square feet) are exempt from (2)(b) and (d) above.

**R307-335-[4]6. Conveyorized Degreasers.**

Owners and operators of conveyorized degreasers shall, in addition to meeting the requirements of R307-335-[~~2~~]4(3), (4) and (5) and R307-335-[~~3~~]5(5):

(1) Install one of the following control devices for conveyorized degreasers with an air/vapor interface equal to or greater than 2.0 square meters (21.6 square feet):

(a) Refrigerated chiller or

(b) Carbon adsorption system, with ventilation greater than or equal to 15 cubic meters per minute per square meter (50 cubic feet per minute per square foot) of air/vapor area when downtime covers are open, and exhausting less than 25 parts per million of solvent, by volume, averaged over a complete adsorption cycle.

(2) Equip the cleaner with equipment, such as a drying tunnel or rotating (tumbling) basket, sufficient to prevent cleaned parts from carrying out solvent liquid or vapor.

(3) Provide downtime covers for closing off the entrance and exit during shutdown hours. Ensure that down-time cover is placed over entrances and exits of conveyorized degreasers immediately after the conveyor and exhaust are shutdown and is removed just before they are started up.

(4) Minimize carryout emissions by racking parts for best drainage and maintaining the vertical conveyor speed at less than 3.3 meters per minute (11 feet per minute).

(5) Ensure that the control device specified by (1)(a) or (b) above meet the applicable requirements of R307-340-[~~2~~]4 and [~~13~~]15.

(6) Minimize openings: Entrances and exits should silhouette work loads so that the average clearance (between parts and the edge of the degreaser opening) is either less than 10 cm (4 inches) or less than 10% of the width of the opening.

(7) Install safety switches on the following:

(a) Condenser flow switch and thermostat - shuts off sump heat if coolant is either not circulating or two warm;

(b) Spray switch - shuts off spray pump or conveyor if the vapor level drops excessively, i.e., greater than 10 cm or (4 inches); and

(c) Vapor level control thermostat - to shuts off sump level if vapor level rises too high.

(8) Ensure that solvent is not visibly detectable in the water exiting the water separator.

**R307-335-7. Alternate Methods of Control.**

(1) Any person may apply to the executive secretary for approval of an alternate test method, an alternate method of control, an alternate compliance period, an alternate emission limit, or an alternate monitoring schedule. The application must include a demonstration that the proposed alternate produces an equal or greater air quality benefit than that required by R307-335, or that the alternate test method is equivalent to that required by these rules. The executive secretary shall obtain concurrence from EPA when approving an alternate test method, an alternate method of control, an alternate compliance period, an alternate emission limit, or an alternate monitoring schedule.

(2) Manufacturer's operational specifications, records, and testings of any control system shall use the applicable EPA Reference Methods of 40 CFR Part 60, the most recent EPA test methods, or EPA-approved state methods, to determine the efficiency of the control device. In addition, the owner or operator must meet the applicable requirements of record keeping for any control device. A record of all tests, monitoring, and inspections required by R307-335 shall be maintained by the owner or operator for a minimum of 2 years and shall be made available to the executive secretary or the executive secretary's representative upon request. Any malfunctioning control device shall be repaired within 15 calendar days after it is found by the owner or operator to be malfunctioning, unless otherwise approved by the executive secretary.

(3) For purposes of determining compliance with emission limits, VOCs and nitrogen oxides will be measured by the test methods identified in federal regulation or approved by the executive secretary. Where such a method also inadvertently measures compounds with negligible photochemical reactivity, an owner or operator may exclude these negligibly reactive compounds when determining compliance with an emissions standard.

**R307-335-8. Compliance Schedule.**

All sources within any newly designated nonattainment area for ozone shall be in compliance with this rule within 180 days of the effective date of designation to nonattainment.

**KEY: air pollution, degreasing[~~*~~], solvent cleaning[~~*~~], ozone**
**Date of Enactment or Last Substantive Amendment: [~~September 15, 1998~~]2006**
**Notice of Continuation: August 5, 2003**
**Authorizing, and Implemented or Interpreted Law: [~~19-2-101;~~ ]19-2-104(1)(a)**

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# Environmental Quality, Air Quality
# R307-340
## Davis and Salt Lake Counties and Ozone Nonattainment Areas: Surface Coating Processes

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29009
FILED: 09/07/2006, 16:07

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify the rule by deleting obsolete language, adding language to align the rule with the new ozone maintenance plan, and making other minor grammatical corrections. This amendment is part of revisions to rules related to the ozone maintenance plan (see separate filings on Sections R307-101-2 and R307-110-13; and Rules R307-320, R307-325, R307-326, R307-327, R307-328, R307-332, R307-335, R307-341, R307-342, and R307-343 in this issue.) (DAR NOTE: The other filings are under: Sections R307-101-2 (DAR No. 29000) and R307-110-13 (DAR No. 29001); and Rules R307-320 (DAR No. 29002); R307-325 (DAR No. 29003); R307-326 (DAR No. 29006); R307-327 (DAR No. 29004); R307-328 (DAR No. 29005); R307-332 (DAR No. 29007); R307-335 (DAR No. 29008); R307-341 (DAR No. 29010); R307-342 (DAR No. 29011); and R307-343 (DAR No. 29012) in this issue.)

SUMMARY OF THE RULE OR CHANGE: References to Salt Lake and Davis Counties were replaced by the term "ozone maintenance area". Other grammatical corrections were made throughout Rule R307-340 to improve the readability of the rule. Obsolete language was deleted throughout Rule R307-340. In addition, the applicability, testing, and compliance provisions that were located in Section R307-325-1 were moved into Rule R307-340. This amendment is part of revisions to rules related to the ozone maintenance plan (see DAR NOTE above).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

ANTICIPATED COST OR SAVINGS TO:
- ❖ THE STATE BUDGET: Because these revisions do not create any new requirements, no change in costs is expected to the state budget.
- ❖ LOCAL GOVERNMENTS: Because these revisions do not create any new requirements, no change in costs is expected for local governments.
- ❖ OTHER PERSONS: Because these revisions do not create any new requirements, no change in costs is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because these revisions do not create any new requirements, no change in costs is expected for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because these revisions do not create new requirements, no change to costs is expected for businesses. Dianne R. Nielson, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan Miller or Mat E. Carlile at the above address, by phone at 801-536-4042 or 801-536-4136, by FAX at 801-536-0085 or 801-536-0085, or by Internet E-mail at janmiller@utah.gov or MCARLILE@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 10/17/2006 at 2:00 PM, DEQ Building, 168 N 1950 W, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 12/07/2006

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

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**R307. Environmental Quality, Air Quality.**

**R307-340. [~~Davis and Salt Lake Counties and~~ ]Ozone Nonattainment and Maintenance Areas: Surface Coating Processes.**

**R307-340-1. Purpose.**

The purpose of this rule is to establish Reasonably Available Control Technology (RACT), for surface coating operations that are located in an ozone nonattainment or maintenance area. This rule is based on federal control technique guidance documents.

**R307-340-2. Applicability.**

R307-340 applies to the owner or operator who applies surface coating of paper, fabric, vinyl, metal furniture, large appliance, magnet wire, flat wood, miscellaneous metal parts and products, and graphic arts in any ozone nonattainment or maintenance area.

**R307-340-[~~1~~]3. [~~Applicability and~~ ]Definitions.**

[~~(1) R307-325 establishes applicability and general requirements for R307-340.~~

~~(2)~~ ]The following additional definitions apply to R307-340:

"Air Dried Coating" means coatings [~~which~~]that are dried by the use of air or a forced warm air at temperatures up to 90 degrees C (194 degrees F).

"Application Area" means the area where the coating is applied by spraying, dipping, or flow coating techniques.

"Basecoat" means a primary flat wood coating or coloring of panels and normally should completely hide substrate characteristics.

"Capture System" means the equipment (including hoods, ducts, fans, etc.) used to contain, capture, or transport a pollutant to a control device.

"Class II Hard Board Paneling Finish" means finishes [~~which~~]that meet the specifications of voluntary product standards PS-9-73 as approved by the American National Standards Institute.

"Clear Coat" means a coating [~~which~~]that lacks color and opacity.

"Coating" means a protective, functional, or decorative film applied in a thin layer to a surface. This term often applies to paints such as lacquers or enamels, but is also used to refer to films applied to paper, plastics, or foil.

"Coating Application System" means all operations and equipment [~~which~~]that applies, conveys, and dries a surface coating, including, but not limited to, spray booths, flow coaters, flash off areas, air dryers and ovens.

"Curtain Coating" means the application of a coating material to a wood substrate by means of a free-falling film of coating.

"Exterior Single Coat" means the same as topcoat but is applied directly to the metal substrate omitting the primer application.

"Extreme Performance Coatings" means coatings designed for harsh exposure or extreme environmental conditions.

"Fabric Coating" means the coating or saturation of a textile substrate with a knife, roll or rotogravure coater to impart characteristics that are not initially present, such as strength, stability, water or acid repellency, or appearance.

"Filler" means a type of coating used to fill pores, voids, and cracks in wood to provide a smooth surface. It can also be used to accentuate the grain of natural hardwood veneers.

"Flat Wood Coating" means the surface coating of any flat wood products.

"Flexographic Printing" means the application of works, designs, and pictures to substrate by means of a roll printing technique in which the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastomeric materials.

"Groove Coat" means a flat wood coating [~~which~~]that covers grooves cut into the panel to assure that the grooves are compatible with the final surface color.

"Hardwood Plywood" means plywood whose surface layer is a veneer of hardwood.

"Ink" means a flat wood coating used to put a decorative design on printed panels. It can also produce special appearances on natural hardwood plywood.

"Interior Single Coat" means a single film of coating applied to internal parts of large appliances that are not normally visible to the user.

"Knife Coating" means the application of a coating material to a substrate by means of drawing the substrate beneath a blade that spreads the coating evenly over the width of the substrate.

"Large Appliances" means doors, cases, lids, panels, and interior support parts of residential and commercial washers, dryers, ranges, refrigerators, freezers, water heaters, dishwashers, trash compactors, air conditioners, and other similar products.

"Low Organic Solvent Coating" means coatings [~~which~~]that contain less organic solvents than the conventional coatings used by industry. Low organic solvent coatings include water-borne, higher-solids, electrodeposition, and powder coatings.

"Magnet Wire Coating" means the process of applying coating of electrical insulating varnish or enamel to aluminum or copper wire for use in electrical machinery.

"Metal Furniture Coating" means the surface coating of any furniture made of metal or any metal part [~~which~~]that will be assembled with other metal, wood fabric, plastic, or glass parts to form a furniture piece.

"Natural Finish Hardwood Plywood Panels" means panels whose original grain pattern is enhanced by essentially transparent finishes frequently supplemented by fillers and toners.

"Packaging Rotogravure Printing" means rotogravure printing upon paper, paper board, metal foil, plastic film, and other substrates, which are, in subsequent operations, formed into packaging products and labels.

"Paper Coating" means uniform distribution of coatings put on paper and pressure sensitive tapes regardless of substrate. Related web coating processes on plastic film and decorative coatings on metal foil are included in this definition. Paper coating covers saturation operations as well as coating operations. (Saturation means dipping the web into a bath).

"Particle Board" means a manufactured board made of individual particles [~~which~~]that have been coated with a binder and formed into flat sheets by pressure.

"Pressure Head Coating" means the application of a coating material to a wood substrate by means of a pressure head coater where coating material is metered into a pressure head and forced through a calibrated slit between two knives.

"Prime Coat" means the first film of coating applied in a two-coat operation.

"Primer" means a flat wood coating used to protect the wood from moisture and to provide a good surface for further coating applications.

"Printed Interior Panels" means panels whose grain or natural surface is obscured by fillers or basecoats upon which a simulated grain or decorative pattern is printed.

"Publication of Rotogravure Printing" means rotogravure printing upon paper [~~which~~]that is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements, and other types of printed materials.

"Roll Coating" means the application of a coating material to a substrate by means of hard rubber or steel rolls.

"Roll Printing" means the application of words, designs and pictures to a substrate usually by means of a series of hard rubber or steel rolls each with only partial coverage.

"Rotogravure Coating" means the application of a uniform layer of material across the entire width of the web to substrate by means of a roll coating technique in which the pattern to be applied is etched on the coating roll. The coating material is picked up in these recessed areas and is transferred to the substrate.

"Rotogravure Printing" means the application of words, designs, and pictures to a substrate by means of a roll printing technique [~~which~~]that involves a recessed image area in the form of cells.

"Sealer" means a type of coating used to seal off substances in the wood [~~which~~]that may affect subsequent finishes as well as protect the wood from moisture.

"Single Coat" means a single film of coating applied directly to the metal substrate omitting the primer application.

"Specialty Printing Operations" means all gravure and flexographic operations [~~which~~]that print a design or image, excluding publication gravure and packaging gravure printing. Specialty printing operations include, among other things, printing on paper cups and plates, patterned gift wrap, wallpaper, and floor coverings.

"Stain" means a nonprotective flat wood coating [~~which~~]that colors the wood surface without obscuring the grain.

"Tile Board" means paneling that has a colored waterproof surface coating.

"Vinyl Coating" means applying a decorative or protective top coat, or printing on vinyl coated fabric or vinyl sheets.

**R307-340-[~~2~~]4. General Provisions for Volatile Organic Compounds.**

[~~(1) R307-340 applies to Volatile Organic Compounds used for surface coating of paper, fabric, vinyl, metal furniture, large appliances, magnet wire, flat wood paneling, miscellaneous metal parts and products, and graphic arts.~~

~~(2)~~](1) Fugitive emissions. Control techniques and work practices are to be implemented at all times to reduce VOC emissions from fugitive type sources. Control techniques and work practices include:

(a) tight fitting covers for open tanks;

(b) covered containers for solvent wiping cloths;

(c) collection hoods for areas where solvent is used for cleanup; and

(d) proper disposal of dirty cleanup solvent.

[~~(3)~~](2) Record keeping and reporting.

(a) The owner or operator of any source subject to R307-340 shall maintain:

(i) Records detailing all malfunctions affecting control equipment;

(ii) Records of all testing conducted under R307-340-[~~13~~]15;

(iii) Records of all monitoring conducted under R307-340-[~~13~~]15; and

(iv) Records of the daily use of all paints, stains, lacquers, solvents, and other materials [~~which~~]that may be a source of VOC emissions.

(v) The recording format shall, at a minimum, follow the guidance in EPA-340/1-88-003, "Recordkeeping Guidance Document for Surface Coating Operations and the Graphic Arts Industry", or the most recent EPA guidance, and shall contain all information necessary to determine compliance with emissions limits on a daily basis.

(b) The owner or operator shall:

(i) Install; operate; and maintain process or control equipment, or both; monitoring instruments or procedures; as necessary to comply with (2)(a) above; and

(ii) Maintain, in writing, data or reports, or both, relating to monitoring instruments or procedures to document, upon review, the compliance status of the VOC emission source or control equipment.

(c) Copies of all records and reports required by (2)(a) and (b) above shall be retained by the owner or operator for a minimum of two years after the date on which the record was made, and shall be made available to the executive secretary or representative upon verbal or written request.

(d) If add-on control equipment is used, in addition to the requirements of R307-340-[~~13~~]15(5), the following information, as determined applicable for each source by the executive secretary, shall be monitored and recorded daily in order to assure continuous compliance. The substitution of continuous recordings of system operation for daily recordings may be allowed by the executive secretary. The required information pertains to the following systems:

(i) capture systems: fan power use, duct flow, and duct pressure.

(ii) carbon absorbers systems: bed temperature, bed vacuum pressure, pressure at the vacuum pump, accumulated time of operation, concentration of VOC in the outlet gas, and solvent recovery.

(iii) refrigeration systems: compressor discharge and suction pressures, condenser fluid temperature, and solvent recovery.

(iv) incinerator systems: exhaust gas temperature, temperature rise across a catalytic incinerator bed, flame temperature, and accumulated time of incineration.

[~~(4)~~](3) Malfunctions, Breakdowns, and Upsets. The owner or operator of a surface coating installation shall maintain a record of malfunctions, breakdowns, and upsets that result in excess VOC emissions. The record shall be kept for a calendar year and shall be submitted to the executive secretary by April 1 of the following year.

[~~(5)~~](4) Disposal of waste solvents. Waste solvents or waste materials [~~which~~]that contain solvents shall be disposed of by recycling, reclaiming or by incineration in an incinerator approved to process hazardous materials or by an alternate means approved by the executive secretary.

[~~(6)~~](5) Compliance Calculation Procedures.

(a) Compliance with R307-340 shall be determined on a daily basis. Sources may request approval for longer times for compliance determination from the executive secretary.

(b) Compliance calculation procedures shall follow the guidance of "Procedures for Certifying Quantity of Volatile [~~o~~]Organic Compounds Emitted by Paint, Ink, and other Coatings," EPA-450/3-84-019, or the most recent EPA guidance. Sources [~~which~~]that use add-on controls, or an approved alternative strategy instead of low solvent technology to meet the applicable emission limit, shall meet the equivalent VOC emission limit on the basis of solids applied (lbs. VOC/gallon solids applied, or lbs. VOC/lb. solids applied, for graphic arts sources).

**R307-340-[~~3~~]5. Paper Coating.**

(1) R307-340-[~~3~~]5 applies to roll, knife rotogravure coaters and drying ovens of paper coating operations.

(2) No owner or operator of a paper coating operation subject to R307-340-[~~3~~]5 may cause, allow or permit the discharge into the atmosphere of any VOC in excess of 0.35 kilograms per liter of coating (2.9 pounds per gallon), excluding water and solvents exempt from the definition of volatile organic compounds, delivered to the coating application from a paper coating operation.

(3) Equivalency calculations for coatings should be performed in units of lbs. VOC/gallon of solid rather than lbs. VOC/gallon of coating when determining compliance. The equivalent emission limit is 4.8 lbs. VOC/gallon of solid.

(4) The emission limit specified above shall be achieved by:

(a) The application of a low solvent technology coating; or

(b) Incineration, provided that a minimum of 90 percent of non-methane volatile organic compounds (VOC measured as total combustible carbon) [~~which~~]that enter the incinerator are oxidized to carbon dioxide and water; or

(c) Through carbon adsorption provided that there is a minimum of 90% reduction efficiency of captured VOC emissions.

(5) The design, operation, and efficiency of any capture system used in conjunction with (4) above shall be certified in writing by the owner or operator and approved by the executive secretary.

**R307-340-[4]6. Fabric and Vinyl Coating.**

(1) R307-340-[4]6 applies to roll, knife or rotogravure coaters and drying ovens of fabric and vinyl coating operations.

(2) No owner or operator of a fabric or vinyl coating line subject to this section may cause, allow or permit the discharge into the atmosphere of any volatile organic compounds in excess of:

(a) 0.35 kilograms per liter of coating (2.9 pounds per gallon), excluding water and solvents exempt from the definition of volatile organic compound, delivered to the coating applicator from a fabric coating line; or

(b) 0.45 kilograms per liter of coating (3.8 pounds per gallon), excluding water and solvents exempt from the definition of volatile organic compound, delivered to the coating applicator from a vinyl coating line.

(3) Equivalency calculations for coatings shall be performed in units of lbs. VOC/gallons of solids rather than lbs. VOC/gallon of coating when determining compliance. The equivalent emission limits shall be 4.8 lbs VOC/gallon solids for fabric coating, and 7.9 lbs VOC/gallon for vinyl coating.

(4) Organosol and plastisol coatings shall not be used to bubble emissions from vinyl printing and topcoating.

(5) The emission limitations specified above shall be achieved by:

(a) The application of a low solvent content coating technology; or

(b) Incineration, provided that a minimum of 90 percent of the non-methane volatile organic compounds (VOC measured as total combustible carbon) [~~which~~]that enter the incinerator are oxidized to carbon dioxide and water; or

(c) Through carbon adsorption provided that there is a minimum of 90 percent reduction efficiency of captured VOC emissions.

(6) The design, operation, and efficiency of any capture system used in conjunction with (5) above shall be certified in writing by the owner or operator and approved by the executive secretary.

**R307-340-[5]7. Metal Furniture Coating VOC Emissions.**

(1) R307-340-[~~5~~]7 applies to the application areas, flash-off areas, and ovens of metal furniture coating lines involved in prime and top-coat or single coat operations.

(2) No owner or operator of a metal furniture coating line subject to this section may cause, allow or permit the discharge into the atmosphere of any volatile organic compound in excess of 0.3 kilograms per liter of coating (3.0 pounds per gallon) excluding water and solvents exempt from the definition of volatile organic compounds, delivered to the coating applicator from prime and topcoat or single coat operations.

(3) Equivalency calculations for coatings shall be performed in units of lbs. VOC/gallon of solid rather than lbs. VOC/gallon of coating when determining compliance. The equivalent emission limit is 5.1 lbs. VOC/gallon solids.

(4) The emission limitation specified above shall be achieved by:

(a) The application of low solvent technology; or

(b) Incineration, provided that a minimum of 90 percent of the non-methane volatile organic compounds (VOC measured as total combustible carbon) [~~which~~]that enter the incinerator are oxidized to carbon dioxide and water; or

(c) using water-borne electrodeposition; or

(d) using water-borne spray, dip or flowcoat; or

(e) using powder; or

(f) using higher solids spray; or

(g) carbon adsorption.

([4]5) The design, operation, and efficiency of any capture system used in conjunction with (4) above shall be certified in writing by the owner or operator and approved by the executive secretary.

**R307-340-[6]8. Large Appliance Surface Coating VOC Emissions.**

(1) R307-340-[~~6~~]8 applies to application areas flash-off areas and ovens of large appliance coating lines involved in prime, single or top coating operations.

(2) No owner or operator of a large appliance coating line subject to this section may cause, allow or permit the discharge to the atmosphere of any volatile organic compounds in excess of 0.34 kilograms per liter of coating (2.8 pounds per gallon), excluding water and solvents exempt from the definition of volatile organic compound, delivered to the coating applicator from prime, single, or top-coat coating operations.

(3) Equivalency calculations for coatings shall be performed in units of lbs. VOC/gallon of solid rather than lbs. VOC/gallon of coating when determining compliance. The equivalent emission limit is 4.5 lbs. VOC/gallon solids.

(4) The emission limitations specified above shall be achieved by:

(a) The application of low solvent content technology; or

(b) Incineration provided 90 percent of the non-methane volatile organic compounds (VOC measured as total combustible carbon) [~~which~~]that enter the incinerator are oxidized to carbon dioxide and water; or

(c) using water-borne electrodeposition; or

(d) using water-borne spray, dip or flowcoat; or

(e) using powder; or

(f) using higher solids spray; or

(g) carbon adsorption.

(5) The design, operation, and efficiency or any capture system used in conjunction with (4) above shall be certified in writing by the owner or operator.

**R307-340-[~~7~~]9. Magnet Wire Coating VOC Emissions.**

(1) R307-340-[~~7~~]9 applies to ovens of magnet wire coating operations.

(2) No owner or operator of a magnet wire coating oven subject to this section may cause, allow or permit discharge into the atmosphere of any volatile organic compounds in excess of 0.20 kilograms per liter of coating (1.7 pounds per gallon), excluding water and solvents exempt from the definition of volatile organic compound, delivered to the coating applicator from magnet wire coating operations.

(3) Equivalency calculations for coatings shall be performed in units of lbs. VOC/gallon of solid rather than lbs. VOC/gallon of coating when determining compliance. The equivalent emission limit is 2.2 lbs. VOC/gallon solids.

(4) The emission limitations specified above shall be achieved by:

(a) The application of low solvent content coating technology; or

(b) Incineration, provided that a minimum of 90 percent of the non-methane volatile organic compounds (VOC measured as total combustible carbon) [~~which~~]that enter the incinerator are oxidized to carbon dioxide and water; or

(5) The design, operation, and efficiency of any capture system used in conjunction with (4)(b) above shall be certified in writing by the owner or operator and approved by the executive secretary.

**R307-340-[~~8~~]10. Flat Wood Coating.**

(1) R307-340-[~~8~~]10 applies to the application areas of flat wood coating operations involved in but not limited to, filler, sealer, groove coat, primer, stain, basecoat, inks, and topcoat operations.

(2) No owner or operator of an interior printed hardwood, plywood, and particle board coating operation may cause, allow or permit discharge to the atmosphere of any organic volatile compound in excess of a weighted average VOC content of 0.20 kilograms per liter of coating (1.7 pounds per gallon), excluding water and solvents exempt from the definition of volatile organic compound, delivered to a coating applicator from, but not limited to, filler, sealer, groove coat, primer, stain, basecoat, ink and topcoat operation.

(3) No owner or operator of a natural finish hardwood plywood coating operation may cause, allow or permit discharge to the atmosphere any organic volatile compound in excess of a weighted average VOC content of 0.40 kilograms per liter of coating (3.3 pounds per gallon) excluding water and solvents exempt from the definition of volatile organic compound, delivered to a coating applicator from, but not limited to, filler, sealer, groove coat, primer, stain basecoat, ink and topcoat operations.

(4) No owner or operator of a Class II hardwood panel finish operation may cause, allow, or permit discharge to the atmosphere of any organic volatile compound in excess of a weighted average VOC content of 0.34 kilograms per liter of coating (2.8 pounds per gallon), excluding water and solvents exempt from the definition of volatile organic compound, delivered to a coating applicator from, but not limited to, filler, sealer, groove coat, primer, stain, basecoat, ink, and topcoat operations.

(5) The emission limitations specified above shall be achieved by:

(a) The application of low solvent technology; or

(b) The application of water-borne coating technology; or

(c) The application of ultraviolet-curable coating technology; or.

(6) This regulation does not apply to the manufacture of exterior siding, tile board, or particle board used as a furniture component.

(7) Equivalency calculations for coatings shall be performed in units of lbs. VOC/gallons of solid rather than lbs. VOC/gallons of coating when determining compliance. The equivalent emission limit for interior printed hardwood, plywood, and particle board coating is 2.2 lbs. VOC/gallon solids. The equivalent emission limit for natural finish hardwood plywood coating shall be 6.0 lbs. VOC/gallon solids. The equivalent emission limit for Class II hardwood panel finish operations is 4.5 lbs. VOC/gallon solids.

**R307-340-[~~9~~]11. Miscellaneous Metal Parts and Products VOC Emissions.**

(1) R307-340-[~~9~~]11 applies to the application areas, flash-off areas air and forced air dryers, and ovens used in the surface coating of miscellaneous metal parts and products:

(2) Applicable Industries:

(a) Large farm machinery (harvesting, fertilizing, planting, tractors, combines, etc.)

(b) Small farm machinery (lawn and garden tractors, lawn mowers, rototillers, etc.)

(c) Small appliance (fans, mixers, blenders, crock pots, vacuum cleaners, etc.)

(d) Commercial machinery (computers, typewriters, calculators, vending machines, etc.)

(e) Industrial machinery (pumps, compressors, conveyor components, fans, blowers, transformers, etc.)

(f) Fabricated metal products (metal covered doors, frames, trailer frames, etc.)

(g) Any other industrial category [~~which~~]that coats metal parts or products under the standard Industrial Classification Code of major group 33 (primary metal industries), major group 34 (fabricated metal products), major group 35 (nonelectric machinery), major group 36 (electrical machinery), major group 37 (transportation equipment) major group 38 (miscellaneous instruments), and major group 39 (miscellaneous manufacturing industries).

(h) This regulation does not apply to:

(i) the surface coating of automobiles and light-duty trucks,

(ii) flat metal sheets and strips in the form of rolls or coils,

(iii) exterior of airplanes,

(iv) automobile refinishing,

(v) exterior of marine vessels,

(vi) customized top coating of automobiles and trucks if production is less than 35 vehicles per day,

(vii) a source whose potential VOC emissions are less than 10 tons/year. Potential emissions are based upon design capacity (or maximum production), and 8760 hours/year, before add-on controls. The potential emission level is determined on a plant-wide basis, summing all individual emission sources within the miscellaneous metal parts and products category.

(3) No owner or operator of a facility engaged in the surface coating of miscellaneous metal parts and products may cause, allow or permit discharge to the atmosphere of any volatile organic compounds in excess of:

(a) 0.52 kilograms per liter (4.3 pounds per gallon) of coating, excluding water and solvents exempt from the definition of volatile organic compound, delivered to a coating applicator that applies clear coating;

(b) 0.42 kilograms per liter (3.5 pounds per gallon) of coating, excluding water and solvents exempt from the definition of volatile organic compound, delivered to a coating applicator in a coating application system that utilizes air or forced warm air at temperatures up to 90 degrees C (194 degrees F);

(c) 0.42 kilograms per liter (3.5 pounds per gallon) of coating, excluding water and solvents exempt from the definition of volatile organic compound, delivered to a coating applicator that applies extreme performance coatings;

(d) 0.36 kilograms per liter (3.0 pounds per gallon) of coating, excluding water and solvents exempt from the definition of volatile organic compound, delivered to a coating applicator for all other coating and coating application systems.

(4) Equivalency calculations for coatings shall be performed in units of lbs. VOC/gallon of solid rather than lbs. VOC/gallon of coating when determining compliance. The equivalent emission limit for air dried items is 6.7 lbs. VOC/gallon solids. The equivalent emission limit for clear-coated items is 10.3 lbs. VOC/gallon solids. The equivalent emission limit for extreme performance coatings is 6.7 lbs. VOC/gallon solids. The equivalent emission limit for other coatings and systems is 5.1 lbs. VOC/gallon solids.

(5) If more than one emission limitation indicated in this section applies to a specific coating, then the least stringent emission limitation shall apply. All volatile organic compound emissions from solvent washing involved in a coating process shall be considered in the emission limitations set forth in R307-340-[~~9~~]11(3), unless the solvent is directed into containers that prevent evaporation into the atmosphere.

(6) The emission limitations set forth in (3) above shall be achieved by:

(a) The application of low solvent technology; or

(b) An incineration system [~~which~~]that oxidizes a minimum of 90 percent of the non-methane volatile organic compounds (VOC measures as total combustible carbon) to carbon dioxide and water.

(7) The design, operation, and efficiency of any capture system used in conjunction with (6)(b) above shall be certified in writing by the owner or operator and approved by the executive secretary.

**R307-340-[~~10~~]12. Graphic Arts.**

(1) R307-340-[~~10~~]12 applies to: packaging and publication rotogravure; packaging and publication flexographic; and specialty printing operations employing solvents containing ink and having plant-wide potential emissions of volatile organic compounds (VOC) equal to or greater than 90 megagrams/yr (100 tons/yr). Potential emissions shall be calculated based on uncontrolled emissions operating at design capacity or at maximum production for 8760 hours/year. (Solvent shall include that used for dilution of ink and for equipment cleaning.) Machines [~~which~~]that have both coating units (application of a uniform layer of material across the entire width of a web) and printing units (formation of words, designs and pictures) shall be considered as performing a printing operation. This rule does not apply to offset lithography or letter press printing [~~which~~]that do not use volatile organic compounds.

(2) No owner or operator of a packaging and publication rotogravure; packaging and publication flexographic, and specialty printing operations employing solvent containing ink may operate, cause, or allow or permit the operation of a facility unless:

(a) The volatile fraction of ink, as it is applied to the substrate, contains 25.0 percent by volume or less of organic solvent and 75.0 percent by volume or more of water; or

(b) The ink as it is applies to the substrate, less water, contains 60.0 percent by volume or more nonvolatile material; or

(c) The owner or operator installs and operates;

(i) A carbon adsorption system [~~which~~]that reduces the volatile organic emissions from the capture system by a minimum of 90.0 percent by weight; or

(ii) An incineration system [~~which~~]that oxidizes a minimum of 90.0 percent of the non-methane volatile organic compounds (VOC measured as total combustible carbon) to carbon dioxide and water.

(3) A capture system must be used in conjunction with the emission control systems indicated in this section. The design and operation of a capture system must be consistent with good engineering practices and shall be required to provide for an overall reduction in volatile organic compound emissions of at least:

(a) 75.0 percent where a publication rotogravure process is employed;

(b) 65.0 percent where a packaging rotogravure process is employed; or

(c) 60.0 percent where a flexographic printing process is employed.

**R307-340-[~~11~~]13. Exemptions.**

The requirements of R307-340-[~~1~~]3 through [~~8~~]10 shall not apply to the following:

(1) sources whose emissions of volatile organic compounds are not more than 6.8 kilograms (15 pounds) in any 24 hour period, nor more than 1.4 kilograms (3 pounds) in any one (1) hour provided the emission rates are certified. These cutoffs apply to the emissions level on a plant-wide basis, and are determined by summing emissions from all coating operations within the same regulated category[~~-~~];

(2) sources used exclusively for chemical or physical analysis or determination of product quality and commercial acceptance provided;

(a) the operation of the source is not an integral part of the production process; and

(b) the emissions from the source do not exceed 363 kilograms (800 pounds) in any one calendar month. These cutoffs apply to the emissions level on a plant-wide basis, and are determined by summing emissions from all coating operations within the same regulated category.

**R307-340-[~~12~~]14. Capture Systems.**

The design, operation and efficiency of any capture system used in conjunction with any emission control system shall be certified in

writing by the source owner or operator and approved by the executive secretary. Unless the capture system meets the requirements for a total enclosure, specified in section 60.713(b)(5)(i) of 40 CFR Part 60 Subpart SSS, or unless material balance techniques approved by the executive secretary are used to adequately determine overall VOC capture and destruction or recovery efficiency, the efficiency of the capture system will be determined by test methods approved by the executive secretary. Testing for capture efficiency shall be performed on a case-by-case basis as required by the executive secretary, and shall be consistent with EPA guidance. The requirements of R307-340-[~~2~~]4(3)(d) apply to the capture and control device system. When capture and control device efficiency must be independently determined, the overall VOC emission percent reduction equals (percent capture efficiency x percent control device efficiency)/100.

**R307-340-[~~13~~]15. Testing and Monitoring.**

(1) Upon request by the executive secretary, the owner or operator of a volatile organic compound source required to comply with R307-340 shall demonstrate compliance by the method of this section or an alternative method approved by the executive secretary.

(2) Test procedures to determine compliance with R307-340 must be approved by the executive secretary and must utilize one of the following methods or an alternative method approved by the executive secretary or equivalent method.

(a) For surface coatings: EPA Reference Method 24 of 40 CFR Part 60

(b) For add-on control equipment: EPA Reference Methods 1 through 4, 18 and 25, of the 40 CFR Part 60;

(c) EPA 340/1-86-016 "A Guide for Surface Coating Calculations;" and

(d) EPA 450/3-84-019 "Procedures for Certifying Quantity of Volatile organic Compounds Emitted by Paint, Ink and Other Coatings."

(3) All tests shall be made by, or under the direction of, a person qualified by training or experience, or both, in the field of air pollution testing. The executive secretary will evaluate test data submitted.

(4) A person proposing to conduct a volatile organic compound emissions test shall notify the executive secretary of the intent to test not less than 30 days before the proposed initiation of the test. The notification shall contain the information required by, and be in a format approved by, the executive secretary.

(5) If add-on control equipment is used, continuous monitors of the following parameters shall be installed, periodically calibrated, and operated at all times that the associated control equipment is operating:

(a) Exhaust gas temperatures of all incinerators;

(b) Temperature rise across a catalytic incinerator bed;

(c) Breakthrough of VOC on a carbon adsorption unit; and

(d) Any other continuous monitoring or recording device required by the executive secretary.

(6) The executive secretary may accept, instead of the testing required in R307-340-[~~13~~]15, a certification by the manufacturer of the composition of the coatings if supported by actual batch formulation records. The owner or operator of a VOC source required to comply with R307-340 must obtain certification from the coating manufacturers that the test methods used for determination of the VOC content meet the requirements specified in (2) above. The owner or operator shall make this certification readily available to the Division of Air Quality to allow the results to be used in the daily compliance calculations specified in R307-340-[~~2(6)~~]4(5).

(7) The performance of add-on control equipment shall be demonstrated with the required test methods of (2) above at equipment start up and after any major modification to the control equipment. Baseline operating parameters shall be established during the satisfactory (i.e. in-compliance) operation of the control equipment, including operation during all anticipated ranges of process throughput. During subsequent process operation, the owner or operator shall maintain the operating conditions of the add-on controls as close to these baseline conditions as possible. If serious operational problems with an add-on control system are indicated by the daily monitoring required by R307-340-[~~2(3)~~]4(2)(d), (such problems may be indicated by changes from baseline conditions), repeat performance tests shall be performed by the owner or operator, and may be required by the executive secretary, as necessary.

(8) To determine compliance with the applicable standards in R307-340, samples shall be taken from the coating as freshly delivered to the reservoir of the coating applicator. All VOC emissions from solvent washing involved in a coating process shall be considered in determining compliance with an emission limit, unless the source owner or operator documents that the VOCs from solvent washing are collected and disposed of in a manner that prevents their evaporation into the atmosphere.

**R307-340-16. Alternate Methods of Control.**

(1) Any person may apply to the executive secretary for approval of an alternate test method, an alternate method of control, an alternate compliance period, an alternate emission limit, or an alternate monitoring schedule. The application must include a demonstration that the proposed alternate produces an equal or greater air quality benefit than that required by R307-340, or that the alternate test method is equivalent to that required by these rules. The executive secretary shall obtain concurrence from EPA when approving an alternate test method, an alternate method of control, an alternate compliance period, an alternate emission limit, or an alternate monitoring schedule.

(2) Manufacturer's operational specifications, records, and testings of any control system shall use the applicable EPA Reference Methods of 40 CFR Part 60, the most recent EPA test methods, or EPA-approved state methods, to determine the efficiency of the control device. In addition, the owner or operator must meet the applicable requirements of record keeping for any control device. A record of all tests, monitoring, and inspections required by R307-340 shall be maintained by the owner or operator for a minimum of 2 years and shall be made available to the executive secretary or the executive secretary's representative upon request. Any malfunctioning control device shall be repaired within 15 calendar days after it is found by the owner or operator to be malfunctioning, unless otherwise approved by the executive secretary.

(3) For purposes of determining compliance with emission limits, VOCs and nitrogen oxides will be measured by the test methods identified in federal regulation or approved by the executive secretary. Where such a method also inadvertently measures compounds with negligible photochemical reactivity, an owner or operator may exclude these negligibly reactive compounds when determining compliance with an emissions standard.

**R307-340-17. Compliance Schedule.**

All sources within any newly designated nonattainment area for ozone shall be in compliance with this rule within 180 days of the effective date of designation to nonattainment.

**KEY: air pollution, emission controls, surface coating[~~*~~], ozone**
**Date of Enactment or Last Substantive Amendment: [~~September 15, 1998~~]2006**

**Notice of Continuation: August 5, 2003**
**Authorizing, and Implemented or Interpreted Law: [~~19-2-101;~~ ]19-2-104(1)(a)**

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# Environmental Quality, Air Quality
# R307-341
## Davis and Salt Lake Counties and Ozone Nonattainment Areas: Cutback Asphalt

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29010
FILED: 09/07/2006, 16:07

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify the rule by deleting obsolete language, adding language to align the rule with the new ozone maintenance plan, and making other minor grammatical corrections. This amendment is part of revisions to rules related to the ozone maintenance plan (see separate filings on Sections R307-101-2 and R307-110-13; and Rules R307-320, R307-325, R307-326, R307-327, R307-328, R307-332, R307-335, R307-340, R307-342, and R307-343 in this issue.) (DAR NOTE: The other filings are under: Sections R307-101-2 (DAR No. 29000) and R307-110-13 (DAR No. 29001); and Rules R307-320 (DAR No. 29002); R307-325 (DAR No. 29003); R307-326 (DAR No. 29006); R307-327 (DAR No. 29004); R307-328 (DAR No. 29005); R307-332 (DAR No. 29007); R307-335 (DAR No. 29008); R307-340 (DAR No. 29009); R307-342 (DAR No. 29011); and R307-343 (DAR No. 29012) in this issue.)

SUMMARY OF THE RULE OR CHANGE: References to Salt Lake and Davis Counties were replaced by the term "ozone maintenance area". Other grammatical corrections were made throughout Rule R307-341 to improve the readability of the rule. Obsolete language was deleted throughout Rule R307-341. In addition, the definition for the term "asphalt" has been moved from Section R307-101-2 to Rule R307-341. This definition comes from the Control Technique Guidance (CTG) titled, Control of Volatile Organic Compounds from use of Cutback Asphalt, EPA-450/2-077-037, December 1977, and was added to the general definitions when this Reasonably Available Control Technology (RACT) rule was adopted in the early 1980s. The term "asphalt" is used in several other rules; however, in those rules the common usage of the term "asphalt" is more appropriate than the specific language in this definition. This amendment is part of revisions to rules related to the ozone maintenance plan (see DAR NOTE above).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: Because these revisions do not create any new requirements, no change in costs is expected to the state budget.
❖ LOCAL GOVERNMENTS: Because these revisions do not create any new requirements, no change in costs is expected for local governments.
❖ OTHER PERSONS: Because these revisions do not create any new requirements, no change in costs is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because these revisions do not create any new requirements, no change in costs is expected for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because these revisions do not create new requirements, no change to costs is expected for businesses. Dianne R. Nielson, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
AIR QUALITY
150 N 1950 W
SALT LAKE CITY UT 84116-3085, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Mat E. Carlile or Jan Miller at the above address, by phone at 801-536-4136 or 801-536-4042, by FAX at 801-536-0085 or 801-536-0085, or by Internet E-mail at MCARLILE@utah.gov or janmiller@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 10/17/2006 at 2:00 PM, DEQ Building, 168 N 1950 W, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 12/07/2006

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

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**R307. Environmental Quality, Air Quality.**
**R307-341. [~~Davis and Salt Lake Counties and~~ ]Ozone Nonattainment and Maintenance Areas: Cutback Asphalt.**
**R307-341-1. Purpose.**
This rule establishes reasonably achievable control technology (RACT) requirements for the use or application of cutback asphalt in ozone nonattainment and maintenance areas.

**R307-341-2. Applicability.**
R307-341 applies to any person who uses or applies asphalt in any ozone nonattainment or maintenance area.

**R307-341-[~~1~~]3. Definitions.**

[~~(1) R307-325 establishes applicability and general requirements for R307-341.~~

~~(2)~~ ]The following additional definitions apply to R307-341:

"Asphalt or Asphalt Cement" means the dark brown to black cementitious material, either solid, semisolid or liquid in consistency, of which the main constituents are bitumens that occur naturally or as a residue of petroleum refining.

"Asphalt Concrete" means a waterproof and durable paving material composed of dried aggregate [~~which~~]that is evenly coated with hot asphalt cement.

"Cutback Asphalt" means any asphalt [~~which~~]that has been liquified by blending with petroleum solvents (diluents) or, in the case of some slow cure asphalts (road oils), which have been produced directly from the distillation of petroleum.

"Emulsified Asphalt" means asphalt emulsions produced by combining asphalt with water that contains an emulsifying agent.

"Patch Mix" means a mixture of an asphalt binder and aggregate in which cutback or emulsified asphalts are used either as sprayed liquid or as a binder.

"Penetrating Prime Coat" means an application of low-viscosity liquid asphalt to an absorbent surface in order to prepare it for paving with asphaltic concrete.

**R307-341-[~~2~~]4. Limitations on [~~Content~~]Use of Cutback Asphalt.**

[~~After December 31, 1982, n~~]No person shall cause, allow, or permit the use or application of cutback asphalt, or [~~an~~ ]emulsified asphalt containing more than 7 percent oil distillate, as determined by ASTM distillation test D-244, except as provided below:

(1) Where the use or application commences on or after October 1 of any year and such use or application is completed by April 30 of the following year;

(2) Where long-life (longer than 1 month) stockpile storage of patch mix is demonstrated to the executive secretary to be necessary;

(3) Where the asphalt is to be used solely as a penetrating prime coat;

(4) Where the user can demonstrate that there are no emissions of volatile organic compounds from the asphalt under conditions of normal use;

(5) Where the use or application is for the paving of parking lots smaller than 300 parking stalls.

**R307-341-[~~3~~]5. Recordkeeping.**

[~~A record shall be kept for~~]Any person subject to R307-341 shall keep records for at least two years of the types and amounts of cutback[~~,~~] or emulsified asphalt used, [~~and~~ ]the amounts of solvents added, and the location where the asphalt is applied. The records shall be made available to the executive secretary upon request.

**R307-341-6. Compliance Schedule.**

All sources within any newly designated nonattainment area for ozone shall be in compliance with this rule within 180 days of the effective date of designation to nonattainment.

**KEY: air pollution, emission controls, asphalt, solvent[~~*~~]**
**Date of Enactment or Last Substantive Amendment: [~~September 15, 1998~~]2006**
**Notice of Continuation: August 5, 2003**
**Authorizing, and Implemented or Interpreted Law: [~~19-2-101;~~ ]19-2-104(1)(a)**

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# Environmental Quality, Air Quality
# R307-342
## Davis, Salt Lake, Utah, and Weber Counties and Ozone Nonattainment Areas: Qualification of Contractors and Test Procedures for Vapor Recovery Systems for Gasoline Delivery Tanks

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29011
FILED: 09/07/2006, 16:07

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify the rule by deleting obsolete language, clarifying distinction between Rules R307-342 and R307-328, adding language to align the rule with the new ozone maintenance plan, and making other minor grammatical corrections. This amendment is part of revisions to rules related to the ozone maintenance plan (see separate filings on Sections R307-101-2 and R307-110-13; and Rules R307-320, R307-325, R307-326, R307-327, R307-328, R307-332, R307-335, R307-340, R307-341, and R307-343 in this issue.) (DAR NOTE: The other filings are under: Sections R307-101-2 (DAR No. 29000) and R307-110-13 (DAR No. 29001); and Rules R307-320 (DAR No. 29002); R307-325 (DAR No. 29003); R307-326 (DAR No. 29006); R307-327 (DAR No. 29004); R307-328 (DAR No. 29005); R307-332 (DAR No. 29007); R307-335 (DAR No. 29008); R307-340 (DAR No. 29009); R307-341 (DAR No. 29010); and R307-343 (DAR No. 29012) in this issue.)

SUMMARY OF THE RULE OR CHANGE: Rules R307-342 and R307-328 work together to establish the Stage I Vapor Recovery requirements. In general, the provisions in Rule R307-328 apply to the refinery or bulk storage plant where gasoline is loaded into a truck for delivery, the transport vehicle, and the gas station where the gasoline is unloaded into the underground storage tank. Rule R307-342 establishes the requirements for the vapor tightness testing contractor. However, there are some provisions that do not follow this general split. Both rules have been revised to make this division clearer, so that each entity will find all of the applicable requirements in one rule, rather than split between two rules. In addition, references to Salt Lake and Davis Counties were replaced by the term "ozone maintenance

area". Other grammatical corrections were made throughout Rule R307-342 to improve the readability of the rule. Obsolete language was deleted throughout Rule R307-342. Further, the applicability, testing, and compliance provisions that were located in Section R307-325-1 were moved into Rule R307-342. This amendment is part of revisions to rules related to the ozone maintenance plan (see DAR NOTE above).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Because these revisions do not create any new requirements, no change in costs is expected to the state budget.

❖ LOCAL GOVERNMENTS: Because these revisions do not create any new requirements, no change in costs is expected for local governments.

❖ OTHER PERSONS: Because these revisions do not create any new requirements, no change in costs is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because these revisions do not create any new requirements, no change in costs is expected for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because these revisions do not create new requirements, no change to costs is expected for businesses. Dianne R. Nielson, Executive Director

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Jan Miller or Mat E. Carlile at the above address, by phone at 801-536-4042 or 801-536-4136, by FAX at 801-536-0085 or 801-536-0085, or by Internet E-mail at janmiller@utah.gov or MCARLILE@utah.gov

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INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 10/17/2006 at 2:00 PM, DEQ Building, 168 N 1950 W, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 12/07/2006

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

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**R307. Environmental Quality, Air Quality.**

**R307-342. [~~Davis, Salt Lake, Utah and Weber Counties and~~ ]Ozone Nonattainment and Maintenance Areas: Qualification of Contractors and Test Procedures for Vapor Recovery Systems for Gasoline Delivery Tanks.**

**R307-342-1. Purpose.**

The purpose of R307-342 is to establish the requirements for the qualification of contractors to perform vapor tightness tests on gasoline transport vehicles equipped with vapor recovery equipment.

**[~~R307-342-1. Testing Required Annually.~~**

~~R307-328-6 requires that the gasoline delivery tanks and associated vapor recovery systems be tested for leakage at least annually by a qualified contractor approved by the executive secretary.~~

]

**R307-342-2. [~~General~~ ]Applicability.**

R307-342 is applicable to anyone who wishes to become qualified by the executive secretary to perform vapor tightness tests on gasoline transport [~~vessels which~~ ]vehicles that are required to be equipped with gasoline vapor recovery equipment and to be tested in accordance with R307-328-[~~6~~]7.

[**~~R307-342-3. General Requirements.~~**

~~(1) A vapor recovery system is required on all gasoline delivery tanks loading at a terminal or nonexempt bulk plant or off-loading at a stationary storage container in Davis, Salt Lake, Utah or Weber County or any ozone nonattainment area.~~

~~(2) The design of the vapor recovery system is to be such that when the delivery tank is connected to an approved storage tank vapor recovery system or loading terminal, 90% vapor recovery efficiencies are realized. The connectors of the delivery tanks need to be compatible with the fittings on the fill pipes and vapor vents at the storage containers and gasoline loading terminals where the delivery tank will service or be serviced. Adapters may be used to achieve compatibility.~~

~~(3) No person may operate a gasoline delivery tank in Davis, Salt Lake, Utah or Weber County or any ozone nonattainment area unless the tank is certified leak tight. The owner or operator of any delivery tank must insure that the tank is vapor tight according to the requirements of R307-328-6, by having the tank satisfactorily pass the test requirements described in these procedures or other procedures approved by the executive secretary when performed by a contractor who has been qualified by the executive secretary. Each tank must be certified at least annually.~~

~~(4) R307-328-6(3) requires, "the tank shall not sustain a pressure change of more than 750 pascals (3 inches of $H_2O$) in five minutes when pressurized (by air or inert gas) to 4500 pascals (18 inches of $H_2O$), or evacuated to 1500 pascals (6 inches of $H_2O$)" during the annual certification test for vapor tightness.~~

]

**R307-342-[4]3. Contractor Qualification Requirements.**

(1) [~~The executive secretary has determined that a~~]Any person may become qualified to perform delivery tank vapor tightness tests by:

(a) [~~P~~]preparing a written, detailed and approvable procedure by which the person proposes to conduct the pressure/vacuum test. The minimum test performance requirements are described in R307-342-[~~6~~]5 and R307-342-[~~7~~]6[~~-~~];

(b) [~~S~~]submitting the procedure with a letter requesting approval of the procedure and qualification of the person as a qualified testing contractor[~~-~~];

(c) [~~H~~]having the necessary facilities, equipment and expertise to perform a satisfactory test[-]; and

(d) [~~P~~]performing an acceptable demonstration test with a representative of the executive secretary in attendance.

(2) The person determined qualified to perform the tests will be issued a letter of qualification by the executive secretary valid for one year.

(3) Re-qualification will be accomplished by:

(a) [~~R~~]requesting by letter to be requalified by the executive secretary; and

(b) [~~P~~]performing an acceptable demonstration test with a representative of the executive secretary in attendance after which a letter of requalification will be sent.

**R307-342-[~~5~~]4. Equipment Requirements.**

(1) Pressure Source. An air pump, shop compressed air, compressed gas tanks of air or inert gas, or other approved air pressure producing source or procedure sufficient to pressurize the tank to 18 inches of water above atmospheric pressure is required. Some models of reversible tank-type shop vacuum cleaners will perform adequately.

(2) Vacuum Source. A vacuum pump or other approved vacuum producing procedure capable of evacuating the tank to 6 inches of water is required. For example, some models of shop vacuum cleaners can accomplish this function.

(3) Pressure. [-]A [~~V~~]vacuum [~~S~~]supply [~~H~~]hose[~~. A hose~~] must be of sufficient length and wall strength to reach from the tank to the pressure vacuum source.

(4) Manometer. A liquid manometer or equivalent instrument must be capable of measuring up to 25 inches of water with scale division of 0.1 inches of water. A 1/4-inch hose to connect the manometer to the adapter tap is recommended.

(5) Stopwatch. A stopwatch with scale division to one second is required.

(6) Adapter. An adapter to connect the pressure vacuum hose to the tank with a shutoff valve to isolate the tank from the required pressure vacuum equipment is required. The adapter requires a shutoff valve, a tap to attach the manometer, and a bleed valve for adjusting pressure/vacuum to specified levels prior to start of timed period. However, each contractor must use an adapter compatible with his equipment.

(7) Caps. Dust caps with good gaskets are required on all outlets during the test.

(8) Pressure/Vacuum Relief Valves. The test apparatus should be equipped with an in line pressure/vacuum relief valve set to activate at 25 inches of water above atmospheric and 12 inches of water below if the pressure/vacuum equipment has greater capacity than the set points to prevent possible tank damage.

**R307-342-[~~6~~]5. Test Procedures and Preparations.**

(1) Location. The delivery tank must be tested in a location where it will not be subject to direct sunlight. Shop heaters/air conditioners must be turned off during the test as they will affect the tank stability.

(2) Purging the Tank. A good purge is necessary.

(a) The tank must be emptied of gasoline and vapors before testing to minimize "vapor growth" problems. Hauling a load of diesel fuel is recommended.

(b) A steam purge to degas the tank is acceptable.

(c) An alternate method is to purge with a high volume of air. For this purge, the hatches are to be opened and purge air or inert gas should be blown through the tank for 30 minutes or more to degas the tank. This method is not as effective and often requires a much longer time for stabilization during the test.

(3) Visual Inspection. While the tank is being purged, or prior to the test, the entire tank should be visually inspected for evidence of wear, damage or misadjustments that could be a source of potential leaks. Areas to check are domes, dome vents, cargo tank piping, hose connections, hoses and delivery elbows. Any part found defective should be adjusted, repaired or replaced as necessary before the pressure test is started.

(4) Vents, Valves, and Outlets.

(a) The emergency valves in the bottom of the tank must be opened during the purge and then closed to test.

(b) Open the top vents. If the top vents are the pneumatic type, then a shop air line connection must be provided as the vents must be in the open position during the purge and then closed to test.

(c) In order to complete the test, some types of dome vents may have to be replaced.

(d) During the test, all compartments must be interconnected so that the tank may be tested as a single unit. If this cannot be done, each compartment must be tested as a separate tank.

(e) Dust caps with good gaskets must be installed on all outlets.

(5) Pretest Preparation and Procedure.

(a) Open and close each dome cover.

(b) Connect the static electric ground connections to tank, attach the liquid delivery and vapor return hoses, remove liquid delivery elbows and seal the liquid delivery hose fitting, install dust caps on all outlets except the vapor return hose.

(c) Attach the test adapter to the vapor return hose of the tank under test with the shutoff valve closed.

(d) Connect the pressure supply hose to the adapter.

(e) Connect the 1/4-inch hose to the adapter tap and the manometer if applicable and position of the manometer or gauge at eye level.

(f) Open all internal vents and valves if possible. If not possible, each compartment must be tested as if each compartment was a separate tank.

(6) The Pressure Test.

(a) With all preparations complete, turn on the pressure source and open the shutoff valve in the adapter to apply air pressure slowly. Pressurize the tank to 18 inches of water.

(b) Close the shutoff valve and allow the pressure in the tank to stabilize. When the pressure has stabilized, read and record the time and initial pressure on the manometer.

(c) Allow five minutes to elapse, then read and record the final time and pressure.

(d) Disconnect the pressure source from the adapter and slowly open the shutoff valve to bring the tank to atmospheric pressure.

(e) Subtract the final pressures from the initial pressures.

(f) If the sustained pressure drop is greater than 3.0 inches of water, repair the leaks and then repeat the steps in (a) through (e).

(g) Repeat the steps in (a) through (f) until the change in pressure for two consecutive runs agrees within 1/2 inch of water. Calculate the arithmetic average of the two results.

(7) The Vacuum Test.

(a) Connect the vacuum source to the adapter. Start the vacuum source and slowly open the shutoff valve to evacuate the tank to six inches of water and close the shutoff valve.

(b) Allow the pressure in the tank to stabilize, adjust as necessary to maintain six inches of water vacuum until the pressure stabilizes.

(c) Read and record the time and the initial vacuum reading on the manometer. Allow five minutes to elapse, then read and record the final manometer reading.

(d) Disconnect the vacuum source from the adapter, and slowly open the shutoff valve to bring the tank to atmospheric pressure.

(e) Subtract the final reading from the initial reading.

(f) If the sustained vacuum loss is greater than three inches of water, the leakage source must be located and repaired. The steps in (a) through (e) must be repeated.

(g) Repeat the steps in (a) through (f) until the change in vacuum for two consecutive runs agree within 1/2 inches of water. Calculate the arithmetic average of the two results.

(8) When the calculated average pressure change in five minutes for both the pressure test and the vacuum test are three inches of water or less, the requirements of the test are satisfied and the tested tank may be certified leak tight.

**R307-342-[~~7~~]6. Certification of a Delivery Tank.**

(1) The approved contractor will upon satisfactory completion of the vapor tightness test complete the documentation of certification in two copies. If desired, each contractor may prepare his own certificate as long as the following items are included:

(a) Gasoline delivery tank pressure test.

(b) Tank owner and address.

(c) Tank ID number.

(d) Testing location.

(e) Date of test.

(f) Tester name and signature.

(g) Company or affiliation of testers.

(h) Test data results.

(i) Date of next required test.

(2) The contractor will keep one copy [~~which~~]that will be made available for inspection by the executive secretary for two years. The tank owner or operator will keep the other copy of the certification with the delivery tank for two years for inspection by the executive secretary.

(3) The approved contractor will mark the certified tank below the DOT test marking with "V.R. TESTED" followed by the month and year of the current certified test. The vapor recovery test marking shall be at least 1-1/4" high black permanent letters on a white background. The letters and numbers must be of a type that will remain legible from a distance of 20 feet for at least one year (painted or printed sticker is acceptable).

**R307-342-7. Alternate Methods of Control.**

(1) Any person may apply to the executive secretary for approval of an alternate test method, an alternate method of control, an alternate compliance period, an alternate emission limit, or an alternate monitoring schedule. The application must include a demonstration that the proposed alternate produces an equal or greater air quality benefit than that required by R307-342, or that the alternate test method is equivalent to that required by these rules. The executive secretary shall obtain concurrence from EPA when approving an alternate test method, an alternate method of control, an alternate compliance period, an alternate emission limit, or an alternate monitoring schedule.

(2) Manufacturer's operational specifications, records, and testings of any control system shall use the applicable EPA Reference Methods of 40 CFR Part 60, the most recent EPA test methods, or EPA-approved state methods, to determine the efficiency of the control device. In addition, the owner or operator must meet the applicable requirements of record keeping for any control device. A record of all tests, monitoring, and inspections required by R307-342 shall be maintained by the owner or operator for a minimum of 2 years and shall be made available to the executive secretary or the executive secretary's representative upon request. Any malfunctioning control device shall be repaired within 15 calendar days after it is found by the owner or operator to be malfunctioning, unless otherwise approved by the executive secretary.

(3) For purposes of determining compliance with emission limits, volatile organic compounds and nitrogen oxides will be measured by the test methods identified in federal regulation or approved by the executive secretary. Where such a method also inadvertently measures compounds with negligible photochemical reactivity, an owner or operator may exclude these negligibly reactive compounds when determining compliance with an emissions standard.

**KEY: air pollution, ozone, gasoline transport[~~*~~]**
**Date of Enactment or Last Substantive Amendment: [~~July 15, 1999~~]2006**
**Notice of Continuation: April 22, 2002**
**Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)**

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# Environmental Quality, Air Quality
# R307-343
## Davis and Salt Lake Counties and Ozone Nonattainment Areas: Emissions Standards for Wood Furniture Manufacturing Operations

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29012
FILED: 09/07/2006, 16:07

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify the rule by deleting obsolete language, and making other minor grammatical corrections. This amendment is part of revisions to rules related to the ozone maintenance plan (see separate filings on Sections R307-101-2 and R307-110-13; and Rules R307-320, R307-325, R307-326, R307-327, R307-328, R307-332, R307-335, R307-340, R307-341, and R307-342 in this issue.) (DAR NOTE: The other filings are under: Sections R307-101-2 (DAR No. 29000) and R307-110-13 (DAR No. 29001); and Rules R307-320 (DAR No. 29002); R307-325 (DAR No. 29003); R307-326 (DAR No. 29006); R307-327 (DAR No. 29004); R307-328 (DAR No. 29005); R307-332 (DAR No. 29007); R307-335 (DAR No. 29008); R307-340 (DAR No. 29009); R307-341 (DAR No. 29010); and R307-342 (DAR No. 29011) in this issue.)

SUMMARY OF THE RULE OR CHANGE: References to Salt Lake and Davis Counties were replaced by the term "ozone maintenance area". Other grammatical corrections were made throughout Rule R307-343 to improve the readability of

the rule. Obsolete language was deleted throughout Rule R307-343 including old compliance dates. This amendment is part of revisions to rules related to the ozone maintenance plan (see DAR NOTE above). Rule R307-343 is not federally enforceable and the rule has not been submitted to the Environmental Protection Agency as part of the State Implementation Plan for Utah.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 19-2-104(1)(a) and 19-2-104(3)(e)

ANTICIPATED COST OR SAVINGS TO:
- THE STATE BUDGET: Because these revisions do not create any new requirements, no change in costs is expected to the state budget.
- LOCAL GOVERNMENTS: Because these revisions do not create any new requirements, no change in costs is expected for local governments.
- OTHER PERSONS: Because these revisions do not create any new requirements, no change in costs is expected for other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because these revisions do not create any new requirements, no change in costs is expected for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because these revisions do not create new requirements, no change to costs is expected for businesses. Dianne R. Nielson, Executive Director

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INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 10/17/2006 at 2:00 PM, DEQ Building, 168 N 1950 W, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 12/07/2006

AUTHORIZED BY: M. Cheryl Heying, Planning Branch Manager

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**R307. Environmental Quality, Air Quality.**
**R307-343. [~~Davis and Salt Lake Counties and~~ ]Ozone Nonattainment and Maintenance Areas: Emissions Standards for Wood Furniture Manufacturing Operations.**
**R307-343-1. Purpose.**

(1) The purpose of R307-343 is to limit volatile organic compound emissions from wood furniture manufacturing sources located in[ ~~Davis and Salt Lake Counties and~~] ozone nonattainment or maintenance areas.

**R307-343-2. Applicability.**

Provisions of R307-343 apply to each wood furniture manufacturing source that is not an incidental wood furniture manufacturer, has the potential to emit 25 tons or more per year of volatile organic compounds and is located in [~~Salt Lake County, Davis County, or~~ ]any ozone nonattainment or maintenance area.

**R307-343-3. Definitions.**

The following additional definitions apply to R307-343:

"Affected Source" means a wood furniture manufacturing source that meets the criteria in R307-343-2.

"Alternat[~~iv~~]e Method" means any method of sampling and analyzing for an air pollutant that is not a reference or equivalent method but that has been demonstrated to the executive secretary's satisfaction to, in specific cases, produce results adequate for a determination of compliance.

"As Applied" means the volatile organic compound and solids content of the finishing material that is actually used for coating the substrate. It includes the contribution of materials used for in-house dilution of the finishing material.

"Basecoat" means a coat of colored material, usually opaque, that is applied before graining inks, glazing coats, or other opaque finishing materials, and is usually topcoated for protection.

"Capture Device" means a hood, enclosed room, floor sweep, or other means of collecting solvent emissions or other pollutants into a duct so that the pollutant can be directed to a pollution control device such as an incinerator or carbon adsorber.

"Capture Efficiency" means the fraction of all organic vapors generated by a process that is directed to a control device.

"Certified Product Data Sheet (CPDS)" means documentation furnished by a coating supplier or an outside laboratory that provides the volatile organic compound content by percent weight, the solids content by percent weight, and the density of a finishing material, strippable booth coating, or solvent, measured using EPA Method 24 or an equivalent or alternat[~~iv~~]e method, or formulation data if the coating meets the criteria specified in R307-343-7(1). The purpose of the CPDS is to assist the affected source in demonstrating compliance with the emission limitations presented in Subsection R307-343-4.

"Cleaning Operations" means operations in which organic solvent is used to remove coating materials from equipment used in wood furniture manufacturing operations.

"Coating" means a protective, decorative, or functional material applied in a thin layer to a surface. Such materials may include paints, topcoats, varnishes, sealers, stains, washcoats, basecoats, inks, and temporary protective coatings.

"Compliant Coating" means a finishing material or strippable booth coating that meets the emission limits specified in R307-343-4(1).

"Continuous Coater" means a finishing system that continuously applies finishing materials onto furniture parts moving along a conveyor system. Finishing materials that are not transferred to the part are recycled to the finishing material reservoir. Several types of application methods can be used with a continuous coater including spraying, curtain coating, roll coating, dip coating, and flow coating.

"Continuous Compliance" means that the affected source meets the emission limitations and other requirements of R307-343 at all times and fulfills all monitoring and recordkeeping provisions of R307-343 in order to demonstrate compliance.

"Control Device" means any equipment that reduces the quantity of a pollutant that is emitted to the air. The device may destroy or secure the pollutant for subsequent recovery. Control devices include, but are not limited to, incinerators, carbon adsorbers, and condensers.

"Control Device Efficiency" means the ratio of the pollution released by a control device and the pollution introduced to the control device, expressed as a fraction.

"Control System" means the combination of capture and control devices used to reduce emissions to the atmosphere.

"Conventional Air Spray" means a spray coating method in which the coating is atomized by mixing it with compressed air at an air pressure greater than 10 pounds per square inch (gauge) at the point of atomization. Airless, air assisted airless spray technologies, and electrostatic spray technology are not considered conventional air spray.

. . . . . .

"Permanent Total Enclosure" means a permanently installed enclosure that completely surrounds a source of emissions such that all emissions are captured and contained for discharge through a control device, and [~~which~~]that meets the criteria presented in Subsection R307-343-7(5)(a)(i) through (iv).

"Reference Method" means any method of sampling and analyzing for an air pollutant that is published in Appendix A of 40 CFR 60.

"Responsible Official" has the same meaning as in R307-415, Operating Permit Requirements.

"Sealer" means a finishing material used to seal the pores of a wood substrate before additional coats of finishing material are applied. A washcoat used to optimize aesthetics is not a sealer.

"Solids" means the part of the coating that remains after the coating is dried or cured; solids content is determined using data from EPA Method 24, or an alternat[~~iv~~]e or equivalent method approved by the executive secretary.

"Solvent" means a liquid used in a coating for dissolving or dispersing constituents in a coating, adjusting the viscosity of a coating, cleaning, or washoff. When used in a coating, it evaporates during drying and does not become a part of the dried film.

"Stain" means any color coat having a solids content by weight of no more than 8.0 percent that is applied in single or multiple coats directly to the substrate, including nongrain raising stains, equalizer stains, sap stains, body stains, no-wipe stains, penetrating stains, and toners.

"Strippable Booth Coating" means a coating that:

(1) is applied to a booth wall to provide a protective film to receive overspray during finishing operations;

(2) is subsequently peeled off and disposed; and

(3) by achieving (1) and (2), reduces or eliminates the need to use organic solvents to clean booth walls.

"Substrate" means the surface onto which coatings are applied, or into which coatings are impregnated.

"Temporary Total Enclosure" means an enclosure that meets the requirements of Subsection R307-343-7(5)(a)(i) through (iv) and is not permanent, but is constructed only to measure the capture efficiency of pollutants emitted from a given source. Additionally, any exhaust point from the enclosure shall be at least 4 equivalent duct or hood diameters from each natural draft opening.

"Topcoat" means the last film-building finishing material applied in a finishing system. Non-permanent final finishes are not topcoats.

"Touch-up and Repair" means the application of finishing materials to cover minor finishing imperfections.

"Washcoat" means a transparent special purpose coating having a solids content by weight of 12.0 percent or less that is applied over initial stains to protect and control color and to stiffen the wood fibers in order to aid sanding.

"Washoff Operations" means those operations in which organic solvent is used to remove coating from a substrate.

"Wood Furniture" means any product made of wood, a wood product such as rattan or wicker, or an engineered wood product such as particleboard that is manufactured under any of the following standard industrial classification codes: 2434, 2511, 2512, 2517, 2519, 2521, 2531, 2541, 2599, or 5712.

"Wood Furniture Manufacturing Operations" means the finishing, cleaning, and washoff operations associated with the production of wood furniture or wood furniture components.

"Working Day" means a day, or any part of a day, in which a source is engaged in manufacturing.

**R307-343-5. Work Practice Standards.**

(1) Work Practice Implementation Plan.

(a) Each owner or operator of an affected source subject to R307-343 shall prepare and maintain a written work practice implementation plan that defines environmentally desirable work practices for each wood furniture manufacturing operation and addresses each of the topics specified in R307-343-5(2) through (10).[~~ The plan shall be completed no later than August 1, 1999.~~] The owner or operator of the affected source shall comply with each provision of the work practice implementation plan. The written work practice implementation plan shall be available for inspection by the executive secretary, upon request. If the executive secretary determines that the work practice implementation plan does not adequately address each of the topics specified in (2) through (10) below or that the plan does not include sufficient mechanisms for ensuring that the work practice standards are being implemented, the executive secretary may require the affected source to modify the plan.

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**R307-343-6. Compliance Procedures and Monitoring Requirements.**

(1) Methodology. Terms and equations required in the calculation of compliance are found in Appendix B, "Control of Organic Compound Emissions from Wood Furniture Manufacturing Operations." EPA-453/R-96-007, April 1996. The terms found in B.3(b) on pages B-10 and B-11, Equation 3 on page B-18, Equations 4, 5, 6, and 7 on pages B-26 and B-27 are hereby adopted and incorporated by reference. Copies are available at the Division of Air Quality, the Division of Administrative Rules and most state depository libraries.

. . . . . .

(4) Continuous Compliance Demonstrations.

(a) Each owner or operator of an affected source subject to the provisions of R307-343-4 that comply using the procedures established in R307-343-6(2)(a) shall demonstrate continuous compliance by using compliant materials, maintaining records that demonstrate the materials are compliant, and submitting a compliance certification with the semiannual report required by R307-343-9(3).

(i) The compliance certification shall state that compliant sealers, topcoats and strippable booth coatings have been used during the semiannual reporting period, or should otherwise identify the days of noncompliance and the reasons for noncompliance.

(ii) The compliance certification shall be signed by a responsible official.

(b) Each owner or operator of an affected source subject to the provisions of R307-343-4 that comply using the procedures established in R307-343-6(2)(a) and applies sealers or topcoats using continuous coaters shall demonstrate continuous compliance by following the procedures in (i) or (ii) below.

(i) Use compliant materials, as determined by the volatile organic compound content of the finishing material in the reservoir and the volatile organic compound content as calculated from records, and submit a compliance certification with the semiannual report required by R307-343-9(3).

(A) The compliance certification shall state that compliant sealers and topcoats have been used during the semiannual reporting period, or should otherwise identify the days of noncompliance and the reasons for noncompliance.

(B) The compliance certification shall be signed by a responsible official.

(ii) Use compliant materials, as determined by the volatile organic compound content of the finishing material in the reservoir, maintaining a viscosity of the finishing material in the reservoir that is no less than the viscosity of the initial finishing material by monitoring the viscosity with a viscosity meter or by testing the viscosity of the initial finishing material and retesting the material in the reservoir each time solvent is added, maintaining records of solvent additions, and submitting a compliance certification with the semiannual report required by R307-343-9(3).

(A) The compliance certification shall state that compliant sealers and topcoats, as determined by the volatile organic compound content of the finishing material in the reservoir, have been used during the semiannual reporting period. Additionally, the certification shall state that the viscosity of the finishing material in the reservoir has not been less than the viscosity of the initial finishing material, that is, the material that is initially mixed and placed in the reservoir, during the semiannual reporting period.

(B) The compliance certification shall be signed by a responsible official.

(C) An affected source is in violation of the standard when a sample of the finishing material as applied exceeds the applicable limit established in R307-343-4(1)(a), (b), or (c), as determined using EPA Method 24 or an alternat[~~iv~~]e or equivalent method, or the viscosity of the finishing material in the reservoir is less than the viscosity of the initial finishing material.

(c) Each owner or operator of an affected source subject to the provisions of R307-343-4 that complies using a control system, capture device or control device shall demonstrate continuous compliance by installing, calibrating, maintaining, and operating the appropriate monitoring equipment according to manufacturers specifications.

(i) Where a capture or control device is used, a device to monitor the site-specific operating parameter established in accordance with R307-343-6(3)(c)(i) is required.

(ii) Where an incinerator is used, a temperature monitoring device equipped with a continuous recorder is required.

(A) Where a thermal incinerator is used, a temperature monitoring device shall be installed in the firebox or in the ductwork immediately downstream of the firebox in a position before any substantial heat exchange occurs.

(B) Where a catalytic incinerator equipped with a fixed catalyst bed is used, temperature monitoring devices shall be installed in the gas stream immediately before and after the catalyst bed.

(C) Where a catalytic incinerator equipped with a fluidized catalyst bed is used, a temperature monitoring device shall be installed in the gas stream immediately before the bed. In addition, a pressure monitoring device shall be installed to determine the pressure drop across the catalyst bed. The pressure drop shall be measured monthly at a constant flow rate.

(iii) Where a carbon adsorber is used, one of the following monitoring devices shall be used:

(A) An integrating regeneration stream flow monitoring device having an accuracy of plus or minus 10 percent, capable of recording the total regeneration stream mass flow for each regeneration cycle; and a carbon bed temperature monitoring device having an accuracy of plus or minus one percent of the temperature being monitored expressed in degrees Celsius, or plus or minus 0.5 C, whichever is greater, capable of recording the carbon bed temperature after each regeneration and within fifteen minutes of completing any cooling cycle;

(B) An organic monitoring device, equipped with a continuous recorder, to indicate the concentration level of organic compounds exiting the carbon adsorber; or

(C) Any other monitoring device that has been approved by the executive secretary as allowed under (vi) below.

(iv) Each owner or operator of an affected source shall not operate the capture or control device at a daily average value greater than or less than the operating parameter value, as defined in the plan required by R307-343-6(3)(c)(i). The daily average value shall be calculated as the average of all values for a monitored parameter recorded during the operating day.

(v) Each owner or operator of an affected source that complies through the use of a catalytic incinerator equipped with a fluidized catalyst bed shall maintain a constant pressure drop, measured monthly, across the catalyst bed.

(vi) An owner or operator using a control device not listed in R307-343-6(3)(c) shall submit to the executive secretary a description of the device, test data verifying the performance of the device, and appropriate operating parameter values that will be monitored to demonstrate continuous compliance with the standard. Use of this device to demonstrate compliance is subject to the executive secretary's approval.

(d) Each owner or operator of an affected source subject to the work practice standards in R307-343-5 shall demonstrate continuous compliance by following the work practice implementation plan and submitting a compliance certification with the semiannual report required by R307-343-9(3).

(i) The compliance certification shall state that the work practice implementation plan was followed, or should otherwise identify the periods of noncompliance with the work practice standards.

(ii) The compliance certification shall be signed by a responsible official.

**R307-343-7. Performance Test Methods.**

(1) The EPA Method 24 (40 CFR 60) shall be used to determine the volatile organic compound content and the solids content by weight of the finishing materials as supplied by the manufacturer. The owner or operator of the affected source may request approval from the executive secretary to use an alternat[~~iv~~]e or equivalent method for determining the volatile organic compound content of the finishing material. Batch formulation information may be accepted by the executive secretary if the source demonstrates that a finishing material does not release volatile organic compound reaction byproducts during the cure. If the EPA Method 24 value is higher than the source's formulation data, the EPA Method 24 test shall govern. Sampling procedures shall follow the guidelines in "Standard Procedures for Collection of Coating and Ink Samples for volatile organic compound Content Analysis by Reference Method 24 and Reference Method 24A," EPA-340/1-91-010.

(2) Each owner or operator using a control system to demonstrate compliance shall determine the overall control efficiency of the control system as the product of the capture and control device efficiencies, using the test methods cited in (3) below and the procedures in (4) or (5) below.

(3) Each owner or operator using a control system shall demonstrate initial compliance using the procedures in (a) through (f) below.

(a) The EPA Method 18, 25, or 25A shall be used to determine the volatile organic compound concentration of gaseous air streams. The test shall consist of three separate runs, each lasting a minimum of 30 minutes.

(b) The EPA Method 1 or 1A shall be used for sample and velocity traverses.

(c) The EPA Method 2, 2A, 2C, or 2D shall be used to measure velocity and volumetric flow rates.

(d) The EPA Method 3 shall be used to analyze the exhaust gases.

(e) The EPA Method 4 shall be used to measure the moisture in the stack gas.

(f) The EPA Methods 2, 2A, 2C, 2D, 3, and 4 shall be performed, as applicable, at least twice during each test period.

(4) Each owner or operator using a control system to demonstrate compliance with R307-343 shall use the procedures in (a) through (f) below.

(a) Construct the overall volatile organic compound control system so that volumetric flow rates and volatile organic compound concentrations can be determined by the test methods specified in R307-343-7(3);

(b) Measure the capture efficiency from the affected emission points by capturing, venting, and measuring all volatile organic compound emissions from the affected emission points. To measure the capture efficiency of a capture device located in an area with nonaffected volatile organic compound emission points, the affected emission points shall be isolated from all other volatile organic compound sources by one of the following methods:

(i) Build a temporary total enclosure around the affected emission points;

(ii) Shut down all nonaffected volatile organic compound emission points and continue to exhaust fugitive emissions from the affected emission points through any building ventilation system and other room exhausts such as drying ovens. All exhaust air must be vented through stacks suitable for testing; or

(iii) Use another methodology approved by the executive secretary provided it complies with the EPA criteria for acceptance under 40 CFR Part 63, Appendix A, Method 301.

(c) Operate the control system with all affected emission points connected and operating at maximum production rate;

(d) Determine the efficiency of the control device using Equation 4;

(e) Determine the efficiency of the capture system using Equation 5;

(f) Compliance is demonstrated if the overall control efficiency in Equation 6 is greater than or equal to the overall control efficiency calculated by Equation 3, in accordance with R307-343-6(2)(b)(i).

(5) An alternat[~~iv~~]e to the compliance method presented in (4) above is the installation of a permanent total enclosure.

(a) Each affected source that complies using a permanent total enclosure shall demonstrate that the total enclosure meets the following requirements:

(i) The total area of all natural draft openings shall not exceed five percent of the total surface area of the enclosure's walls, floor, and ceiling;

(ii) All sources of emissions within the enclosure shall be a minimum of four equivalent diameters away from each natural draft opening;

(iii) Average inward face velocity (FV) across all natural draft openings shall be a minimum of 3,600 meters per hour or 200 feet per minute as determined by the following procedures:

(A) All forced makeup air ducts and all exhaust ducts are constructed so that the volumetric flow rate in each can be accurately determined by the test methods and procedures specified in (3)(b) and (3)(c) above. Volumetric flow rates shall be calculated without the adjustment normally made for moisture content; and

(B) Determine face velocity by Equation 7:

(iv) All access doors and windows whose areas are not included as natural draft openings and are not included in the calculation of face velocity shall be closed during routine operation of the process.

(b) Determine the control device efficiency using Equation 4, and the test methods and procedures specified in R307-343-7(3).

(c) For a permanent total enclosure, the capture efficiency in Equation 5 is equal to one.

(d) For owners or operators using a control system to comply with the provisions of R307-343, compliance is demonstrated if:

(i) The capture efficiency of the enclosure is determined to equal one; and

(ii) The overall efficiency of the control system calculated by Equation 6 in accordance with (4) above is greater than or equal to the overall efficiency of the control system calculated by Equation 3 in accordance with R307-343-6(2)(b).

**R307-343-9. Reporting Requirements.**

(1) The owner or operator of an affected source using a control system to fulfill the requirements R307-343 is subject to R307-214-2(1) in which the reporting requirements of 40 CFR Part 63, subpart A are incorporated by reference.[~~; and to the following reporting requirements:~~

~~(2) The owner or operator of an affected source subject to R307-343 shall submit an initial compliance report no later than August 1, 1999. The report shall include the items required by R307-343-6(3).~~]

[~~(3)~~](2) The owner or operator of an affected source subject to R307-343 and demonstrating compliance in accordance with R307-343-6(2)(a) or (b) shall submit a semiannual report covering the previous six months of wood furniture manufacturing operations.

(a) Reports shall be submitted on January 2 and July 2 each year.[~~according to the following schedule:~~

~~(a) The first report shall be submitted no later than January 2, 2000.~~

~~(b) Subsequent reports shall be submitted no later than July 2 and January 2 each year thereafter.~~]

[~~(c)~~](b) Each semiannual report shall include the information required by R307-343-6(4), a statement of whether the affected source was in compliance or noncompliance. If the affected source was not in compliance, the measures taken to bring the affected source into compliance shall be reported.

**R307-343-10. Compliance Schedule.**

(1) All sources within any newly designated nonattainment area for ozone shall be in compliance with this rule within 180 days of the effective date of designation to nonattainment.

(2) New Sources shall submit the following compliance documentation within 60 days of initial startup:

(a) Workplace practice implementation plan as required in R307-343-5(1)(a);and

(b) Initial compliance documentation as required in R307-343-6(3).

**KEY: air pollution, ozone, wood furniture[*], coatings[*]**
**Date of Enactment or Last Substantive Amendment: [~~June 2, 1999~~]2006**
**Notice of Continuation: June 8, 2004**
**Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a); 19-2-104(3)(e)**

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# Environmental Quality, Drinking Water

# R309-105-9

## Minimum Water Pressure

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29036
FILED: 09/15/2006, 16:53

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for the change is to describe additional minimum pressure under conditions of flow for existing Public Water Systems when they expand their system into new service areas or supply new subdivisions after January 1, 2007; and to make the rule more in accordance with typical design standards, as well as standards of other agencies such as the American Water Works Association (AWWA), the American Society of Civil Engineers (ASCE), and other nearby states.

SUMMARY OF THE RULE OR CHANGE: The changes: 1) clarify that the minimum water pressure of 20 psi is during conditions of fire flow added to peak day demand; 2) add a condition of minimum water pressure of 30 psi during peak instantaneous demand; and 3) add a minimum water pressure of 40 psi during peak day demand for existing Public Water Systems extending services into new areas or supplying new subdivisions after January 1, 2007.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--Since this amendment only clarifies this portion of rule and the additional water pressure requirements for existing Public Water Systems, it will not require additional personnel or other funds from the state budget.

❖ LOCAL GOVERNMENTS: Little to None--Most, if not all, well functioning Public Water Systems operated by local government currently meet or exceed the current minimum water pressure requirements, as well as the proposed additional minimums. The design of existing Public Water Systems will only require initial planning concerning storage location and distribution pipeline sizing which should not add significant cost or time.

❖ OTHER PERSONS: Little to None--Most engineering companies currently look to typical textbook design standards, as well as standards of other agencies such as AWWA, ASCE, and other nearby states when designing Public Water Systems so there should not be any additional cost or time involved.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Existing Public Water Systems extending service after January 1, 2007, should not see any costs over and above than if their system were designed with the typical capacity for anticipated growth and expansion. Some increased cost may be expected if storage and location for adequate pressure requires additional length of transmission line.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The department agrees that the proposed changes to this rule will have little to no detrimental impact on existing water systems nor on new public water systems. Dianne R. Nielson, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Bill Birkes at the above address, by phone at 801-536-4201, by FAX at 801-536-4211, or by Internet E-mail at bbirkes@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 01/01/2007

AUTHORIZED BY: Kevin Brown, Director

**R309. Environmental Quality, Drinking Water.**
**R309-105. Administration: General Responsibilities of Public Water Systems.**
**R309-105-9. Minimum Water Pressure.**

(1) Unless otherwise specifically approved by the Executive Secretary, no water supplier shall allow any connection to the water system where the dynamic water pressure at the point of connection will fall below 20 psi during the normal operation of the water system. Water systems approved prior to January 1, 2007, are required to maintain the above minimum dynamic water pressure at all locations within their distribution system. Existing public drinking water systems, approved prior to January 1, 2007, which expand their service into new areas or supply new subdivisions shall meet the minimum dynamic water pressure requirements in R309-105-9(2) at any point of connection in the new service areas or new subdivisions.

(2) Unless otherwise specifically approved by the Executive Secretary, new public drinking water systems constructed after [~~March 1, 2006~~]January 1, 2007 shall be designed and shall meet the following minimum water pressures at points of connection:

(a) 20 psi during conditions of fire flow and fire demand experienced during peak day demand;

(b) 30 psi during peak instantaneous demand; and

(c) 40 psi during peak day demand.

(3) Individual home booster pumps are not allowed as indicated in R309-540-5(4)(c).

**KEY: drinking water, watershed management**
**Date of Enactment or Last Substantive Amendment: [~~March 8, 2006~~]2006**
**Notice of Continuation: May 16, 2005**
**Authorizing, and Implemented or Interpreted Law: 19-4-104; 63-46b-4**

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# Environmental Quality, Solid and Hazardous Waste
# R315-17
# End of Life Automotive Mercury Switch Removal Standards

**NOTICE OF PROPOSED RULE**
(New Rule)
DAR FILE NO.: 29034
FILED: 09/15/2006, 09:21

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is required by Section 19-6-1001, Mercury Switch Removal Act, enacted by the Utah Legislature in the 2006 General Session, H.B. 138. (DAR NOTE: H.B. 138 (2006) is found at Chapter 187, Laws of Utah 2006, and was effective 05/01/2006.)

SUMMARY OF THE RULE OR CHANGE: The rule outlines the procedures for removal, collection, and proper management of mercury switches removed from end-of-life automobiles.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-1001

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Existing staff and resources will be used to implement the rule.

❖ LOCAL GOVERNMENTS: The statute and proposed rule do not require local government resources.

❖ OTHER PERSONS: No costs are anticipated from other persons such as auto dismantlers and salvage yards due to the required reimbursement from auto manufactures. The affected persons for these rules are the auto manufacturers. Costs are estimated as follows. The switch removal plan is anticipated to be minimal with the expectation that the manufacturers will be utilizing plans prepared for other state mercury switch removal programs. Plan submittal requires a filing fee of $100 and reimbursement of staff review time at $70 per hour. With an anticipated annual collection of between 10,000 and 20,000 switches, the $5 reimbursement required by the statute is estimated to be between $50,000 and $100,000 per year. Recycling or disposal fees are estimated to be between $3,000 and $6,000 per year.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The affected persons for these rules are the auto manufacturers. Costs are estimated as follows. The switch removal plan is anticipated to be minimal with the expectation that the manufacturers will be utilizing plans prepared for other state mercury switch removal programs. Plan submittal requires a filing fee of $100 and reimbursement of staff review time at $70 per hour. With an anticipated annual collection of between 10,000 and 20,000 switches, the $5 reimbursement required by the statute is estimated to be between $50,000 and $100,000 per year. Recycling or disposal fees are estimated to be between $3,000 and $6,000 per year.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Costs are estimated as follows. The switch removal plan is anticipated to be minimal with the expectation that the manufacturers will be utilizing plans prepared for other state mercury switch removal programs. Plan submittal requires a filing fee of $100 and reimbursement of staff review time at $70 per hour. With an anticipated annual collection of between 10,000 and 20,000 switches, the $5 reimbursement required by the statute is estimated to be between $50,000 and $100,000 per year. Recycling or disposal fees are estimated to be between $3,000 and $6,000 per year. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Susan Toronto at the above address, by phone at 801-538-6776, by FAX at 801-538-6715, or by Internet E-mail at storonto@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/15/2006

AUTHORIZED BY: Dennis Downs, Director

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**R315. Environmental Quality, Solid and Hazardous Waste.**
**R315-17. End of Life Automotive Mercury Switch Removal Standards.**
**R315-17-1. Purpose.**

(a) The purpose of this rule is to provide for the administration of the Mercury Switch Removal Act, Utah Code Annotated 19-6-1001, et seq.

(b) The Mercury Switch Removal Act and this Rule require the removal of mercury switches from vehicles that have reached the end of their useful life.

**R315-17-2. Applicability.**

This rule applies to:

(a) manufacturers of vehicles sold in the State of Utah;

(b) vehicles that may contain one or more mercury switches;

(c) mercury switches; and

(d) persons removing mercury switches from vehicles.

**R315-17-3. Definitions.**

Terms used in this rule are defined in Utah Code Annotated 19-6-1002.

**R315-17-4. Mercury Switch Collection Plan.**

(a) Manufacturers of any vehicle sold within the State of Utah shall submit a plan individually or in cooperation with other manufacturers to the Executive Secretary of the Utah Solid and Hazardous Waste Control Board for review and approval by January 15, 2007. This submission shall be accompanied by a filing fee as established by the legislature in the Department of Environmental Quality fee schedule. The Executive Secretary shall bill the responsible party for review of plans submitted to meet the requirements of this Rule.

(b) The Executive Secretary shall review and approve or disapprove the submitted plan based on the requirements outlined in R315-7-17-4(d). If the plan is not approved, the Executive Secretary shall provide comments to the manufacturer within 60 days of submission of the plan. The manufacturer shall address all comments from the Executive Secretary and submit an amended plan within 90 days after the Executive Secretary provides comments on the unapproved plan.

(c) A manufacturer shall ensure that plan implementation occurs by July 1, 2007.

(d) The mercury switch collection plan shall include:

(1) The make, model, and year of any vehicle, including current and anticipated future production models, sold by a manufacturer that may contain one or more mercury switches;

(2) The description and location of each mercury switch for each make, model, and year of vehicle;

(3) Procedures for the prompt reimbursement by a manufacturer of costs incurred by a person removing and collecting mercury switches without regard to the date on which the mercury switch is removed and collected;

(4) Information addressing safe and environmentally sound methods for mercury switch removal and information about hazards related to mercury and the proper handling of mercury;

(5) Methods for the storage and disposal of mercury switches, including packaging and shipping of mercury switches to an authorized recycling, storage, or disposal facility; and

(6) Procedures for the transfer of information among persons involved with the plan to comply with reporting requirements.

(e) If a manufacturer does not know or is uncertain about whether or not a switch contains mercury, the plan shall presume that the switch contains mercury.

**R315-17-5. Mercury Switch Removal Costs.**

(a) Manufacturers shall implement procedures for the prompt reimbursement of costs incurred by a person removing and collecting mercury switches without regard to the date on which the mercury switch is removed and collected.

(b) To ensure that the costs of removal and collection of mercury switches are not borne by any other person, the manufacturers of vehicles sold in the state shall pay:

(1) A minimum of $5 for each mercury switch removed by a person as partial compensation for the labor and other costs incurred in removing the mercury switch;

(2) The cost of packaging necessary to store or transport mercury switches to recycling, storage, or disposal facilities;

(3) The cost of shipping mercury switches to recycling, storage, or disposal facilities;

(4) The cost of recycling, storage, or disposal of mercury switches;

(5) The cost of the preparation and distribution of educational materials; and

(6) The cost of maintaining all appropriate record keeping systems.

**R315-17-6. Public Participation.**

The Executive Secretary shall also provide public notice, a public comment period, and public hearing(s) for each proposed Mercury Switch Collection Plan in accordance with R315-4-1.10 through R315-4-1.12 and R315-4-1.17.

**R315-17-7. Plan Amendments.**

The Executive Secretary may require a manufacturer to modify the plan at any time upon finding that an approved plan as implemented has failed to meet the requirements of this rule.

**R315-17-8. Reporting Requirements.**

(a) Each manufacturer that is required to implement a mercury switch collection plan shall submit, either individually or in cooperation with other manufacturers, an annual report on the plan's implementation to the Executive Secretary by October 1 of each year, beginning in 2008.

(b) The annual report shall include:

(1) The number of mercury switches collected;

(2) The number of mercury switches for which the manufacturer has provided reimbursement;

(3) A description of the successes and failures of the plan;

(4) A discussion of how the failures of the plan have been or will be corrected; and

(5) A statement detailing the costs required to implement the plan.

**R315-17-9. Penalties.**

In accordance with 19-6-1006, a manufacturer who fails to submit, modify, or implement a plan according to R315 may be subject to a civil penalty of not more than $1,000 per day per violation.

**R315-17-10. Administrative Proceedings.**

Administrative proceedings under the Mercury Switch Removal Act and this Rule shall be conducted in accordance with R315-12.

**KEY: hazardous waste**
**Date of Enactment or Last Substantive Amendment: 2006**
**Authorizing, and Implemented or Interpreted Law: 9-6-1003**

# Professional Practices Advisory Commission, Administration
# R686-100
# Professional Practices Advisory Commission, Rules of Procedure: Complaints and Hearings

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29037
FILED: 09/15/2006, 17:22

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to improve hearing and complaint procedures after several years of practice and evaluation.

SUMMARY OF THE RULE OR CHANGE: The changes include adding and amending definitions, providing notice that records of complaints will be maintained permanently, updating terminology, clarifying procedures for stipulated agreements, clarifying probation procedures, clarifying criteria for warning and reprimand letters, and providing for consequences if the hearing officer fails to satisfy responsibilities.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-6-306(1)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. The amendments will streamline the process and clarify the process for all participants.

❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. The amendments require no additional efforts or costs for participating school districts.

❖ OTHER PERSONS: There are no anticipated costs or savings for other persons. The amendments clarify the professional practices procedures for individuals but will require no additional financial responsibilities for respondents.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The amendments clarify the professional practices procedures for individuals but will require no additional financial responsibilities for respondents.

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. Patti Harrington, State Superintendent of Public Instruction

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

PROFESSIONAL PRACTICES ADVISORY COMMISSION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111, 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 carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/08/2006

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

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**R686. Professional Practices Advisory Commission, Administration.**

**R686-100. Professional Practices Advisory Commission, Rules of Procedure: Complaints and Hearings.**

**R686-100-1. Definitions.**

A. "Allegation of misconduct" means a written or oral report alleging that an educator has engaged in unprofessional, criminal, or incompetent conduct; is unfit for duty; has lost his license in another state due to revocation or suspension, or through voluntary surrender or lapse of a license in the face of a claim of misconduct; or has committed some other violation of standards of ethical conduct, performance, or professional competence.

B. "Applicant for a license" means a person seeking a new license or seeking reinstatement of an expired, surrendered, suspended, or revoked license.

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

[~~G~~]D. "Chair" means the Chair of the Commission.

[~~F~~]E. "Commission" means the Utah Professional Practices Advisory Commission (UPPAC) as defined and authorized under Section 53A-6-301 et seq.

[~~H~~]F. "Complaint" means a written allegation or charge against an educator.

[~~I~~]G. "Complainant" means the Utah State Office of Education.

[~~D~~]H. "Computer Aided Credentials of Teachers in Utah System (CACTUS)" means the electronic file maintained on all licensed Utah educators. The file includes such as:

(1) personal directory information;

(2) educational background;

(3) endorsements;

(4) employment history;

(5) professional development information; and

(6) a record of disciplinary action taken against the educator.

All information contained in an individual's CACTUS file is available to the individual, but is classified private or protected under Section 63-2-302 or 304 and is accessible only to specific designated individuals.

I. "Criminal conduct" means a criminal offense the conviction for which would likely create, or has created, a substantial and adverse impact on the educator's ability to perform the duties of his employment, including his duty as a role model for students.

J. "Days": in calculating any period of time prescribed or allowed by these rules, the day of the act, event, or default from which the designated period of time begins to run shall not be included; the last day of the period shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. Saturdays, Sundays and legal holidays shall not be included in calculating the period of time if the period prescribed or allowed is less than seven days, but shall be included in calculating periods of seven or more days.

K. "Educator" means a person who currently holds a license, held a license at the time of an alleged offense, is an applicant for a license, or is a person in training, to obtain a license.

L. "Executive Committee" means a subcommittee of the Commission consisting of the Executive Secretary, Chair, Vice-Chair, and one member of the Commission at large. All Executive Committee members, excluding the Executive Secretary, shall be selected by the Commission. Substitutes may be appointed from within the Commission by the Executive Secretary as needed.

M. "Executive Secretary" means an employee of the Utah State Office of Education who is appointed by the State Superintendent of Public Instruction to serve as the executive officer, and a non-voting member, of the Commission.

[~~EE~~]N. "Final action" means any action by the Commission or the Board which concludes an investigation of an allegation of misconduct against a licensed educator.

[~~N~~]O. "Hearing" means a proceeding in which allegations made in a complaint are examined, where each party has the opportunity to present witnesses and evidence relevant to the complaint and respond to witnesses or evidence presented by the other party. At the conclusion of a hearing, the hearing officer, after consulting with members of the Commission assigned to assist in the hearing, prepares a hearing report and submits it to the Executive Secretary.

[~~O~~]P. "Hearing Officer" means a person who is experienced in matters relating to administrative procedures, education and education law and is either a member of the Utah State Bar Association or a person not a member of the bar who has received specialized training in conducting administrative hearings, and is appointed by the Executive Secretary at the request of the Commission to manage the proceedings of a hearing. The [~~h~~]Hearing [~~o~~]Officer may not be an acting member of the Commission. The [~~h~~]Hearing [~~o~~]Officer has broad authority to regulate the course of the hearing and dispose of procedural requests but shall not have a vote as to the recommended disposition of a case.

[~~P~~]Q. "Hearing Panel" means a [~~h~~]Hearing [~~o~~]Officer and three or more members of the Commission agreed upon by the Commission to assist the [~~h~~]Hearing [~~o~~]Officer in conjunction with the hearing panel in conducting a hearing and preparing a hearing report.

[~~Q~~]R. "Hearing report" means a report prepared by the [~~h~~]Hearing [~~o~~]Officer [~~with the assistance~~]consistent with the recommendations of the hearing panel at the conclusion of a hearing. The report includes a recommended disposition, detailed findings of fact and conclusions of law, based upon the evidence presented in the hearing, relevant precedent, and applicable law and rule.

[~~R~~]S. "Informant" means a person who submits information to the Commission concerning alleged misconduct by a person who may be subject to the jurisdiction of the Commission.

[~~S~~]T. "Investigator" means a person who is knowledgeable about matters which could properly become part of a complaint before the Commission, as well as investigative procedures and rules and laws governing confidentiality, who is appointed by the Utah State Office of Education's Investigations Unit at the request of the Executive Secretary to investigate an allegation of misconduct.

[~~T~~]U. "Jurisdiction" means the legal authority to hear and rule on a complaint.

[~~E~~]V. "License" means a teaching or administrative credential, including endorsements, which is issued by a state to signify authorization for the person holding the license to provide professional services in the state's public schools.

[~~U~~]W. "Licensing file" means a file that is opened and maintained on an educator following a written complaint to the Commission.

[~~V~~]X. "National Association of State Directors of Teacher Education and Certification (NASDTEC) Educator Information Clearinghouse" means a database maintained by NASDTEC for its members regarding persons whose licenses have been suspended or revoked.

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

[~~X~~]Z. "Party" means the complainant or the respondent.

[~~Y~~]AA. "Recommended disposition" means a recommendation for resolution of a complaint.

BB. "Prosecutor" means the attorney designated by the Board to represent the complainant and present evidence in support of the complaint.

[~~Z~~]CC. "Request for agency action" means a document prepared by the Executive Secretary, containing one or more allegations of misconduct by an educator, a recommended course of action, and related information.

[~~AA~~]DD. "Respondent" means the party against whom a complaint is filed or an investigation is undertaken.

[~~BB~~]EE. "Serve" or "service," as used to refer to the provision of notice to a person, means delivery of a written document or its contents to the person or persons in question. Delivery may be made in person, by mail or by other means reasonably calculated, under all of the circumstances, to apprise the interested person or persons to the extent reasonably practical or practicable of the information contained in the document. Service of a complaint upon an educator shall be by mail to the address of the educator as shown upon the records of the Commission.

[~~CC~~]FF. "State" means the United States or one of the United States; a foreign country or one of its subordinate units occupying a position similar to that of one of the United States; or a territorial unit, of the United States or a foreign country, with a distinct general body of law.

[~~DD~~]GG. "Stipulated [~~a~~]Agreement" means an agreement between a [~~r~~]Respondent and the Board or a [~~r~~]Respondent and the Commission under which disciplinary action against an educator's license status has been taken, in lieu of a hearing. At anytime after an investigative letter has been sent, a stipulated agreement may be negotiated between the parties, approved by the Commission, and becomes binding when approved by the Board, if necessary.

**R686-100-2. Authority and Purpose.**

A. This rule is authorized by Section 53A-6-306(1)(a) [~~which directs~~]directing the Commission to adopt rules to carry out its responsibilities under the law.

B. The purpose of this rule is to establish procedures regarding complaints against educators and licensing hearings for the Commission to follow. The standards and procedures of the Utah Administrative Procedures Act do not apply to this rule under the exemption of Section 63-46b-1(2)(d). However, the Commission [~~reserves~~]has the right to invoke and use sections or provisions of the Utah Administrative Procedures Act as found in Section 63-46b as necessary to adjudicate an issue.

**R686-100-3. Receipt of Allegations of Misconduct and Disposition by Commission and Records of Allegations.**

A. Initiating Proceedings Against an Educator: The Executive Secretary may initiate proceedings against an educator upon receiving an allegation of misconduct or upon the Executive Secretary's own initiative.

(1) An [~~i~~]Informant may be asked to submit information in writing, including the following:

(a) Name, position (e.g. administrator, teacher, parent, student), telephone number and address of the informant;

(b) Name, position (e.g. administrator, teacher, candidate), and if known, the address and telephone number of the educator against whom the allegations are made;

(c) The facts on which the allegations are based and supporting information;

(d) A statement of the relief or action sought from the agency;

(e) Signature of the [~~i~~]Informant and date.

(2) If an [~~i~~]Informant submits a written allegation of misconduct as provided in Section R686-100-3A(1) above, the [~~i~~]Informant shall be told he may receive notification of final actions taken by the Commission or the Board regarding the allegations by filing a written request for information with the Executive Secretary.

(3) [~~Allegations~~]Information received through telephone calls, letters, newspaper articles, notices from other states or other means may also form the basis for initiating proceedings against an educator.

B. At the discretion of the Commission, all written allegations and subsequent dismissal or disciplinary action of a case against an educator may be maintained permanently in the individual's paper licensing file.

**R686-100-4. Review of Request for Agency Action.**

A. Initial Review: [~~Upon~~]On reviewing the request for agency action, the Executive Secretary or the Executive Committee or both shall recommend one of the following to the Commission:

B. Dismiss: If the Executive Committee determines that the Commission lacks jurisdiction or that the request for agency action does not state a cause of action[~~, which~~]that the Commission should address, the Executive Committee shall recommend that the Commission dismiss the request.[~~ The informant shall be served with notice of the action. If the informant believes that the dismissal has been made in error, the informant may request review by the State Superintendent of Public Instruction within 10 days of the mailing date of the Notice of Dismissal. The Superintendent's decision relative to the dismissal is final.~~]

C. Initiate an Investigation: If the Executive Secretary and the Executive Committee determine that the Commission has jurisdiction and that the request states a cause of action which may be appropriately addressed by the Commission, the Executive Secretary shall [~~ask the Investigations Unit to~~ ]appoint an investigator to gather evidence relating to the allegations.

(1) The investigator shall review relevant documentation and interview individuals who may have knowledge of the allegations.[~~, including to the extent reasonably practicable all persons specifically named in the request for agency action, and~~]

(2) The investigator shall prepare a written report of the findings of the investigation.

(3) [~~Should~~]If the investigator discovers additional evidence of [~~any additional allegation~~]unprofessional conduct which should have been included in the original request, it may be included in the investigation report.

(4) The completed report shall be submitted to the Executive Secretary, who shall review the report with the Commission.

(5) The investigation report shall become part of the permanent case file.

D. Prior to the initiation of any investigation, the Executive Secretary shall send a letter to the educator to be investigated, [~~and~~ ]a copy of the letter to the [~~employing school~~ ]district of current employment, [~~or to the district of most recent employment,~~]and to the district where the alleged activity occurred, with information that an investigation has been initiated. The letter shall indicate to the educator and the district(s) that an investigation will take place and is not evidence of unprofessional conduct.

E. Secondary Review: The Executive Committee shall review the investigation report and upon completing its review shall recommend one of the following to the Commission:

(1) Dismiss: If the Executive Committee determines no further action should be taken, [~~the Executive Committee~~]it shall recommend to the Commission [~~to dismiss~~]that the request for agency action be dismissed as provided in Section R686-100-4B, above; or

(2) Prepare and Serve COMPLAINT: If the Executive Committee determines further action is appropriate, the Executive Committee shall recommend [~~to~~]that the Commission[~~ to~~] direct the [~~Executive Secretary~~]Prosecutor to prepare and serve a [~~e~~]Complaint and a copy of these rules upon the [~~r~~]Respondent. The [~~e~~]Complaint shall have a heading similar to that used for the request for agency action, and shall include[~~ in the body~~]:

(a) A statement of the legal authority and jurisdiction under which the action is being taken;

(b) A statement of the facts and allegations upon which the complaint is based;

(c) Other information which the [~~Commission~~]Prosecutor believes to be necessary to enable the [~~r~~]Respondent to understand and address the allegations;

(d) A statement of the potential consequences should the allegations be found to be true or substantially true;

(e) A statement that,[ ~~if~~] the [~~r~~]Respondent [~~wishes to~~]shall respond to the [~~c~~]Complaint [~~or~~], request a hearing, or discuss a stipulated agreement, within 30 days of the date the Complaint was mailed to the Respondent, by filing a written response [~~shall be filed with~~]addressed to the Executive Secretary of the Professional Practices Advisory Commission, [~~250 East 500 South, P.O. Box 144200, Salt Lake City, Utah 84114-4200 within 30 days of the date when the complaint was mailed to the respondent, and~~]at the mailing address for the Office. The statement shall advise the Respondent of the potential consequences [~~should~~]if the [~~r~~]Respondent [~~default by failing~~]fails to respond to the [~~c~~]Complaint within the designated time;

(f) Notice that, if a hearing is requested, the hearing shall be scheduled not less than 25 days, nor more than 180 days, after receipt of the [~~r~~]Respondent's response[ ~~and hearing request by the Executive Secretary~~], unless a different date is[ ~~approved by the Commission for good cause shown or is~~] agreed [~~upon~~]to by both parties in writing. On his own motion, the Executive Secretary, or designee with notice to the parties, may reschedule a hearing date.

(3) [~~a s~~]A Stipulated [~~a~~]Agreement between the parties.

(4) [~~t~~]That the action be taken by the Commission.

F. RESPONSE to the [~~c~~]Complaint: [~~If the respondent wishes to respond to the complaint, the respondent shall submit~~]Any response to the compliant shall be made by filing a written response signed by the [~~r~~]Respondent or his representative [~~to~~]with the Executive Secretary within 30 days [~~of the mailing date of~~]after the [~~c~~]Complaint was mailed. The [~~response~~]answer may include a request for a hearing or a stipulated agreement and shall include:

(1) The file number of the [~~c~~]Complaint;

(2) The names of the parties;

(3) A statement of the relief that the [~~r~~]Respondent seeks; and

(4) A statement of the reasons that the relief requested should be granted.

(5) Final Review: As soon as reasonably practicable after receiving the [~~response~~]answer, or [~~following the passage of the~~]no more than 30 days after [~~response period if no response is received~~]the answer was due, the Executive Secretary shall review any response received, the investigative report, and other relevant information with the Executive Committee. The Executive Committee shall[ ~~then~~] recommend one of the following to the Commission:

(a) Enter a Default: If the [~~r~~]Respondent fails to file an [~~response~~]answer, fails to request a hearing, fails to request [~~a~~]or respond to a proffered [~~s~~]Stipulated [~~a~~]Agreement within 30 days after service of the [~~c~~]Complaint, or surrenders a license in the face of allegations of misconduct without benefit of a stipulated agreement, the Executive Committee shall recommend [~~to~~]that the Commission[ ~~to enter the respondent's default and~~] direct the [~~Executive Secretary~~]Prosecutor to prepare findings in default and a recommended disposition for submission to the Commission in accordance with Section R686-100-16.

(b) Dismiss the Complaint: If the Executive Committee determines that there are insufficient grounds to proceed with the complaint, the Executive Committee shall recommend to the Commission that the complaint be dismissed. If the Commission votes to uphold the dismissal, the [~~i~~]Informant and [~~r~~]Respondent shall each be served with notice of the dismissal.[ ~~If the informant believes that the dismissal has been made in error the informant may request review by the State Superintendent of Public Instruction within 10 days of service of notice of the dismissal. The Superintendent's decision concerning the dismissal is final.~~]

(c) Schedule a Hearing: If the [~~r~~]Respondent requests a hearing, the Commission shall direct the Executive Secretary to schedule a hearing as provided in Section R686-100-5.

(d) Respond to a request for a [~~s~~]Stipulated [~~a~~]Agreement: [~~If the respondent requests to enter into~~]Respondent may agree to a [~~s~~]Stipulated [~~a~~]Agreement at any time after an investigative letter has been sent[~~, the Executive Secretary shall inform the Commission that the Commission may reject the request or authorize the Executive Secretary to meet with the respondent to prepare recommendations for a~~]. No [~~s~~]Stipulated [~~a~~]Agreement shall be final until authorized by the Commission and, if the Agreement is for suspension or revocation, acted on by the Board.

[~~(i)~~]G. A [~~s~~]Stipulated [~~a~~]Agreement shall, at minimum, include[ ~~the following~~]:

([~~A~~]1) A summary of the facts, the allegations, the evidence relied upon by the Commission in its decision, and the [~~r~~]Respondent's response, if any;

([~~B~~]2) A statement that the [~~r~~]Respondent [~~has chosen to~~]agrees to limitations on his license or surrenders his license rather than contest the charges [~~in a hearing~~]and the Respondent accepts the facts recited in the Stipulated Agreement as true;

([~~C~~]3) A commitment [~~that~~]from the [~~r~~]Respondent that he shall not seek or provide professional services in a public school in any state, or otherwise seek to obtain or use a license in any state, or work or volunteer in a public K-12 setting in any capacity unless or until the [~~r~~]Respondent first obtains a valid Utah license or [~~clearance~~]authorization from the Board to obtain such a license, or satisfy other provisions provided in the Stipulated Agreement;

([~~D~~]4) Provision for surrender of [~~r~~]Respondent's license or evidence in a form acceptable to the Commission that the Respondent does not have a paper copy of the license;

([~~E~~]5) [~~Acknowledgment~~]A statement that the surrender and the [~~s~~]Stipulated [~~a~~]Agreement [~~will~~]shall be reported to other states through the NASDTEC Educator Information Clearinghouse; and

([~~F~~]6) Other[ ~~relevant~~] provisions applicable to the case, such as remediation, counseling, rehabilitation, and conditions--if any--under which the [~~r~~]Respondent [~~could seek restoration~~]may request a reinstatement hearing or resissuance of his license.

(7) A statement that the Respondent waives his right to a hearing to contest the allegations in the Complaint, or the contents of the Stipulated Agreement, and that the Respondent agrees to the terms of the Stipulated Agreement.

(8) A statement that Respondent waives any right to contest the facts stated in the Stipulated Agreement at a subsequent reinstatement hearing, if any.

(9) A statement that all records related to the Stipulated Agreement shall remain permanently in the educator's licensing file at the Office.

([~~ii~~]a) The [~~s~~]Stipulated [~~a~~]Agreement shall be forwarded to the Commission for [~~consideration~~]approval.

([~~iii~~]b) If the Commission rejects the request or the [~~s~~]Stipulated [~~a~~]Agreement, the [~~r~~]Respondent shall be served with notice of the decision, which shall be final, and the proceedings shall continue from the point under these procedures at which the request was made, as if the request had not been submitted.

([~~iv~~]c) If the Commission accepts the [~~s~~]Stipulated [~~a~~]Agreement, the agreement shall be forwarded to the Board for consideration.

([~~r~~]d) If the Board rejects the agreement, the Executive Secretary shall notify the parties of the decision and the proceedings shall continue from the point under these procedures at which the request was made, as if the request had not been submitted.

(e) If, after requesting a Stipulated Agreement, a Respondent fails to sign or respond to a proffered Agreement within 30 days after the Agreement is mailed, the Executive Committee shall recommend that the Commission direct the Prosecutor to prepare findings in default and a recommended disposition for submission to the Commission in accordance with Section R686-100-16.

(f) Violations of the terms of a valid Stipulated Agreement may result in an additional five-year revocation of the Respondent's license.

[~~(e)~~]H. Other Disciplinary Action:

(1) Recommend that the Commission direct the Executive Secretary to take appropriate disciplinary action against an educator which may include: an admonishment, a letter of warning, a written reprimand, or an agreement not to teach.

([~~i~~]2) If so directed, [~~D~~]documentation of [~~this~~]the disciplinary action shall be sent to the [~~r~~]Respondent's employing school district or to a district where the [~~r~~]Respondent finds employment[~~, if so directed~~].

([~~ii~~]3) Additional conditions of retention and documentation of disciplinary actions taken by the Commission are provided in R686-100-15.

[~~G~~]I. Agreement not to teach:

(1) If compelling circumstances exist, as determined by the Commission, an educator may [~~be offered an agreement~~]agree not to be employed in the schools of any state without thorough and exhaustive review of all allegations of misconduct.

(2) Compelling circumstances may include a single serious allegation with mitigating circumstances that did not involve students within a long-term, otherwise exemplary, career.

(3) Other provisions:

(a) The educator shall surrender his educator license to the Commission;

(b) The NASDTEC Clearinghouse shall receive notification of the invalidation of the educator's license;

(c) The educator may be required to provide to the Commission annually [~~to the Commission~~ ]employment and current address information;

(d) Acknowledgment may be made of the existence of the agreement not to teach, otherwise the agreement and its provisions shall remain confidential[~~- between the Commission and the educator~~].

(e) [~~Should~~]If the educator breaches the agreement not to teach, the agreement shall be voidable at the sole discretion of the Commission, and the Commission may initiate further disciplinary action against the educator.

J. Probation

(1) If compelling circumstances exist, as determined by the Commission, an educator may be placed on probation for a specified period of time.

(2) A hearing report or a Stipulated Agreement may provide directives for an educator during the specified probation period.

(3) A probationary term shall be reported to the educator's employing district or school and referenced on the educator's Cactus file.

(4) At the end of the probation term, the educator may petition the Executive Secretary for termination of probation. The petition shall include:

(a) complete documentation of satisfaction of all terms of probation. Incomplete, inaccurate or misleading documentation shall not be considered;

(b) a written statement by the educator explaining the reasons termination of probation is warranted;

(c) results of a criminal background check completed within six months of the request;

(d) any other documentation or evidence requested by the Executive Secretary.

(5) The Executive Secretary and Investigator shall review the documentation, may schedule an informal hearing with the probationary educator, and make a recommendation to Commission if termination of probation is warranted.

(6) If the Executive Secretary or the Commission determine that termination is not warranted, the educator may reapply for termination of probation no sooner than one year from the date of the Executive Secretary or Commission decision.

(7) Consequences for violation of probation or failure to satisfy all conditions of probation may include an extended probation, a renewed investigation, and notice to an employer that the individual is in violation of a professional probation agreement.

[~~H~~]K. Surrender:

(1) [~~Should~~]If an educator surrenders his license, the surrender shall have the effect of revocation unless otherwise designated by the Commission;

(2) The Board shall receive official notification of the surrender at an official Board meeting; and

(3) The Executive Secretary shall enter findings in the educator's licensing file explaining the circumstances of the surrender.

(4) Surrender of an educator's license is not a final action. Surrender shall include a [~~s~~]Stipulated [~~a~~]Agreement or findings of fact, as determined by the Commission, to complete the educator's misconduct file, except as provided in Section (6) and (7) of this part.

(5) Upon receipt of the educator's license by the Executive Secretary[~~- of the Commission~~], the educator shall be notified in a timely manner that:

(a) he has the right to a hearing before the Commission to contest specific allegations against him;

(b) he has a right to consult an attorney concerning the allegations;

(c) absent response by the educator, the educator admits that the allegations set forth in the [~~c~~]Complaint are substantially true;

(d) the Board may take action to suspend or revoke the educator license following the surrender and notice of procedures and consequences to the educator; and

(e) following final administrative action by the Commission or action by the Board, the status of the educator's license shall be indicated on the educator's CACTUS file.

(6) An educator who agrees to surrender his license pursuant to a plea, diversion, or similar agreement from a court shall be deemed to have waived his right to a [~~s~~]Stipulated [~~a~~]Agreement or hearing before the Commission. The Board may take action to revoke his license upon receipt of the applicable plea or diversion agreement[~~ from the court~~].

(7) An educator who returns his license to the Commission without signing a [~~s~~]Stipulated [~~a~~]Agreement or requesting a hearing within 60 days after the receipt of his license by the Office shall be deemed to have waived his right to an agreement or a hearing[~~ before the Commission~~].

**R686-100-5. Hearing Procedures.**

A. Scheduling the Hearing: The Commission shall agree upon Commission panel members, and the Executive Secretary shall appoint a [~~h~~]Hearing [~~o~~]Officer from among a list of [~~h~~]Hearing [~~o~~]Officers identified by the state procurement process approved by the Commission, and schedule the date, time, and place for the hearing. The selection of [~~h~~]Hearing [~~o~~]Officers shall be on a rotating basis, to the extent practicable, from the list of available [~~h~~]Hearing [~~o~~]Officers. The selection of a [~~h~~]Hearing [~~o~~]Officer shall also be made based on availability of individual [~~h~~]Hearing [~~o~~]Officers and whether any financial or personal interest or prior relationship with parties might affect the [~~h~~]Hearing [~~o~~]Officer's impartiality or otherwise constitute a conflict of interest. The Executive Secretary shall provide such information about the case as necessary to determine whether the Hearing Officer has a conflict of interest and shall disqualify any Hearing Officer that cannot serve under the Utah Rules of Professional Conduct. The date for the hearing shall be scheduled not less than 25 days nor more than 180 days from the date the response is received by the Executive Secretary. If exceptional circumstances exist which make it impracticable for a party to be present in person, the Executive Secretary may, with the consent of the parties, permit participation by electronic means. The required scheduling periods may be waived by mutual written consent of the parties or by the Commission for good cause shown.

B. Change of Hearing Date:

(1) A request for change of hearing date by any party shall be submitted in writing, include a statement of the reasons for the request, and be received by the Executive Secretary at least five days prior to the scheduled date of the hearing.[~~The request may originate from either party and shall show cause.~~]

(2) The Executive Secretary shall [~~make the determination of~~]determine whether the cause stated in the request is sufficient to warrant a change of hearing date.

(a) If the cause is found to be sufficient, the Executive Secretary shall promptly notify all parties of the new time, date, and place for the hearing.

(b) If the cause is found to be insufficient, the Executive Secretary shall immediately notify the [~~party making the request and the hearing shall proceed as originally scheduled~~]parties that the request has been denied.

(c) The Executive Secretary and the parties may waive the time period required for requesting a change of hearing date for exceptional circumstances.

**R686-100-6. Appointment and Duties of the Hearing Officer and Hearing Panel.**

A. Hearing Officer: The Executive Secretary shall appoint a [~~h~~]Hearing [~~o~~]Officer at the request of the Commission to chair the hearing panel and conduct the hearing. The [~~h~~]Hearing [~~o~~]Officer:

(1) [~~M~~]may require the parties to submit briefs and lists of witnesses prior to the hearing;

(2) [~~Shall~~ ]presides at the hearing and regulates the course of the proceedings;

(3) [~~May~~ ]administers oaths to witnesses as follows: "Do you swear or affirm that the testimony you will give is the truth?";

(4) [~~M~~]may take testimony, rule on questions of evidence, and ask questions of witnesses to clarify specific issues;

(5) [~~Shall~~ ]prepares and submits a hearing report at the conclusion of the proceedings in consultation with[~~other~~] panel members consistent with R686-100-1R and the timelines of this rule.

B. Commission Panel Members: The Commission shall agree upon three or more Commission members to serve as Commission members of the hearing panel. As directed by the Commission, former Commission members who have served on the Commission within the three years prior to the date set for the hearing may be used as panel members. The majority of panel members shall be current Commission members.

(1) The selection of panel members shall be on a rotating basis to the extent practicable. However, the selection shall also accommodate the availability of panel members.

(2) The majority of a panel shall be educators.

(3) If the [~~r~~]Respondent is a teacher, at least one panel member shall be a teacher. If the [~~r~~]Respondent is an administrator, at least one panel member shall be an administrator unless the [~~r~~]Respondent objects to the configuration of the panel.

(4) Duties of the Commission panel members include:

(a) Assisting the [~~h~~]Hearing [~~o~~]Officer by providing information concerning common standards and practices of educators in the [~~r~~]Respondent's particular field of practice and in the situations alleged;

(b) Asking questions of all witnesses to clarify specific issues;

(c) Reviewing all briefs and evidence presented at the hearing;

(d) Assisting the [~~h~~]Hearing [~~o~~]Officer in preparing the hearing report.

(5) The panel members shall not receive [~~for review relevant written materials including the initial complaint and briefs if ordered by the hearing officer, at least 30 minutes prior to the hearing.~~]any documents prior to the hearing except the Complaint and Response, and a list of witnesses who will participate in the hearing. The Hearing Officer may provide any documents to the panel members prior to the hearing that the parties stipulate may be provided. Unless a different time is agreed to by the parties, documents shall be provided to the panel 30 minutes prior to the hearing.

(6) The Executive Secretary may make an emergency substitution of a[~~Commission~~] panel member for cause with the agreement of the parties. The agreement should be in writing but if time does not permit written communication of the agreement to reach the Executive Secretary prior to the scheduled time of the hearing, an Acceptance of Substituted Hearing Panel Member shall be signed by the parties prior to commencement of the hearing. If the panel cannot be filled within a reasonable time, the Executive Secretary may reschedule the hearing date.

C. Disqualification of the Hearing Officer or a panel member:

(1) Hearing Officer:

(a) A party may seek disqualification of a [~~h~~]Hearing [~~o~~]Officer by submitting a written request for disqualification to the Executive Secretary, which request must be received not less than 15 days before a scheduled hearing. The Executive Secretary shall review the request and supporting evidence and, upon a finding that the reasons for the request are substantial and sufficient, shall appoint a new [~~h~~]Hearing [~~o~~]Officer and, if necessary, reschedule the hearing. A Hearing Officer may recuse himself from a hearing if, in the Hearing Officer's opinion, his participation would violate any of the Utah Rules of Professional Conduct consistent with the Supreme Court Rules of Professional Practice, Chapter 13.

(b) If the Executive Secretary denies the request, the party requesting the disqualification shall be notified not less than ten days prior to the date of the hearing. The requesting party may submit a written appeal of the denial to the State Superintendent, which request must be received not less than five days prior to the hearing date. If the State Superintendent finds that the appeal is justified, he

shall direct the Executive Secretary to appoint a new [~~h~~]Hearing [~~o~~]Officer and, if necessary, reschedule the hearing.

(c) The decision of the State Superintendent is final.

(d) Failure of a party to meet the time requirements of Section R686-100-6C(1) shall result in denial of the request or appeal; if the Executive Secretary fails to meet the time requirements, the request or appeal shall be approved.

(2) Commission panel member:

(a) A Commission member shall disqualify himself as a panel member due to any known financial or personal interest, prior relationship, personal and independent knowledge of the persons or issues in the case, or other association that would compromise the panel member's ability to make an impartial decision.

(b) A party may seek disqualification of a Commission panel member by submitting a written request for disqualification to the [~~h~~]Hearing [~~o~~]Officer, or the Executive Secretary if there is no Hearing Officer, which request [~~must~~]shall be received not less than 15 days before a scheduled hearing. The [~~h~~]Hearing [~~o~~]Officer, or the Executive Secretary, if there is no Hearing Officer, shall review the request and supporting evidence and, upon a finding that the reasons for the request are substantial and compelling, shall disqualify the panel member. If the disqualification leaves the hearing panel with fewer than three Commission panel members, the Commission shall appoint a replacement and the [~~h~~]Hearing [~~o~~]Officer shall, if necessary, reschedule the hearing.

(c) If the[~~hearing officer denies the~~] request is denied, the party requesting the disqualification shall be notified not less than ten days prior to the date of the hearing. The requesting party may [~~submit~~]file a written appeal of the denial to the State Superintendent, which request [~~must~~]shall be received not less than five days prior to the hearing date. If the State Superintendent finds that the appeal is justified, he shall direct the [~~h~~]Hearing [~~o~~]Officer, or the Executive Secretary if there is no Hearing Officer, to [~~disqualify~~]replace the panel member.

(d) If a disqualification leaves the hearing panel with fewer than three Commission panel members, the Commission shall agree upon a replacement and the [~~h~~]Hearing [~~o~~]Officer shall, if necessary, reschedule the hearing.

(e) The decision of the State Superintendent is final.

(f) Failure of a party to meet the time requirements of Section R686-100-7C(2) shall result in denial of the request or appeal; if the [~~h~~]Hearing [~~o~~]Officer fails to meet the time requirements, the request or appeal shall be approved.

E. The Executive Secretary may, at the time he selects the Hearing Officer or panel members, select alternative Hearing Officers or panel members following the process for selecting those individuals.

**R686-100-7. Preliminary Instructions to Parties to a Hearing.**

A. Not less than [~~20~~]30 days before the date of a hearing the Executive Secretary shall provide the parties with the following information:

(1) Date, time, and location of the hearing;

(2) Names and school district affiliations of the[~~Commission members on the hearing~~] panel members, and the name of the [~~h~~]Hearing [~~o~~]Officer;

(3) Procedures for objecting to any member of the hearing panel; and

(4) Procedures for requesting a change in the hearing date.

B. Not less than [~~15~~]20 days before the date of the hearing, the [~~r~~]Respondent and the [~~e~~]Complainant shall serve the following upon the other party and submit a copy and proof of service to the [~~h~~]Hearing [~~o~~]Officer:

(1) A brief, if requested by the Hearing Officer, containing any procedural and evidentiary motions along with that party's position regarding the allegations. Submitted briefs shall include relevant laws, rules, and precedent;

(2) The name of the person who [~~will~~]shall represent the party at the hearing, a list of witnesses [~~who will~~]expected to be called, a summary of the testimony which each witness is expected to present, and a summary of documentary evidence which [~~will~~]shall be submitted.[~~If either party fails to comply with identification of witnesses or documentary evidence in a fair and timely manner and consistent with the provisions of this rule, the hearing officer may limit either party's presentation of witnesses and documentary evidence at the hearing.~~

~~C. Upon receipt of any of the above documents, the hearing officer shall provide a copy of the documents to each of the Commission panel members for review at least one hour prior to the hearing.~~]

[~~D~~]C. If a party fails to comply in good faith with a directive of the [~~h~~]Hearing [~~o~~]Officer under Section R686-100-7A, including time requirements for service, the [~~h~~]Hearing [~~o~~]Officer may prohibit introduction of the testimony or evidence or take other steps reasonably appropriate under the circumstances including, in extreme cases of noncompliance, entry of a default against the offending party. Nothing in this section prevents the use of rebuttal witnesses.

[~~E~~]D. Parties shall provide materials to the [~~h~~]Hearing [~~o~~]Officer, panel members and Commission as directed[~~under this rule. Materials shall not be provided directly to panel members until and unless parties are so directed~~] by the [~~h~~]Hearing [~~o~~]Officer.

**R686-100-8. Hearing Parties' Representation.**

A. Complainant: The Complainant shall be represented by a person appointed by the [~~Investigations Unit of the Utah State Office of Education~~]State Superintendent or his designee.

B. Respondent: A [~~r~~]Respondent may represent himself or be represented, at his own cost, by another person[~~of his choosing~~].

C. The informant has no right to individual representation at the hearing or to be present or heard at the hearing unless called as a witness.

D. The Executive Secretary shall receive timely notice in writing of representation by anyone other than the Respondent.

**R686-100-9. Discovery Prior to a Hearing.**

A. Discovery [~~shall be~~]is permitted to the extent necessary to obtain relevant information necessary to support claims or defenses, as determined by the appointed [~~h~~]Hearing [~~o~~]Officer.

B. Discovery, especially burdensome or unduly legalistic discovery, may not be used to delay a hearing.

C. Discovery may be limited by the [~~h~~]Hearing [~~o~~]Officer at his discretion or upon a motion by either party. The [~~h~~]Hearing [~~o~~]Officer [~~makes the final determination as to the scope of~~]rules on all discovery requests and motions.

D. Subpoenas and other orders to secure the attendance of witnesses or the production of evidence shall be [~~issued upon request~~]issued pursuant to Section 53A-6-306(2)(c) if requested by either party at least five working days prior to the hearing[~~by the Executive Secretary in accordance with Section 53A-6-603 when requested by either party or any of the panel members~~].

E. Either party[~~ or its representative~~] may request the names of witnesses[~~ who have been asked to testify for~~] the opposing party expects to call at the hearing and to receive a copy of or examine all documents and exhibits that the opposing party intends to [~~present~~]use as evidence during the hearing.

F. Except as provided in R100-7C, [~~N~~]no witness or evidence may be presented at the hearing if the opposing party has requested to be notified of such information and has not been fairly apprised at least [~~five~~]10 days prior to the hearing. [~~The parties may waive such time period only by written agreement.~~]The timeliness requirement may be waived by agreement of the parties or by the Hearing Officer upon a showing of good cause or the Hearing Officer's determination that no prejudice has occurred to the opposing party. This restriction shall not apply to rebuttal witnesses whose testimony, where required, cannot reasonably be anticipated before the time of the hearing.

G. No expert witness report or testimony may be presented at the hearing unless the requirements of Section R686-100-13 have been met.

**R686-100-10. Burden and Standard of Proof for Commission Proceedings.**

A. In matters other than those involving applicants for licensing, and excepting the presumptions under Section R686-100-14G, the complainant shall have the burden of proving that action against the license is appropriate.

B. An applicant for licensing [~~shall bear~~]has the burden of proving that licensing is appropriate.

C. Standard of proof: The standard of proof in all Commission hearings is a preponderance of the evidence.

D. Evidence: The Utah Rules of Evidence are not applicable to Commission proceedings. The criteria to decide evidentiary questions shall be:

(1) reasonable reliability of the offered evidence;

(2) fairness to both parties; and

(3) usefulness to the Commission in reaching a decision.

E. The [~~applicability and admissibility of evidence consistent with this rule shall be in the sole discretion of the h~~]Hearing [~~o~~]Officer has the sole responsibility to determine the application of the hearing rules and the admissibility of evidence.

**R686-100-11. Deportment.**

A. Parties, their representatives, witnesses, and other persons present during a hearing shall conduct themselves in an appropriate manner during hearings, giving due respect to members of the hearing panel and complying with the instructions of the [~~h~~]Hearing [~~o~~]Officer. The [~~h~~]Hearing [~~o~~]Officer may expel persons from the hearing room who fail to conduct themselves in an appropriate manner and may, in response to extreme instances of noncompliance, disallow testimony or declare an offending party to be in default.

B. Parties, attorneys for parties, or other participants in the professional practices investigation and hearing process shall not harass, intimidate or pressure witnesses or other hearing participants, nor shall they direct others to harass, intimidate or pressure witnesses or participants.

**R686-100-12. Hearing Record.**

A. The hearing shall be tape recorded at the Commission's expense, and the tapes shall become part of the permanent case record, unless otherwise agreed upon by all parties.

B. Individual parties may[~~ not~~], at their own expense, make recordings of the proceedings with[~~out~~] notice to[~~ and consent of~~] the Executive Secretary.

[~~C. Any party, at his own expense, may have a person approved by the Commission prepare a transcript of the hearing.~~

~~D.~~]C. If an exhibit is admitted as evidence, the record shall reflect the contents of the exhibit.

[~~E~~]D. All evidence and statements presented at a hearing shall become part of the permanent case file and shall not be removed except by order of the Board.

[~~F~~]E. [~~Taped~~]The Office record of the proceedings may be reviewed upon request of a party under supervision of the Executive Secretary and only at the[~~ State~~] Office[~~ of Education~~].

**R686-100-13. Expert Witnesses in Commission Proceedings.**

A. A party may call an expert witness at its own expense. Notice of intent of a party to call an expert witness, the identity and qualifications of such expert witness and the purpose for which the expert witness is to be called shall be provided to the [~~h~~]Hearing [~~o~~]Officer and the opposing party at least [~~20~~]15 days prior to the hearing date.

B. The [~~h~~]Hearing [~~o~~]Officer may appoint any expert witness agreed upon by the parties or of the [~~h~~]Hearing [~~o~~]Officer's own selection. An expert so appointed shall be informed of his duties by the [~~h~~]Hearing [~~o~~]Officer in writing, a copy of which shall become part of the permanent case file. The expert shall advise the hearing panel and the parties of his findings and may thereafter be called to testify by the hearing panel or by any party. He [~~shall be subject to cross-examination~~]may be examined by each party or by any of the hearing panel members.

C. Defects in the qualifications of expert witnesses, once a minimum threshold of expertise is established, go to the weight to be given their testimony and not to its admissibility.

D. Experts who are members of the Complainant's staff or a school district staff may testify and have their testimony considered as part of the record along with that of any other expert.

E. Any report of an expert witness which a party intends to introduce into evidence shall be provided to the opposing party at least [~~10~~]15 days prior to the hearing date.

**R686-100-14. Evidence and Participation in Commission Proceedings.**

A. The [~~h~~]Hearing [~~o~~]Officer may not exclude evidence solely because it is hearsay.

B. [~~The hearing officer shall afford e~~]Each party [~~the opportunity to produce~~]has the right to call witnesses, present evidence, argue, respond, cross-examine witnesses who testify in person at the hearing, and submit rebuttal evidence.

C. [~~If a party intends to submit documentary evidence, the party intending to present such evidence shall provide one copy to each member of the hearing panel at least one hour prior to the hearing, and one copy to the opposing party.~~

~~D.~~]All testimony presented at the hearing, if offered as evidence to be considered in reaching a decision on the merits, shall be given under oath.

[~~E~~]D. In any case involving allegations of child abuse or of a sexual offense against a child, upon request of either party or by a member of the hearing panel, the [~~h~~]Hearing [~~o~~]Officer may determine whether a significant risk exists that the child would suffer serious emotional or mental harm if required to testify in the [~~r~~]Respondent's presence, or whether a significant risk exists that the

child's testimony would be inherently unreliable if required to testify in the [~~r~~]Respondent's presence. If the [~~h~~]Hearing [~~o~~]Officer determines either to be the case, then the child's testimony may be admitted in one of the following ways:

(1) An oral statement of a victim or witness younger than 18 years of age which is recorded prior to the filing of a complaint shall be admissible as evidence in a hearing regarding the offense if:

(a) No attorney for either party is in the child's presence when the statement is recorded;

(b) The recording is visual and aural and is recorded on film or videotape or by other electronic means;

(c) The recording equipment is capable of making an accurate recording, the operator of the equipment is competent, and the recording is accurate and has not been altered; and

(d) Each voice in the recording is identified.

(2) The testimony of any witness or victim younger than 18 years of age may be taken in a room other than the hearing room, and be transmitted by closed circuit equipment to another room where it can be viewed by the [~~r~~]Respondent. All of the following conditions shall be observed:

(a) Only the hearing panel members, attorneys for each party, persons necessary to operate equipment, and a person approved by the [~~h~~]Hearing [~~o~~]Officer whose presence contributes to the welfare and emotional well-being of the child may be with the child during his testimony.

(b) The [~~r~~]Respondent may not be present during the child's testimony;

(c) The [~~h~~]Hearing [~~o~~]Officer shall ensure that the child cannot hear or see the [~~r~~]Respondent;

(d) The [~~r~~]Respondent shall be permitted to observe and hear, but not communicate with, the child; and

(e) Only hearing panel members and the attorneys may question the child.

(3) The testimony of any witness or victim younger than 18 years of age may be taken outside the hearing room and recorded if the provisions of Sections R686-100-14E(2)(a)(b)(c) and (e) and the following are observed:

(a) The recording is both visual and aural and recorded on film or videotape or by other electronic means;

(b) The recording equipment is capable of making an accurate recording, the operator is competent, and the recording is accurate and is not altered;

(c) Each voice on the recording is identified; and

(d) Each party is given an opportunity to view the recording before it is shown in the hearing room.

(4) If the [~~h~~]Hearing [~~o~~]Officer determines that the testimony of a child [~~will~~]shall be taken under Section R686-100-14E(1)(2) or (3) above, the child may not be required to testify in any proceeding where the recorded testimony is used.

[~~F~~]E. On his own motion or upon objection by a party, the [~~h~~]Hearing [~~o~~]Officer:

(1) May exclude evidence that the [~~h~~]Hearing [~~o~~]Officer determines to be irrelevant, immaterial, or unduly repetitious;

(2) Shall exclude evidence that is privileged under law applicable to administrative proceedings in Utah unless waived;

(3) May receive documentary evidence in the form of a copy or excerpt if the copy or excerpt contains all pertinent portions of the original document;

(4) May take official notice of any facts that could be judicially noticed under judicial or administrative laws of Utah, or from the record of other proceedings before the agency.

[~~G~~]F. Presumptions:

(1) A rebuttable evidentiary presumption exists that a person has committed a sexual offense against a minor child if the person has:

(a) Been found, pursuant to a criminal, civil, or administrative action to have committed a sexual offense against a minor;

(b) Failed to defend himself against such a charge when given a reasonable opportunity to do so; or

(c) Voluntarily surrendered a license or allowed a license to lapse in the face of a charge of having committed a sexual offense against a minor.

(2) A rebuttable evidentiary presumption exists that a person is unfit to serve as an educator if the person has been found pursuant to a criminal, civil, or administrative action to have exhibited behavior evidencing unfitness for duty, including immoral, unprofessional, or incompetent conduct, or other violation of standards of ethical conduct, performance, or professional competence. Evidence of such behavior may include:

(a) [~~Been convicted~~]conviction of a felony;

(b) [~~Been charged with~~ ]a felony charge and subsequent[~~ly convicted of~~] conviction for a lesser related charge pursuant to a plea bargain or plea in abeyance;[~~ or~~]

(c) [~~Lost his license~~ ]an investigation of an educator's license, certificate or authorization in another state[~~ through revocation or suspension, or through surrender of a license or allowing a license to lapse in the face of an allegation of misconduct, if the person would not currently be eligible to regain his license in that state~~][~~.~~]; or

(d) the expiration, surrender, suspension, revocation, or invalidation for any reasons of an educator license.

H. The Hearing Officer may confer with the Executive Secretary or the panel members or both while preparing the Hearing Report. The Hearing Officer may request the Executive Secretary to confer with the Hearing Officer and panel following the hearing.

I. The Executive Secretary may return a Hearing Report to a Hearing Officer if the Report is incomplete, unclear, or unreadable.

**R686-100-15. Hearing Report.**

A. Within 20 days after the hearing, or within 20 days after the deadline imposed for the filing of any post-hearing materials permitted by the [~~h~~]Hearing [~~o~~]Officer, the [~~h~~]Hearing [~~o~~]Officer shall [~~prepare, ~~]sign and issue a Hearing Report consistent with the recommendations of the panel that includes:

(1) A detailed findings of fact and conclusions of law based upon the evidence of record or on facts officially noted. Findings of fact may not be based solely upon hearsay, and conclusions shall be based upon competent evidence;

(2) A statement of relevant precedent, if available;

(3) A statement of applicable law and rule;

(4) A recommended disposition of the Commission panel members which shall be one of the following:

(a) Dismissal of the Complaint: The hearing report shall indicate that the complaint should be dismissed and that no further action should be taken.

[~~(b) Warning: The hearing report shall indicate that respondent's conduct is deemed unprofessional and that the hearing report shall constitute an official warning. The hearing report may indicate if the letter of warning shall be sent to the employing school district, if the letter and notation of warning shall be retained in the respondent's licensing and CACTUS files and for how long the letter and notation of warning shall be retained. If the hearing report has no specified time period for retention of the letter of warning, the~~

~~letter and notation shall be retained permanently. The report shall also state that no further action concerning the complaint should be taken and that the complaint and disposition could be considered should the respondent's conduct be brought into question in the future.~~

~~(c) Reprimand: The hearing report shall indicate that the respondent's conduct is deemed unprofessional and that the hearing report shall constitute an official reprimand. The hearing report shall indicate that the employing school board shall receive a copy of the reprimand and that record of the reprimand shall be made on all Utah State Board of Education licensing records maintained in the licensing file, to include a notation of the letter of reprimand in the respondent's licensing files. The hearing report may also include a recommendation for how long the reprimand and the notation of the reprimand shall be maintained in the respondent's file and conditions under which it could be removed. If the hearing report has no specified time period for retention of the letter and notation of reprimand, they shall be retained permanently. The report shall also state that no further action concerning the complaint should be taken and that the complaint and disposition could be considered should the respondent's conduct be brought into question in the future.~~](b) Warning: the hearing report shall indicate that Respondent's conduct is deemed unprofessional and shall direct the Executive Secretary to write a letter of warning to the Respondent. A letter of warning:

(i) shall be maintained permanently in Respondent's paper licensing file;

(ii) shall be mailed to Respondent or, if Respondent is represented by counsel, to Respondent's counsel;

(iii) shall state that the letter does not affect Respondent's license status;

(iv) shall not be noted on Respondent's active CACTUS file;

(v) shall not be copied and mailed to the Respondent's employing school district, although the employing school district shall be notified that Respondent received a warning letter;

(vi) shall not be public information, although, as a final administrative decision, the existence of the letter is public information;

(vii) shall state that a letter of warning may be considered by the Commission or the Board if formal allegations are made regarding Respondent's conduct in the future; and

(viii) may be acknowledged and summarized to prospective employers upon request.

(c) Reprimand: the hearing report shall indicate that Respondent's conduct is deemed unprofessional and shall direct the Executive Secretary to write a letter of reprimand to the Respondent. A letter of reprimand:

(i) shall be maintained permanently in Respondent's paper licensing file;

(ii) shall be mailed to Respondent or, if Respondent is represented by counsel, to Respondent's counsel;

(iii) shall state that the letter does not affect Respondent's license status;

(iv) shall be noted on Respondent's active CACTUS file for the period stated in the hearing report and until Respondent's written request for removal of the letter is granted;

(v) shall be copied and send to Respondent's employing school district;

(vi) shall not be public information, although, as a final administrative decision, the existence of the letter is public information; and

(vii) shall state that a letter of reprimand may be considered by the Commission or the Board if formal allegations are made regarding Respondent's conduct in the future; and

(viii) may be acknowledged and summarized to prospective employers upon request.

(d) It is the [~~r~~]Respondent's responsibility to petition the Commission for removal of letters of warning and reprimand from his licensing and CACTUS files.

(e) Probation: The hearing report shall determine [~~that~~]whether the [~~r~~]Respondent's conduct was unprofessional, that the [~~r~~]Respondent shall not lose his license, but that a probationary period is appropriate. If the report recommends probation, the report shall designate:

(i) a probationary time period;

(ii) conditions that can be monitored;

(iii) a person or entity to monitor a [~~r~~]Respondent's probation;

(iv) a statement providing for costs of probation.

(v) whether or not the [~~r~~]Respondent may work in any capacity in education during the probationary period.

A probation may be [~~stated as~~]imposed substantially in the form of a plea in abeyance[~~:~~]. The [~~r~~]Respondent's penalty is stayed subject to the satisfactory completion of probationary conditions. The decision shall provide for discipline should the probationary conditions not be [~~completed~~]fully satisfied.

(f) Suspension: The hearing report shall recommend to the[ ~~State~~] Board[~~ of Education~~] that the license of the [~~r~~]Respondent be suspended for a specific period of time and until specified reinstatement conditions have been met before [~~r~~]Respondent may petition for reinstatement of his license. The hearing report shall indicate that, should the Board confirm the recommended decision, the [~~r~~]Respondent shall return the printed suspended license to the[ ~~State~~] Office[~~ of Education~~] and that the Educator Licensing Section of the[~~ Utah State~~] Office[~~ of Education will~~]shall notify the employing school district, all other Utah school districts, and all other state, territorial, and national licensing offices or clearing houses of the suspension in accordance with R277-514.

(g) Revocation: The hearing report shall recommend to the State Board of Education that the license of the [~~r~~]Respondent be revoked for a period of not less than five years. The hearing report shall indicate that should the Board confirm the recommended decision, the [~~r~~]Respondent shall return any paper copies of the revoked license to the[~~ State~~] Office[~~ of Education~~] and that the Educator Licensing Section of the[~~ Utah State~~] Office[~~ of Education will~~]shall notify the employing school district, all other Utah school districts, and all other state, territorial, and national licensing offices or clearing houses of the revocation in accordance with R277-514.

[~~(5) The hearing report may recommend that the warning letter or that the reprimand remain permanently in the licensing file. The hearing report shall also provide that the substance of the warning letter or reprimand or terms of probation may be communicated by designated USOE employees to prospective employers upon request.~~ ]

([~~6~~]5) Notice of the right to appeal; and

([~~7~~]6) Time limits applicable to appeal.

B. Processing the Hearing Report:

(1) The [~~h~~]Hearing [~~o~~]Officer shall circulate the draft report to hearing panel members prior to the 20 day completion deadline of the hearing report.

(2) Hearing panel members shall notify the [~~h~~]Hearing [~~o~~]Officer of any changes to the report as soon as possible after receiving the report and prior to the 20 day completion deadline of the hearing report.

(3) The [~~h~~]Hearing [~~o~~]Officer shall file the completed hearing report with the Executive Secretary, who shall review the report with the Commission.

(4) If the Commission, upon review of the hearing report, finds by majority vote, that there have been significant procedural errors in the hearing process or that the weight of the evidence does not support the conclusions of the hearing report, the Commission[~~as a whole~~] may direct the Executive Secretary to prepare an alternate hearing report and follow procedures under R686-100-15B(2).

(5) The Executive Secretary may be present, at the discretion of the Commission, but may only participate in the Commission's deliberation as a resource to the Commission in explaining the hearing report and answering any procedural questions raised by Commission members.

(6) If the Commission finds that there have not been significant procedural errors or that recommendations are based upon a reasonable interpretation of the evidence presented at the hearing, the Commission shall vote to uphold the [~~h~~]Hearing [~~o~~]Officer's report and do one of the following:

(a) If the recommendation is for final action to be taken by the Commission, the Commission shall direct the Executive Secretary to prepare a corresponding final order and serve all parties with a copy of the order and hearing report. A copy of the order and the hearing report shall be placed in and become part of the permanent case file. The order shall be effective upon approval by the Commission.

(b) If the recommendation is for final action to be taken by the Board, the Executive Secretary shall forward a copy of the hearing report to the[~~State~~] Board[~~of Education~~] for its further action. A copy of the hearing report shall also be placed in and become part of the permanent case file.

(7) If the Commission determines that procedural errors or that the [~~h~~]Hearing [~~o~~]Officer's report is not based upon a reasonable interpretation of the evidence presented at the hearing to the extent that an amended hearing report cannot be agreed upon, the Commission shall direct the Executive Secretary to schedule the matter for rehearing before a new [~~h~~]Hearing [~~o~~]Officer and panel.

C. Consistent with Section 63-2-301(1)(c), the final administrative disposition of all administrative proceedings, the Recommended Disposition section of the Hearing Report, of the Commission shall be public. The hearing findings/report of suspensions and expulsions shall be public information and shall be provided consistent with Section 63-2-301(1)(c). The Recommended Disposition portion of the Hearing Report of warnings, reprimands and probations (including the probationary conditions) shall be public information. All references to individuals and personally identifiable information about individuals not parties to the hearing shall be redacted prior to making the disposition public.

D. Failure to comply with the terms of a final disposition that includes a suspension or revocation of the Respondent's license may result in an additional five-year revocation of the license.

E. If a hearing officer fails to satisfy his responsibilities under this rule, the Commission may:

(1) notify the Utah State Bar of the failure;

(2) reduce the hearing officer's compensation consistent with his failure;

(3) take timely action to avoid disadvantaging either party; and

(4) preclude the hearing officer from further employment by the Board for Commission purposes.

F. Deadlines within this section may be waived by the Commission for good cause shown.

G. All criteria of letters of warning and reprimand, probation, suspension and revocation shall also apply to final Stipulated Agreements, agreed to and signed by both parties.

**R686-100-16. Default Procedures.**

A. An order of default may be issued against a [~~r~~]Respondent under any of the following circumstances:

(1) The [~~Executive Secretary may enter~~]Prosecutor may prepare an order of default by preparing a report of default including the order of default, a statement of the grounds for default, and a recommended disposition if the [~~r~~]Respondent fails to file a response to a complaint or respond to a proffered Stipulated Agreement following written notice and telephone contact, to the extent possible, for an additional 20 days following the time period allowed for response to a complaint under R686-100-[~~5E~~]4F or G.

(2) The [~~h~~]Hearing [~~o~~]Officer may enter an order of default against a [~~r~~]Respondent by preparing a hearing report including the order of default, a statement of the grounds for default and the recommended disposition if:

(a) The [~~r~~]Respondent fails to attend or participate in a properly scheduled hearing after receiving proper notice. The [~~h~~]Hearing [~~o~~]Officer may determine that the [~~r~~]Respondent has failed to attend a properly scheduled hearing if the [~~r~~]Respondent has not appeared within 30 minutes of the appointed time for the hearing to begin, unless the Respondent shows good cause for failing to appear in a timely manner.

(b) The [~~r~~]Respondent or the [~~r~~]Respondent's representative [~~is guilty of serious~~]commits misconduct during the course of the hearing process as provided under Section R686-100-8D.

B. The [~~report~~]recommendation of default [~~or hearing report shall be forwarded to the Commission by the Executive Secretary for further action under Section R686-100-16B~~]may be executed by the Executive Secretary following all applicable time periods, without further action by the Commission.

**R686-100-17. Appeal.**

A. Either party may appeal a final[~~action or~~] recommendation of the Commission for a suspension of the Respondent's license for two or more years or a revocation to the State Superintendent. A request for review by the State Superintendent shall follow the procedures in R277-514-3 and be submitted in writing within 15 days from the date that the Commission sends written notice to the parties of its recommendation.[~~by requesting review following the procedures of R277-514-3 or R277-514-4.~~]

(1) Either party may appeal the Superintendent's decision to the Board following the procedures in R277-514-4.

B. [~~If a party elects to appeal a Commission recommendation for a suspension of two years or more, or to appeal a Commission determination regarding a license revocation, the appellant shall follow the procedures of R277-514-3~~]Either party may appeal a Commission recommendation for a suspension of less than two years or dismissal of the case to the Board following the procedures in R277-514-4B.

C. [~~If a party elects to appeal a Commission recommendation for a suspension of less than two years or for any other issue, dismissal, or failure to discipline, the appeal shall be made directly to the Board under R277-514-4B.~~

~~D. The~~]A request for appeal to the State Superintendent or the Board shall [~~consist of the following~~]include:

(1) name, position, and address of appellant;

(2) issue(s) being appealed; and
(3) signature of appellant.

**R686-100-18. Remedies for Individuals Beyond Commission Actions.**

Despite Commission or Board actions, informants or other injured parties who feel that their rights have been compromised, impaired or not addressed by the provisions of this rule, may appeal directly to district court.

**R686-100-19. Application for Licensing Following Denial or Loss of License.**

A. An individual who has been denied licensing or lost his license through revocation or suspension, or through surrender of a license or allowing a license to lapse in the face of an allegation of misconduct, may request review to consider[~~the possibility of a grant or~~] reinstatement of a license.

(1) The request for review shall be in writing and addressed to the Executive Secretary, Professional Practices Advisory Commission, [~~250 East 500 South, P.O. Box 144200, Salt Lake City, Utah 84114-4200~~]at the Office mailing address, and shall have the following heading:

TABLE 1

| | |
|---|---|
| Jane Doe, Petitioner vs Utah State Office of Education, UPPAC [~~Respondent~~]The State. | ) Request for Agency Action ) Following Denial or Loss of ) License ) File no.: ..... |

B. The body of the request shall contain[~~the following information~~]:

(1) Name and address of the individual requesting review;
(2) Action being requested;
(3) Evidence of compliance with terms and conditions of any remedial or disciplinary requirements or recommendations;
(4) Reasons for reconsideration of past disciplinary action;
(5) Signature of person requesting review.

C. The Executive Secretary shall review the request with the Commission.

(1) If the Commission determines that the request is invalid, the person requesting reinstatement shall be notified by certified mail of the denial.

(2) If the Commission determines that the request is valid, a hearing shall be scheduled and held as provided under Section R686-100-6.

D. Burden of Proof: The burden of proof for granting or reinstatement of a license shall fall on the individual seeking the [~~license~~]reinstatement.

(1) Individuals requesting reinstatement of a suspended license [~~must~~]shall show sufficient evidence of compliance with any conditions imposed in the past disciplinary action as well as undergo a criminal background check in accordance with Utah law.

(2) Individuals requesting licensing following revocation shall show sufficient evidence of compliance with any conditions imposed in the past disciplinary action as well as providing evidence of qualifications for licensing as if the individual had never been licensed in Utah or any other state.

(3) Individuals requesting licensing following denial shall show sufficient evidence of completion of a rehabilitation or remediation program, if applicable.

**R686-100-20. Reinstatement Hearing Procedures.**

A. The individual seeking reinstatement of his license shall be the petitioner.

B. The petitioner shall have the responsibility of presenting the background of the case.

C. The petitioner shall present documentation or evidence that supports reinstatement.

D. The [~~respondent (the~~ ]State[~~)~~], represented by the Commission Prosecutor, shall present any evidence or documentation that would not support reinstatement.

E. Other evidence or witnesses shall be presented consistent with R686-100-14.

F. The appointed [~~h~~]Hearing [~~o~~]Officer shall rule on other procedural issues in a reinstatement hearing in a timely manner as they arise.

**R686-100-21. Temporary Suspension of License Pending a Hearing.**

A. If the Executive Secretary determines, after affording [~~r~~]Respondent an opportunity to discuss allegations of misconduct, that reasonable cause exists to believe that the charges [~~will~~]shall be proven to be correct and that permitting the [~~r~~]Respondent to retain his license prior to hearing would create unnecessary and unreasonable risks for children, then the Executive Secretary may order immediate suspension of the [~~r~~]Respondent's license pending final Board action.

B. Evidence of the temporary suspension may not be introduced at the hearing.

C. Notice of the temporary suspension shall be provided to other states under R277-514.

**KEY: teacher [~~certification~~]licensing, conduct, hearings**
**Date of Enactment or Last Substantive Amendment: [~~October 16, 2002~~]2006**
**Notice of Continuation: February 27, 2003**
**Authorizing, and Implemented or Interpreted Law: 53A-6-306(1)(a)**

# Public Safety, Fire Marshal
# R710-6
## Liquefied Petroleum Gas Rules

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29042
FILED: 09/15/2006, 19:51

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Liquefied Petroleum (LP) Gas Board met in a regularly scheduled Board meeting on August 25, 2006, and proposed that the LP Gas Rule be amended. The purpose of the rule amendment is to update an incorporated reference and add

an alternate procedure that allows LP Gas transporters to satisfy the certification requirement through the completion of Federal CFR requirements.

SUMMARY OF THE RULE OR CHANGE: The Utah LP Gas Board proposes to amend Rule R710-6 as follows: 1) in Subsection R710-6-1(1.2), the Board proposes to update an incorporated reference by replacing the 2002 edition of NFPA 54, National Fuel Gas Code with the 2006 edition; and 2) Subsections R710-6-4(4.4.6) and R710-6-4(4.7.5) are added by the Board as alternate ways to become certified as a Delivery or Transport Operator with the completion of portions of the 49 CFR Federal requirements that corresponds to the work to be performed by the applicant.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-305

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: National Fire Protection Association, NFPA 54, National Fuel Gas Code, 2006 edition

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There would be an aggregate anticipated cost to the state budget of approximately $500 to purchase 2006 NFPA 54 manuals for those needing to have one in their possession to perform their assigned tasks.

❖ LOCAL GOVERNMENTS: There would be no aggregate anticipated cost or savings to local government because these proposed amendments do not affect local government due to the enactment of this safety program by state authority.

❖ OTHER PERSONS: There would be an aggregate anticipated cost to other persons of approximately $3,000 to enact these proposed rule changes and that would be for the cost of the 2006 NFPA 54 manuals. This would satisfy the needs of the LP Gas industry and those performing heating, ventilating, and air conditioning (HVAC) services as companies that need this updated safety manual to perform their duties. There would be a $5,000 to $10,000 savings to the LP Gas industry and transporters to now be allowed to use their Federal Hazmat training requirements to satisfy the requirement to be certified as a LP Gas Transporter or Bobtail Delivery Technician.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance costs for affected persons would be for the cost of the NFPA 54, National Fuel Gas Code, of approximately $41 per manual.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There would be a small fiscal impact on the LP Gas industry and HVAC companies to purchase the newly incorporated NFPA 54, National Fuel Gas Code. Industry normally wishes to use the most current safety manual available to be allowed to use the most up-to-date practices. There is also a large savings seen by the proposed fiscal savings to the LP Gas industry and transportation companies by the allowance to use an alternate certification testing procedure. Scott T. Duncan, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Brent Halladay at the above address, by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/08/2006

AUTHORIZED BY: Ron L. Morris, Utah State Fire Marshal

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**R710. Public Safety, Fire Marshal.**
**R710-6. Liquefied Petroleum Gas Rules.**
**R710-6-1. Adoption, Title, Purpose and Scope.**

Pursuant to Title 53, Chapter 7, Section 305, Utah State Code Annotated 1953, the Liquefied Petroleum Gas (LPG) Board adopts minimum rules to provide regulation to those who distribute, transfer, dispense or install LP Gas and/or its appliances in the State of Utah.

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

1.1 National Fire Protection Association (NFPA), Standard 58, LP Gas Code, 2004 edition, except as amended by provisions listed in R710-6-8, et seq.

1.2 National Fire Protection Association (NFPA), Standard 54, National Fuel Gas Code, [~~2002~~]2006 edition, except as amended by provisions listed in R710-6-8, et seq.

1.3 National Fire Protection Association (NFPA), Standard 1192, Standard on Recreational Vehicles, 2005 Edition, except as amended by provisions listed in R710-6-8, et seq.

1.4 International Fire Code (IFC), Chapter 38, 2003 edition, as published by the International Code Council, Inc. (ICC), except as amended by provisions listed in R710-6-8, et seq.

1.5 A copy of the above codes are on file with the Division of Administrative Rules, and the State Fire Marshal's Office. The definitions contained in the afore referenced codes shall also pertain to these rules.

1.6 Title.

These rules shall be known as "Rules Governing LPG Operations in the State of Utah" and may be cited as such, and will be hereinafter referred to as "these rules".

1.7 Validity.

If any article, section, subsection, sentence, clause, or phrase, of these rules is, for any reason, held to be unconstitutional, contrary to statute, or exceeding the authority of the LPG Board such decision shall not affect the validity of the remaining portion of these rules.

1.8 Conflicts.

In the event where separate requirements pertain to the same situation in the same code, or between different codes or standards as adopted, the more restrictive requirement shall govern, as determined by the enforcing authority.

**R710-6-4. LP Gas Certificates.**

4.1 Application.

Application for an LPG certificate shall be made in writing to the Division. The application shall be signed by the applicant.

4.2 Examination.

Every person who performs any act or acts within the scope of a license issued under these rules, shall pass an initial examination in accordance with the provisions of this article.

4.3 Types of Initial Examinations:

4.3.1 Carburetion

4.3.2 Dispenser

4.3.3 HVAC/Plumber

4.3.4 Recreational Vehicle Service

4.3.5 Serviceman

4.3.6 Transportation and Delivery

4.4 Initial Examinations.

4.4.1 The initial examination shall include an open book written test of the applicant's knowledge of the work to be performed by the applicant. The written examination questions shall be taken from the adopted statute, administrative rules, NFPA 54, and NFPA 58.

4.4.2 The initial examination shall also include a practical or actual demonstration of some selected aspects of the job to be performed by the applicant.

4.4.3 To successfully complete the written and practical initial examinations, the applicant must obtain a minimum grade of seventy percent (70%) in each portion of the examination taken. Each portion of the examination will be graded separately. Failure of any one portion of the examination will not delete the entire test.

4.4.4 Examinations may be given at various field locations as deemed necessary by the Division. Appointments for field examinations are required.

4.4.5 As required in Sections 4.2 and 4.3 of these rules, those applicants that have successfully completed the requirements of the Certified Employee Training Program (CETP), as written by the National Propane Gas Association, and that corresponds to the work to be performed by the applicant, shall have the requirement for initial examination waived, after appropriate documentation is provided to the Division by the applicant.

4.4.6 As required in Sections 4.2 and 4.3 of these rules, those applicants that have successfully completed the requirements in Code of Federal Regulations (CFR) 49, Parts 172.700, 172.704, 177.800 and 177.816, that corresponds to the work to be performed by the applicant, shall have the requirement for initial examination waived, after appropriate documentation is provided to the Division by the applicant.

4.5 Original and Renewal Date.

Original LPG certificates shall be valid for one year from the date of issuance. Thereafter, each LPG certificate shall be renewed annually and renewals thereof shall be valid from for one year from issuance.

4.6 Renewal Date.

Application for renewal shall be made on forms provided by the Division.

4.7 Re-examination.

Every holder of a valid LPG Certificate shall take a re-examination every five years from the date of original certificate issuance, to comply with the provisions of Section 4.3 of these rules as follows:

4.7.1 The re-examination to comply with the provisions of Section 4.3 of these rules shall consist of an open book examination, to be mailed to the certificate holder at least 60 days before the renewal date.

4.7.2 The open book re-examination will consist of questions that focus on changes in the last five years to NFPA 54, NFPA 58, the statute, or the adopted administrative rules. The re-examination may also consist of questions that focus on practices of concern as noted by the Board or Division.

4.7.3 The certificate holder is responsible to complete the re-examination and return it to the Division in sufficient time to renew.

4.7.4 The certificate holder is responsible to return to the Division with the re-examination the correct renewal fees to complete that certificate renewal.

4.7.5 As required in Section 4.7 of these rules, those applicants that have successfully completed the requirements in Code of Federal Regulations (CFR) 49, Parts 172.700, 172.704, 177.800 and 177.816, that corresponds to the work to be performed by the applicant, shall have the requirement for re-examination waived, after appropriate documentation is provided to the Division by the applicant.

4.8 Refusal to Renew.

The Division may refuse to renew any LPG certificate in the same manner and for any reason that is authorized pursuant to Article 5.

4.9 Inspection.

The holder of a LPG certificate shall submit such certificate for inspection, upon request of the Division or the enforcing authority.

4.10 Type.

4.10.1 Every LPG certificate shall indicate the type of act or acts to be performed and for which the applicant has qualified.

4.10.2 Any person holding a valid LPG certificate shall not be authorized to perform any act unless he is a licensee or is employed by a licensed concern.

4.10.3 It is the responsibility of the LPG certificate holder to insure that the concern they are employed by is licensed under this act.

4.11 Change of Address.

Any change in home address of any holder of a valid LPG certificate shall be reported by the registered person to the Division within thirty (30) days of such change.

4.12 Duplicate.

A duplicate LPG certificate may be issued by the Division to replace any previously issued certificate which has been lost or destroyed upon the submission of a written statement to the Division from the certified person. Such statement shall attest to the certificate having been lost or destroyed. If the original is found, it shall be surrendered to the Division within 15 days.

4.13 Contents of Certificate of Registration.

Every LPG certificate issued shall contain the following information:

4.13.1 The name and address of the applicant.

4.13.2 The physical description of applicant.

4.13.3 The signature of the LP Gas Board Chairman.

4.13.4 The date of issuance.

4.13.5 The expiration date.

4.13.6 Type of service the person is qualified to perform.

4.13.7 Have printed on the card the following: "This certificate is for identification only, and shall not be used for recommendation or advertising".

4.14 Minimum Age.

No LPG certificate shall be issued to any person who is under sixteen (16) years of age.

4.15 Restrictive Use.

4.15.1 No LPG certificate shall constitute authorization for any person to enforce any provisions of these rules.

4.15.2 A LPG certificate may be used for identification purposes only as long as such certificate remains valid and while the holder is employed by a licensed concern.

4.15.3 Regardless of the acts for which the applicant has qualified, the performance of only those acts authorized under the licensed concern employing such applicant shall be permissible.

4.15.4 Regardless of the acts authorized to be performed by a licensed concern, only those acts for which the applicant for a LPG certificate has qualified shall be permissible by such applicant.

4.16 Right to Contest.

4.16.1 Every person who takes an examination for a LPG certificate shall have the right to contest the validity of individual questions of such examination.

4.16.2 Every contention as to the validity of individual questions of an examination that cannot be reasonably resolved, shall be made in writing to the Division within 48 hours after taking said examination. Contentions shall state the reason for the objection.

4.16.3 The decision as to the action to be taken on the submitted contention shall be by the Board, and such decision shall be final.

4.16.4 The decision made by the Board, and the action taken, shall be reflected in all future examinations, but shall not affect the grades established in any past examination.

4.17 Non-Transferable.

LPG Certificates shall not be transferable to another individual. Individual LPG certificates shall be carried by the person to whom issued.

4.18 New Employees.

New employees of a licensed concern may perform the various acts while under the direct supervision of persons holding a valid LPG certificate for a period not to exceed 45 days from the initial date of employment. By the end of such period, new employees shall have taken and passed the required examination. In the event the employee fails the examination, re-examination shall be taken within 30 days. The employee shall remain under the direct supervision of an employee holding a valid LPG certificate, until certified.

4.19 Certificate Identification.

Every LPG certificate shall be identified by a number, delineated as PE-(number). Such number shall not be transferred from one person to another.

**KEY: liquefied petroleum gas**
**Date of Enactment or Last Substantive Amendment: [~~September 7, 2006~~]November 8, 2006**
**Notice of Continuation: March 30, 2006**
**Authorizing, and Implemented or Interpreted Law: 53-7-305**

♦ ♦

# Public Safety, Fire Marshal
# R710-10
# Rules Pursuant to Fire Service Training, Education, and Certification

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29044
FILED: 09/15/2006, 22:35

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Fire Prevention Board met in a regularly scheduled Board meeting on September 12, 2006 and proposed by motion and vote that Rule R710-10 be amended. The Board proposes to create a Hazardous Materials Advisory Council that would provide direction to the Board in matters relating to training and certification of hazardous materials.

SUMMARY OF THE RULE OR CHANGE: The Utah Fire Prevention Board proposes to amend Rule R710-10 as follows: 1) a new definition is added at Subsection R710-10-2(2.9); 2) in the new Section R710-10-7, the Board proposes to create a Hazardous Materials Advisory Council that would assist the Board in an advisory manner on matters relating to training and certification of hazardous materials; and 3) the following sections after the new Section R710-10-7 are renumbered.

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

ANTICIPATED COST OR SAVINGS TO:

- THE STATE BUDGET: There is no aggregate anticipated cost or savings to the state budget because the advisory council is staffed by volunteers from other agencies, disciplines, and industries.
- LOCAL GOVERNMENTS: There is no aggregate anticipated cost or savings to local government because this proposed amendment creates an advisory council to a state-appointed board and does not affect local government.
- OTHER PERSONS: There is no aggregate anticipated cost or savings to other persons because the creation of this council and the time needed will be funded by the agencies or industries that are appointed to the council.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance costs for affected persons for the passage of this proposed amendment because the creation of an advisory council is staffed by volunteers from other agencies, disciplines, and industries.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on businesses for the passage of this amendment. Scott T. Duncan, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Brent Halladay at the above address, by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/08/2006

AUTHORIZED BY: Ron L. Morris, Utah State Fire Marshal

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**R710. Public Safety, Fire Marshal.**
**R710-10. Rules Pursuant to Fire Service Training, Education, and Certification.**
**R710-10-2. Definitions.**

2.1 "Academy" means Utah Fire and Rescue Academy.

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

2.3 "Administrator" means Fire Service Education Administrator.

2.4 "Board" means Utah Fire Prevention Board.

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

2.6 "Certification Council" means the Fire Service Certification Council.

2.7 "Certification System" means the Utah Fire Service Certification System.

2.8 "Coordinator" means Fire Service Education Program Coordinator.

2.9 "Hazardous Material" means a substance that can be solid, liquid or gas, that when released is capable of creating harm to people, the environment and property and includes weapons of mass destruction as well as illicit labs, environmental crimes, and industrial sabotage.

2.[~~9~~]10 "Non-Affiliated" means an individual who is not a member of an organized fire department.

2.[~~10~~]11 "Plan" means Fire Academy Strategic Plan.

2.[~~11~~]12 "SFM" means State Fire Marshal or authorized deputy.

2.[~~12~~]13 "Standards Council" means Fire Service Standards and Training Council.

2.[~~13~~]14 "UCA" means Utah Code Annotated, 1953.

2.[~~14~~]15 "Volunteer/Part-Paid Firefighter" means one whose primary employment is not directly related to the fire service.

**R710-10-7. Hazardous Materials Advisory Council.**

7.1 There is created by the Board, the Hazardous Materials Advisory Council, whose duties are to provide direction to the Board in matters relating to training and certification of hazardous materials.

7.2 The Hazardous Materials Advisory Council's members shall be appointed by the Board, shall serve four year terms, and shall consist of the following members:

7.2.1 Representative from the career fire service.

7.2.2 Representative from the volunteer fire service.

7.2.3 Representative from the Department of Environmental Quality.

7.2.4 Representative from the Department of Transportation.

7.2.5 Representative from law enforcement.

7.2.6 Representative from the Fire and Rescue Academy.

7.2.7 Representative from the Hazardous Materials Institute.

7.2.8 Representative from the National Guard.

7.2.9 Representative from the Local Emergency Planning Commission (LEPC).

7.2.10 Representative from private industry.

7.3 The Hazardous Materials Advisory Council shall meet quarterly or as directed, and a majority of the members shall be present to constitute a quorum.

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

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

7.6 A member of the Hazardous Materials Advisory Council that cannot be in attendance, may have a representative of their respective organization attend and vote by proxy for that member or the member may have another council member vote by proxy, if submitted and approved by the Coordinator prior to the meeting.

7.7 The Chair or Vice Chair of the Hazardous Materials Advisory Council shall report to the Board the activities of the council at regularly scheduled Board meetings. The Coordinator may report to the Board the activities of the council in the absence of the Chair or Vice Chair.

7.8 The Hazardous Materials Advisory Council shall consider all subjects presented to them, subjects assigned to them by the Board, and shall report their recommendations to the Board at regularly scheduled Board meetings.

7.9 One-half of the members of the Hazardous Materials Advisory Council shall be reappointed or replaced by the Board every two years.

**R710-10-[~~7~~]8. Utah Fire and Rescue Academy.**

[~~7~~]8.1 The primary fire service training school shall be known as the Utah Fire and Rescue Academy.

[~~7~~]8.2 The Director of the Utah Fire and Rescue Academy shall report to the Administrator the activities of the Academy with regard to completion of the agreed academy contract.

[~~7~~]8.3 The Academy Director may recommend to the Administrator or Coordinator new or expanded standards regarding fire suppression, fire prevention, public fire education, safety, certification, and any other items of necessary interest about the Academy.

[~~7~~]8.4 The Academy shall receive approval from the Administrator, after being presented to the Standards and Training Council, any substantial changes in Academy training programs that vary from the agreed contract.

[~~7~~]8.5 The Academy Director shall provide to the Coordinator by October 1st of each year, a numerical summary of those career, volunteer/part-paid, and non-affiliated students attending the Academy in the following categories:

[~~7~~]8.5.1 Those who have received certification during the previous contract period at each certification level.

[~~7~~]8.5.2 Those who have received an academic degree in any Fire Science category in the previous contract period.

[~~7~~]8.5.3 Those who have completed other Academy classes during the previous contract period.

[~~7~~]8.6 The Academy Director shall provide to the Coordinator by October 1st of each year, a numerical comparison of the categories required in Section 7.5, comparing attendance in the previous contract period.

[~~7~~]8.7 The Academy Director shall provide to the Coordinator by October 1st of each year, in accepted budgeting practices, the following:

[~~7~~]8.7.1 A cost analysis of classes to include the total spent for each class title, the average cost per class, the number of classes delivered, the number of participants per class title, and the cost per participant for each class title provided by the Academy.

[~~7~~]8.7.2 A budget summary comparing amounts budgeted to actual expenditures for each budget code funded by the contract.

[~~7~~]8.8 The Academy Director shall provide to the Coordinator by October 1st of each year, a numerical summary of those students attending Academy courses in the following categories:

[~~7~~]8.8.1 Non-affiliated personnel enrolled in college courses.

[~~7~~]8.8.2 Career fire service personnel enrolled in college credit courses.

[~~7~~]8.8.3 Volunteer and part-paid fire service personnel enrolled in college credit courses.

[~~7~~]8.8.4 Non-affiliated personnel enrolled in non-credit continuing education courses.

[~~7~~]8.8.5 Career fire service personnel enrolled in non-credit continuing education courses.

[~~7~~]8.8.6 Volunteer and part-paid fire service personnel enrolled in non-credit continuing education courses.

[~~7~~]8.9 The Academy Director shall present to the Coordinator by January of each year, proposals to be incorporated in the Academy contract for the next fiscal year.

**R710-10-[~~8~~]9. Non-Affiliated Fire Service Training.**

[~~8~~]9.1 Those training organizations that desire to offer certification through the Certification System for non-affiliated personnel must receive approval in writing from the Standards Council and the Academy Director.

[~~8~~]9.2 Before approval is granted, the training organization requesting approval shall demonstrate the following:

[~~8~~]9.2.1 Complete a written application requesting approval to conduct the training course.

[~~8~~]9.2.2 Designate an approved course coordinator to oversee the course delivery and insure the course meets each of the applicable objectives.

[~~8~~]9.2.3 Insure that qualified instructors are used to teach each subject.

[~~8~~]9.2.4 Insure sufficient student to instructor ratios for all subjects or skills to be taught to include those designated high hazard.

[~~8~~]9.2.5 Demonstrate that sufficient equipment and facilities will be provided to meet the training requirements of the course being taught.

[~~8~~]9.2.6 Maintain course documentation as required through the Certification System to insure that all elements of the necessary training is completed.

[~~8~~]9.2.7 Follow the accepted requirements of the Certification System for requesting testing and certification.

[~~8~~]9.3 As required in Section 8.2.2 of these rules, the designated course coordinator shall meet the following requirements:

[~~8~~]9.3.1 Be currently certified at the certification level as established by the Standards Council.

[~~8~~]9.3.2 Insure that all assigned instructors meet the requirements as required in Section 8.4 of these rules.

[~~8~~]9.3.3 Insure that the course syllabus and practical skills guide meet the requirements of the Certification System.

[~~8~~]9.3.4 Insure that the requirements of Sections 8.2.4, 8.2.5, 8.2.6, and 8.2.7 of these rules are met.

[~~8~~]9.4 As required in Section 8.2.3 of these rules, qualified instructors shall meet the following requirements:

[~~8~~]9.4.1 Must be currently certified at the certification level as established by the Standards Council.

[~~8~~]9.4.2 If the instructor is not certified, instructor qualification can be satisfied by special knowledge, experience or establishment of expertise.

**R710-10-[~~9~~]10. Repeal of Conflicting Board Actions.**

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

**R710-10-[~~10~~]11. Validity.**

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

**R710-10-[~~11~~]12. Adjudicative Proceedings.**

[~~11~~]12.1 All adjudicative proceedings performed by the agency shall proceed informally as set forth herein and as authorized by UCA, Sections 63-46b-4 and 63-46b-5.

[~~11~~]12.2 A person may request a hearing on a decision made by the SFM, his authorized deputies, or the LFA, by filing an appeal to the Board within 20 days after receiving final decision.

[~~11~~]12.3 All adjudicative proceedings, other than criminal prosecution, taken by the SFM, his authorized deputies, or the LFA, to enforce the Utah Fire Prevention and Safety Act and these rules, shall commence in accordance with UCA, Section 63-46b-3.

[~~11~~]12.4 The Board shall act as the hearing authority, and shall convene as an appeals board after timely notice to all parties involved.

[~~11~~]12.5 The Board shall direct the SFM to issue a signed order to the parties involved giving the decision of the Board within a reasonable time of the hearing pursuant to UCA, Section 63-46b-5(i).

[~~11~~]12.6 Reconsideration of the Board's decision may be requested in writing within 20 days of the date of the decision pursuant to UCA, Section 63-46b-13.

[~~11~~]12.7 Judicial review of all final Board actions resulting from informal adjudicative proceedings is available pursuant to UCA, Section 63-46b-15.

**KEY: fire training**
**Date of Enactment or Last Substantive Amendment: [~~March 6, 2006~~]November 8, 2006**
**Authorizing, and Implemented or Interpreted Law: 53-7-204**

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# Public Safety, Fire Marshal
# R710-11
## Fire Alarm System Inspecting and Testing

**NOTICE OF PROPOSED RULE**
(New Rule)
DAR FILE NO.: 29043
FILED: 09/15/2006, 22:02

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Fire Prevention Board met in a regularly scheduled Board meeting on September 12, 2006, and completed a several month establishment of a new administrative rule that was allowed by the Utah State Legislature with the passage of H.B. 266 in the 2006 General Legislative Session. Section 53-7-225.6 directs that those that inspect and test fire alarm systems shall be certified by the State Fire Marshal. Subsection 53-7-204(1)(m) allows the Board to make rules and establish a certification program for those that inspect and test fire alarm systems in the State of Utah. (DAR NOTE: H.B. 266 (2006) is found at Chapter 318, Laws of Utah 2006, and was effective 05/01/2006.)

SUMMARY OF THE RULE OR CHANGE: The Utah Fire Prevention Board met to enact a new set of rules with regard to inspecting and testing of fire alarm systems. In Subsections R710-11-1(1.1) and (1.2), the rule adopts NFPA 72, National Fire Alarm Code, 2002 edition, and the International Fire Code, 2003 edition, as incorporated references. The rule establishes definitions and requirements to secure a certificate of registration, service tags, seal of registration, amendments and additions, adjudicative proceedings, and fees. This rule requires that anyone who wishes to inspect and test fire alarm systems, and that includes any work completed to ensure that the system operates properly, shall be certified by the State Fire Marshal. This proposed rule also establishes three technician levels that require specific examinations be passed before issuance of a certificate of registration.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-7-225.6 and Subsection 53-7-204(1)(m)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: National Fire Protection Association, Standard 72, National Fire Alarm Code, 2002 edition; and International Code Council, International Fire Code, 2003 edition

ANTICIPATED COST OR SAVINGS TO:

- THE STATE BUDGET: There is no anticipated cost or savings to the state budget because any costs to the state will be borne by existing manpower and existing budget.
- LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government because this certification program is directed on a state level.
- OTHER PERSONS: There would be a cost to other persons of approximately $130 to purchase the two listed incorporated references. There will be a $40 certification of registration fee and a $30 testing fee that will be paid the first year of the program. With this being a newly legislated program, the aggregate anticipated cost would be impossible to predict because of the unknown number of technicians in the fire alarm industry that will be certifying and purchasing incorporated references.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance cost for affected persons would be approximately $130 to purchase the incorporated references and $70 the first year to pay the certification and testing fees. For the next two years, it would be a $40 fee to certify.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This newly legislated program has been desired by the fire alarm industry for a period of years. The fire alarm industry has requested legislation to regulate their industry for an extended period of time. The fiscal impact for this newly enacted legislation is not seen to be excessive for the benefits the industry receives from this legislation. Scott T. Duncan, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Brent Halladay at the above address, by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/08/2006

AUTHORIZED BY: Ron L. Morris, Utah State Fire Marshal

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**R710. Public Safety, Fire Marshal.**
**R710-11. Fire Alarm System Inspecting and Testing.**
**R710-11-1. Adoption, Title, Purpose, and Prohibitions.**

Pursuant to Section 53-7-204, Utah Code Annotated 1953, the Utah Fire Prevention Board adopts minimum rules to provide regulation to those who inspect and test fire alarm systems.

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

1.1 National Fire Protection Association (NFPA), Standard 72, National Fire Alarm Code, 2002 edition, except as amended by provisions listed in R710-11-6, et seq.

1.2 International Fire Code (IFC), 2003 edition, as published by the International Code Council, Inc. (ICC), except as amended by provisions listed in R710-11-6, et seq.

1.3 A copy of the above-mentioned standard is on file in the Office of Administrative Rules and the State Fire Marshal's Office.

**R710-11-2. Definitions.**

2.1 "Annual" means a period of one year or 365 calendar days.

2.2 "Authority Having Jurisdiction (AHJ) means the State Fire Marshal, his duly authorized deputies, the local fire enforcement authority, and building officials.

2.3 "Board" means Utah Fire Prevention Board.

2.4 "Certificates of Registration" means a written document issued by the SFM to any person for the purpose of granting permission to such person to perform any act or acts for which authorization is required.

2.5 "Inspecting and Testing" means work completed to ensure that the system operates properly as required in Section 1.2 of these rules.

2.6 "NFPA" means National Fire Protection Association.

2.7 "NICET" means National Institute for Certification in Engineering Technologies.

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

2.9 "Service" means inspecting and testing of fire alarm systems.

2.10 "UCA" means Utah State Code Annotated 1953 as amended.

**R710-11-3. Certificates of Registration.**

3.1 Required Certificates of Registration.

No person shall engage in the inspecting and testing of fire alarm systems without first receiving a certificate of registration issued by the SFM. The following groups are exempted from the requirements of this part:

3.1.1 The AHJ that is performing the initial installation acceptance testing of the fire alarm system or ongoing inspections to verify compliance with the adopted NFPA standards and these rules.

3.1.2 The building owner or designee that performs additional periodic inspections beyond the annual inspection required in Section 6.2 of these rules, to satisfy requirements set by company policy, insurance, or risk management.

3.2 Application.

3.2.1 Application for a certificate of registration to inspect and test fire alarm systems shall be made in writing to the SFM on forms provided by the SFM. The applicant shall sign the application. The SFM or his deputies may request picture identification of the applicant for a certificate of registration.

3.2.2 The applicant shall indicate on the application which of the three technician levels the applicant will apply for:

3.2.2.1 Basic Fire Alarm Technician

3.2.2.2 Fire Alarm Technician

3.2.2.3 Master Fire Alarm Technician

3.2.3 The application for a certificate of registration shall be accompanied with proof of public liability insurance from the certificate holder or employing concern. A public liability insurance carrier showing coverage of at least $100,000 for each incident, and $300,000 in total coverage shall issue the public liability insurance. The certificate of registration holder shall notify the SFM within 30 days after the public liability insurance coverage required is not longer in effect for any reason.

3.3 Technician Examination.

The SFM shall require all applicants for a certificate of registration as a technician to complete the following:

3.3.1 Basic Fire Alarm Technician shall pass a written examination on basic testing of fire alarm systems or shall be certified as a NICET I. The Basic Fire Alarm Technician shall complete the manipulative skills task book. Work as a Basic Fire Alarm Technician shall be performed under direct supervision of a Fire Alarm Technician or Master Fire Alarm Technician.

3.3.2 Fire Alarm Technician shall pass all the requirements listed for Basic Fire Alarm Technician, and shall pass a written examination on basic testing and maintenance of fire alarm systems limited up to and including four story buildings or shall be certified as a NICET II.

3.3.3 Master Fire Alarm Technician shall pass all the requirements listed for Basic Fire Alarm Technician and Fire Alarm Technician, and shall pass a written examination on fire alarm systems in buildings over four stories, voice alarm/evacuation systems, and smoke control systems or shall be certified as a NICET III or as NICET IV.

3.4 To successfully complete the written examination the applicant must obtain a minimum score of seventy percent (70%) in each examination taken. To successfully complete the manipulative skills task book, all required skill tasks shall be signed as completed by a person duly qualified or certified in that skill.

3.5 As required in 3.3 of these rules, those applicants that have successfully completed the requirements and are certified by NICET in the skills that correspond to the work to be performed by the applicant, shall have the requirement for written examination waived, after appropriate documentation is provided to the SFM by the applicant.

3.6 Issuance.

Following receipt of the properly completed application, compliance with Section 3.3 of these rules, the SFM shall issue a certificate of registration.

3.7 Original and Renewal Valid Date.

Original certificates of registration shall be valid for one year from the date of application. Thereafter, each certificate of registration shall be renewed annually and renewals shall be valid for one year from issuance.

3.8 Renewal Date.

Application for renewal shall be made as directed by the SFM.

3.9 Re-examination.

Every holder of a valid certificate of registration shall take a re-examination every three years, from date of original certificate, to comply with the provisions of Section 3.3 of these rules as follows:

3.9.1 The re-examination to comply with the provisions of Section 3.3 of these rules, shall consist of an examination for each level of certification, to be mailed to the certificate holder at least 60 days before the renewal date.

3.9.2 The re-examination will consist of questions that focus on changes in the last three years to the adopted NFPA standards, the statute, and the adopted administrative rules. The re-examination may also consist of questions that focus on practices of concern as noted by the Board or the SFM.

3.9.3 The certificate holder is responsible to complete the re-examination and return it to the SFM in sufficient time to renew.

3.9.4 The certificate holder is responsible to return to the SFM the correct renewal fees to complete that certificate renewal.

3.10 Refusal to Renew.

The SFM may refuse to renew any certificate of registration in the same manner and for any reason that he is authorized, pursuant to Section 7, to deny an original certificate of registration. The

applicant shall, upon such refusal, have the same rights as are granted by Section 7 of these rules to an applicant for an original certificate of registration, which has been denied by the SFM.

3.11 Inspection.

The holder of a certificate of registration shall submit such certificate for inspection, upon request of the AHJ.

3.12 Type.

Every certificate of registration shall indicate the type of act or acts to be performed and for which the applicant has qualified.

3.13 Change of Address.

Any change in home address of any holder of a valid certificate of registration shall be reported in writing, by the registered person to the SFM within 30 days of such change.

3.14 Duplicate.

A duplicate certificate of registration may be issued by the SFM to replace any previously issued certificate, which has been lost or destroyed.

3.15 Minimum Age.

No certificate of registration shall be issued to any person who is under 18 years of age.

3.16 Restrictive Use.

3.16.1 A certificate of registration may be used for identification purposes only as long as such certificate remains valid.

3.16.2 Regardless of the acts authorized to be performed by a licensed concern, only those acts for which the applicant for a certificate of registration has qualified shall be permissible by such applicant.

3.17 Right to Contest.

3.17.1 Every person who takes an examination for a certificate of registration shall have the right to contest the validity of individual questions of such examination.

3.17.2 Every contention as to the validity of individual questions of an examination shall be made within 48 hours after taking said examination.

3.17.3 The decision as to the action to be taken on the submitted contention shall be made by the SFM, and such decision shall be final.

3.17.4 The decision made by the SFM, and the action taken, shall be reflected in all future examinations, but shall not affect the grades established in any past examination.

3.18 Non-Transferable.

Certificates of Registration shall not be transferable. The person to whom issued shall carry individual certificates of registration.

3.19 Certificate of Registration Identification.

Every certificate shall be identified by a number. The certificate of registration shall be worn in a visible manner when inspecting and testing fire alarm systems.

3.20 New Employees

New or existing employees desiring to attain a certificate of registration may perform the various acts required while under the constant direct supervision of a person holding a valid certificate of registration for a period not to exceed 90 days from the initial date of employment or beginning service in the field.

**R710-11-4. Service Tags.**

4.1 Size and Color.

4.1.1 Tags shall be not more than five and one-half inches (5-1/2") in height, nor less than four and one-half inches (4-1/2") in height, and not more than three inches (3") in width, nor less than two and one-half inches (2-1/2") in width.

4.1.2 Tags may be produced in any color except red or a variation of red.

4.1.3 A red tag shall be used to indicate the system fails to ensure a reasonable degree of protection for life and property from fire through inspecting and testing of fire alarm systems as required in NFPA, Standard 72, and the requirements of these rules. After placing the red tag on the system, the certified person shall notify the AHJ and provide the AHJ with a written copy of the noted deficiencies.

4.1.4 If the AHJ reviews the noted deficiencies on the attached red tag and finds the deficiencies are not consistent with the requirements in NFPA, Standard 72, the red tag shall be removed by the certified person that attached the red tag.

4.2 Placement of Tag.

The service tag shall be attached at the fire alarm control panel for each system inspected or at other locations as needed to show compliance. The service tag shall be attached to the control panel in such a position as to be conveniently inspected by the AHJ.

4.3 Tag Information.

4.3.1 Service tags shall bear the following information:

4.3.1.1 Provisions of Section 4.7.

4.3.1.2 Approved Seal of Registration of the SFM.

4.3.1.3 Certificate of registration number of individual who performed or supervised the service or services performed.

4.3.1.4 Signature of individual whose certificate of registration number appears on the tag.

4.3.1.5 Concern's name.

4.3.1.6 Concern's address.

4.3.1.7 Type of service performed.

4.3.1.8 Type of system serviced.

4.3.1.9 Date service is performed.

4.3.2 The above information shall appear on one side of the service tag. All other desired printing or information shall be placed on the reverse side of the tag.

4.4 Legibility.

4.4.1 The certificate of registration number required in Section 4.3.1.3, and the signature required in Section 4.3.1.4, shall be printed or written distinctly.

4.4.2 All information pertaining to date and type of service shall be indicated on the card by perforations in the appropriate space provided. Each perforation shall clearly indicate the desired information.

4.5 Format.

ILLUSTRATION ON FILE IN STATE FIRE MARSHAL'S OFFICE

4.6 New Tag.

A new service tag shall be attached to a system each time a service is performed.

4.7 Tag Wording.

The following wording shall be placed at the top or reinforced ring end of every tag: "DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL".

4.8 Removal.

4.8.1 No person or persons shall remove a service tag except when further service is performed.

4.8.2 No person shall deface, modify, or alter any service tag that is required to be attached to the system.

4.8.3 A red tag can only be removed by written authority from the AHJ. Verbal authority to initially remove the tag is allowed as long as it is followed by written authority.

4.9 Tag Dates.

Service tags may be printed for any number of years not to exceed eight years.

**R710-11-5. Seal of Registration.**

5.1 Description.

The official seal of registration of the SFM shall consist of the following:

5.1.1 The image of the State of Utah shall be in the center with an outer ring stating, "Utah State Fire Marshal".

5.1.1.1 The top portion of the outer ring shall have the wording "Utah State".

5.1.1.2 The bottom portion of the outer ring shall have the wording "Fire Marshal".

5.1.2 Appending below the bottom portion and in a centered position, shall be a box provided for the displaying of the certification number assigned to the person.

5.2 Use of Seal.

No person shall produce, reproduce, or use this seal in any manner or for any purpose except as herein provided.

5.3 Permissive Use.

Certificate holders or concerns shall use the Seal of Registration on every service tag.

5.4 Cease Use Order.

No person or concern shall continue the use of the Seal of Registration in any manner or for any purpose after receipt of a notice in writing from the SFM to that effect, or upon the suspension or revocation of the certificate of registration.

5.5 Legibility.

Every reproduction of the Seal of Registration and every letter and number placed thereon, shall be of sufficient size to render such seal, letter, and number distinct and clearly legible.

**R710-11-6. Amendments and Additions.**

6.1 Service.

At the time of service, all servicing shall be done in accordance with the adopted NFPA standard, adopted statutes, and these rules.

6.2 Frequency.

Fire alarm systems shall be inspected annually by a person holding the appropriate certificate of registration as required in Section 3.1 of these rules.

6.3 Accepted Forms.

The form listed in NFPA, Standard 72, RECORD OF COMPLETION, or equivalent form approved by the SFM shall be used as the accepted forms for testing and inspecting fire alarm systems.

6.4 New Systems.

Newly installed fire alarm systems are exempt from the annual testing requirement required in Section 6.2 of these rules, for one year from the approval date of the initial installation acceptance testing.

6.5 Retroactive Installation of Automatic Fire Alarm Systems.

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

**R710-11-7. Adjudicative Proceedings.**

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

7.2 The issuance, renewal, or continued validity of a certificate of registration may be denied, suspended, or revoked, if the SFM finds that the applicant or the person has committed any of the following violations:

7.2.1 The applicant or person is not the real person of interest.

7.2.2 The applicant or person provides material misrepresentation or false statements on the application.

7.2.3 The applicant or person refuses to allow inspection by the SFM, or his duly authorized deputies.

7.2.4 The applicant or person for a certificate of registration does not have the proper equipment to conduct the operations for which application is made.

7.2.5 The applicant or person for a certificate of registration does not possess the qualifications of skill or competence to conduct the operations for which application is made, as evidenced by failure to pass the examination or manipulative skills pursuant to Section 3.3 of these rules.

7.2.6 The applicant or person refuses to take the examination required by Section 3.3 of these rules.

7.2.7 The applicant or person fails to pay the certification of registration, examination or other required fees as required in Section 8 of these rules.

7.2.8 The applicant or person has been convicted of violating one or more federal, state or local laws.

7.2.9 The applicant or person has been convicted of a violation of the adopted rules or been found by a Board administrative proceeding to have violated the adopted rules.

7.2.10 Any offense or finding of unlawful conduct, or there is or may be, a threat to the public's health or safety if the applicant or person were granted a certificate of registration.

7.2.11 There are other factors upon which a reasonable and prudent person would rely to determine the suitability of the applicant or person to safely and competently engage in the practice of servicing fire alarm system equipment.

7.3 A person whose certificate of registration is suspended or revoked by the SFM shall have an opportunity for a hearing before the Board if requested by that person within 20 days after receiving notice.

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

7.5 The Board shall act as the hearing authority, and shall convene after timely notice to all parties involved. The Board shall be the final authority on the suspension or revocation of a certificate of registration.

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

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

7.8 After a period of three years from the date of revocation, the Board shall review the submitted written application of a person whose certificate of registration has been revoked. After timely notice to all parties involved, the Board shall convene to review the revoked persons application, and that person shall be allowed to present themselves and their case before the Board. After the hearing, the Board shall direct the SFM to allow the person to complete the certification process or shall direct that the revocation be continued.

7.9 Judicial review of all final Board actions resulting from informal adjudicative proceedings shall be conducted pursuant to UCA, Section 63-46b-15.

**R710-11-8. Fees.**
8.1 Fee Schedule.
8.1.1 Certificates of Registration (new and renewals):
8.1.1.1 Certificate of registration - $40.00
8.1.1.2 Duplicate - $30.00
8.1.2 Examinations:
8.1.2.1 Initial examination - $30.00
8.1.2.2 Re-examination - $30.00
8.1.2.3 Three-year examination - $30.00
8.2 Payment of Fees.
The required fee shall accompany the application for certificate of registration. Certificate of registration fees will be refunded if the application is denied.
8.3 Late Renewal Fees.
8.3.1 Any certificate of registration not renewed on or before the original date of issuance will be subject to an additional fee equal to 10% of the required fee.
8.3.2 When a certificate of registration has expired for more than one year, an application shall be made for an original certificate as if the application was being made for the first time.

**KEY: fire alarm systems**
**Date of Enactment or Last Substantive Amendment: November 8, 2006**
**Authorizing, and Implemented or Interpreted Law: 53-7-204**

♦ ♦

# Tax Commission, Auditing
# R865-4D-5
## Special Fuel Tax Entrance Permits Pursuant to Utah Code Ann. Section 59-13-303

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29025
FILED: 09/14/2006, 14:59

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Language in this section duplicates statutory language.

SUMMARY OF THE RULE OR CHANGE: This section is deleted from the rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-13-303

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--The language deleted in the rule currently exists in statute.
❖ LOCAL GOVERNMENTS: None--The language deleted in the rule currently exists in statute.
❖ OTHER PERSONS: None--The language deleted in the rule currently exists in statute.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The deleted language currently appears in statute.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--The deleted language currently appears in statute. D'Arcy Dixon, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2006

AUTHORIZED BY: D'Arcy Dixon, Commissioner

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**R865. Tax Commission, Auditing.**
**R865-4D. Special Fuel Tax.**
**[~~R865-4D-5. Special Fuel Tax Entrance Permits Pursuant to Utah Code Ann. Section 59-13-303.~~**
~~A. Any owner or operator of a qualified motor vehicle entering or traveling within the state of Utah must:~~
~~1. carry in the cab of the vehicle a special fuel permit or license pursuant to Utah Code Ann. Sections 59-13-303, 59-13-305, and 59-13-502, or~~
~~2. purchase a Special Fuel Tax Entrance Permit.~~
~~B. Special Fuel Tax Entrance Permits shall:~~
~~1. state the name and address of the registered owner of the vehicle,~~
~~2. identify the vehicle for which it is issued,~~
~~3. be valid until the expiration of 96 hours from the time of issuance or until the vehicle exits the state, whichever occurs first, and~~
~~4. cost $20.~~
~~C. A person who buys a Special Fuel Tax Entrance Permit for a motor vehicle is required to pay special fuel tax to the user dealer on purchases of special fuel which are delivered into the vehicle's fuel supply tank.~~
~~D. A licensed or permit user having occasion to buy the Special Fuel Tax Entrance Permit is required to report and pay tax on miles traveled under such permit; no credit or refund is allowed on the tax report either for miles traveled under the permit or for dollars paid for the permit.~~

]**KEY: taxation, fuel, special fuel**
**Date of Enactment or Last Substantive Amendment: [~~October 19, 2004~~]2006**
**Notice of Continuation: March 15, 2002**
**Authorizing, and Implemented or Interpreted Law: 59-13-303**

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# Tax Commission, Auditing
# R865-6F-8
## Allocation and Apportionment of Net Income (Uniform Division of Income for Tax Purposes Act) Pursuant to Utah Code Ann. Sections 59-7-302 through 59-7-321

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29026
FILED: 09/14/2006, 15:23

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 78 (2005 General Session) provides that taxpayers may elect a double-weighted sales factor to apportion their business income to Utah. (DAR NOTE: H.B. 78 (2005) is found at Chapter 225, Laws of Utah 2005, and was effective 01/01/2006.)

SUMMARY OF THE RULE OR CHANGE: The proposed amendment indicates how the double-weighted sales factor shall be calculated if one of the factors is missing.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-7-302 through 59-7-321

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--Any fiscal impact was taken into account in H.B. 78 (2005).
❖ LOCAL GOVERNMENTS: None--Any fiscal impact was taken into account in H.B. 78 (2005).
❖ OTHER PERSONS: None--Any fiscal impact was taken into account in H.B. 78 (2005).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Taxpayers may choose between two methods (the traditional three factor and the double-weighted sales factor) to apportion business income to Utah.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Taxpayers may choose between two methods to apportion business income to Utah. D'Arcy Dixon, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2006

AUTHORIZED BY: D'Arcy Dixon, Commissioner

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**R865. Tax Commission, Auditing.**
**R865-6F. Franchise Tax.**
**R865-6F-8. Allocation and Apportionment of Net Income (Uniform Division of Income for Tax Purposes Act) Pursuant to Utah Code Ann. Sections 59-7-302 through 59-7-321.**

[~~A.~~](1) Business and Nonbusiness Income Defined. Section 59-7-302 defines business income as income arising from transactions and activity in the regular course of the taxpayer's trade or business operations. In essence, all income that arises from the conduct of trade or business operations of a taxpayer is business income. For purposes of administration of the Uniform Division of Income for Tax Purposes Act (UDITPA), the income of the taxpayer is business income unless clearly classifiable as nonbusiness income.

[~~1.~~](a) Nonbusiness income means all income other than business income and shall be narrowly construed.

[~~2.~~](b) The classification of income by the labels occasionally used, such as manufacturing income, compensation for services, sales income, interest, dividends, rents, royalties, gains, operating income, and nonoperating income, is of no aid in determining whether income is business or nonbusiness income. Income of any type or class and from any source is business income if it arises from transactions and activity occurring in the regular course of a trade or business. Accordingly, the critical element in determining whether income is business income or nonbusiness income is the identification of the transactions and activity that are the elements of a particular trade or business. In general, all transactions and activities of the taxpayer that are dependent upon or contribute to the operation of the taxpayer's economic enterprise as a whole constitute the taxpayer's trade or business and will be transactions and activity arising in the regular course of business, and will constitute integral parts of a trade or business.

[~~3.~~](c) Business and Nonbusiness Income. Application of Definitions. The following are rules for determining whether particular income is business or nonbusiness income:

[~~a~~](i) Rents from real and tangible personal property. Rental income from real and tangible property is business income if the property with respect to which the rental income was received is used in the taxpayer's trade or business or is incidental thereto and therefore is includable in the property factor under [~~G.1.a~~]Subsection (7)(a)(i).

[~~b~~](ii) Gains or Losses from Sales of Assets. Gain or loss from the sale, exchange or other disposition of real or tangible or intangible personal property constitutes business income if the property while owned by the taxpayer was used in the taxpayer's trade or business. However, if the property was utilized for the production of nonbusiness income the gain or loss will constitute nonbusiness income. See [~~G.1.b~~]Subsection (7)(a)(ii).

[~~c~~](iii) Interest. Interest income is business income where the intangible with respect to which the interest was received arises out of or was created in the regular course of the taxpayer's trade or business operations or where the purpose for acquiring and holding the intangible is related to or incidental to trade or business operations.

[~~d~~](iv) Dividends. Dividends are business income where the stock with respect to which the dividends are received arises out of or was acquired in the regular course of the taxpayer's trade or business operations or where the purpose for acquiring and holding the stock is related to or incidental to the trade or business operations. Because of the regularity with which most corporate taxpayers engage in investment activities, because the source of capital for those investments arises in the ordinary course of a taxpayer's business, because the income from those investments is utilized in the ordinary course of the taxpayer's business and because those investment assets are used for general credit purposes, income arising from the ownership or sale or other disposition of investments is presumptively business income. This presumption may be rebutted if the taxpayer can prove that the investment is unrelated to the regular trade or business activities.

[~~e~~](v) Proration of Deductions. In most cases an allowable deduction of a taxpayer will be applicable only to the business income arising from the trade or business or to a particular item of nonbusiness income. In some cases an allowable deduction may be applicable to the business income and to nonbusiness income. In those cases the deduction shall be prorated among the business and nonbusiness income in a manner that fairly distributes the deduction among the classes of income to which it is applicable.

[~~f~~](vi) A schedule must be submitted with the return showing:

[~~(1)~~](A) the gross income from each class of income being allocated;

[~~(2)~~](B) the amount of each class of applicable expenses, together with explanation or computations showing how amounts were arrived at;

[~~(3)~~](C) the total amount of the applicable expenses for each income class; and

[~~(4)~~](D) the net income of each income class. The schedules should provide appropriate columns as set forth above for items allocated to this state and for items allocated outside this state.

[~~g~~](vii) In filing returns with this state, if the taxpayer departs from or modifies the manner of prorating any such deduction used in returns for prior years, the taxpayer shall disclose in the return for the current year the nature and extent of the modification.

[~~h~~](viii) If the returns or reports filed by a taxpayer with all states to which the taxpayer reports under UDITPA are not uniform in the application or proration of any deduction, the taxpayer shall disclose in its return to this state the nature and extent of the variance.

[~~B.~~](2) Definitions.

[~~1.~~](a) "Taxpayer," for purposes of this rule, is as defined in Section 59-7-101.

[~~2.~~](b) "Apportionment" means the division of business income between states by the use of a formula containing apportionment factors.

[~~3.~~](c) "Allocation" means the assignment of nonbusiness income to a particular state.

[~~4.~~](d) "Business activity" refers to the transactions and activity occurring in the regular course of the trade or business of a taxpayer.

[~~5.~~](e) "Gross receipts" are the gross amounts realized (the sum of money and the fair market value of other property or services received) on the sale or exchange of property, the performance of services, or the use of property or capital (including rents, royalties, interest and dividends) in a transaction that produces business income, in which the income or loss is recognized (or would be recognized if the transaction were in the United States) under the Internal Revenue Code. Amounts realized on the sale or exchange or property are not reduced for the cost of goods sold or the basis of property sold.

[~~a~~](i) Gross receipts, even if business income, do not include such items as, for example:

[~~(1)~~](A) repayment, maturity, or redemption of the principal of a loan, bond, or mutual fund or certificate of deposit or similar marketable instrument;

[~~(2)~~](B) the principal amount received under a repurchase agreement or other transaction properly characterized as a loan;

[~~(3)~~](C) proceeds from issuance of the taxpayer's own stock or from sale of treasury stock;

[~~(4)~~](D) damages and other amounts received as the result of litigation;

[~~(5)~~](E) property acquired by an agent on behalf of another;

[~~(6)~~](F) tax refunds and other tax benefit recoveries;

[~~(7)~~](G) pension reversions;

[~~(8)~~](H) contributions to capital (except for sales of securities by securities dealers);

[~~(9)~~](I) income from forgiveness of indebtedness; or

[~~(10)~~](J) amounts realized from exchanges of inventory that are not recognized by the Internal Revenue Code.

[~~b~~](ii) Exclusion of an item from the definition of "gross receipts" is not determinative of its character as business or nonbusiness income. Nothing in this definition shall be construed to modify, impair or supersede any provision of J.

[~~C.~~](3) Apportionment and Allocation.

[~~1.~~](a)(i) If the business activity with respect to the trade or business of a taxpayer occurs both within and without this state, and if by reason of that business activity the taxpayer is taxable in another state, the portion of the net income (or net loss) arising from the trade or business derived from sources within this state shall be determined by apportionment in accordance with Sections 59-7-311 to 59-7-319.

(ii) For purposes of determining the fraction by which business income shall be apportioned to this state under Section 59-7-311:

(A) Except as provided in Subsection (3)(a)(ii)(B), if a taxpayer does not make an election to double weight the sales factor under Subsection 59-7-311(3) and one or more of the factors listed in Subsection 59-7-311(2)(a) is missing, the fraction by which business income shall be apportioned to the state shall be determined by adding the factors present and dividing that sum by the number of factors present.

(B) If a taxpayer has made an election to double weight the sales factor under Section 59-7-311(3) and if the sales factor is present, the denominator of the fraction described in Subsection (3)(a)(ii)(A) shall be increased by one.

[~~2.~~](b) Allocation. Any taxpayer subject to the taxing jurisdiction of this state shall allocate all of its nonbusiness income or loss within or without this state in accordance with Sections 59-7-306 to 59-7-310.

[~~D.~~](4) Consistency and Uniformity in Reporting. In filing returns with this state, if the taxpayer departs from or modifies the manner in which income has been classified as business income or nonbusiness income in returns for prior years, the taxpayer shall disclose in the return for the current year the nature and extent of the modification. If the returns or reports filed by a taxpayer for all states to which the taxpayer reports under UDITPA are not uniform in the classification of income as business or nonbusiness income, the taxpayer shall disclose in its return to this state the nature and extent of the variance.

[~~E.~~](5) Taxable in Another State.

[~~1.~~](a) In General. Under Section 59-7-303 the taxpayer is subject to the allocation and apportionment provisions of UDITPA if it has income from business activity that is taxable both within and without this state. A taxpayer's income from business activity is taxable without this state if the taxpayer, by reason of business activity (i.e., the transactions and activity occurring in the regular course of the trade or business), is taxable in another state within the meaning of Section 59-7-305. A taxpayer is taxable within another state if it meets either one of two tests:

[~~a)~~](i) if by reason of business activity in another state the taxpayer is subject to one of the types of taxes specified in Section 59-7-305(1), namely: a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

[~~b)~~](ii) if by reason of business activity another state has jurisdiction to subject the taxpayer to a net income tax, regardless of whether the state imposes that tax on the taxpayer. A taxpayer is not taxable in another state with respect to the trade or business merely because the taxpayer conducts activities in that state pertaining to the production of nonbusiness income.

[~~2.~~](b) When a Taxpayer Is Subject to a Tax Under Section 59-7-305. A taxpayer is subject to one of the taxes specified in Section 59-7-305(1) if it carries on business activity in a state and that state imposes such a tax thereon. Any taxpayer that asserts that it is subject to one of the taxes specified in Section 59-7-305(1) in another state shall furnish to the Tax Commission, upon its request, evidence to support that assertion. The Tax Commission may request that the evidence include proof that the taxpayer has filed the requisite tax return in the other state and has paid any taxes imposed under the law of the other state. The taxpayer's failure to produce that proof may be taken into account in determining whether the taxpayer is subject to one of the taxes specified in Section 59-7-305(1) in the other state. If the taxpayer voluntarily files and pays one or more taxes when not required to do so by the laws of that state or pays a minimal fee for qualification, organization, or for the privilege of doing business in that state, but

[~~a)~~](i) does not actually engage in business activity in that state, or

[~~b)~~](ii) does actually engage in some business activity, not sufficient for nexus, and the minimum tax bears no relation to the taxpayer's business activity within that state, the taxpayer is not subject to one of the taxes specified within the meaning of Section 59-7-305(1).

[~~3.~~](c) When a State Has Jurisdiction to Subject a Taxpayer to a Net Income Tax. The second test, that of Section 59-7-305(2), applies if the taxpayer's business activity is sufficient to give the state jurisdiction to impose a net income tax by reason of business activity under the Constitution and statutes of the United States. Jurisdiction to tax is not present where the state is prohibited from imposing the tax by reason of the provisions of Public Law 86-272, 15 U. S. C. A. Sec. 381-385 (P.L. 86-272). In the case of any state as defined in Section 59-7-302(6), other than a state of the United States or political subdivision of a state, the determination of whether a state has jurisdiction to subject the taxpayer to a net income tax shall be made as though the jurisdictional standards applicable to a state of the United States applied in that state. If jurisdiction is otherwise present, the state is not considered as without jurisdiction by reason of the provisions of a treaty between that state and the United States.

[~~F.~~](6) Apportionment Formula. All business income of the taxpayer shall be apportioned to this state by use of the apportionment formula set forth in Section 59-7-311. The elements of the apportionment formula are the property factor, see [~~G. below~~]Subsection (7), the payroll factor, see [~~H. below~~]Subsection (8), and the sales factor, see [~~I. below,~~]Subsection (9) of the trade or business of the taxpayer. For exceptions see [~~J. below~~]Subsection (10).

[~~G.~~](7) Property Factor.

[~~1.~~](a) In General.

[~~a)~~](i) The property factor of the apportionment formula shall include all real and tangible personal property owned or rented by the taxpayer and used during the tax period in the regular course of its trade or business. Real and tangible personal property includes land, buildings, machinery, stocks of goods, equipment, and other real and tangible personal property but does not include coin or currency.

[~~b)~~](ii) Property used in connection with the production of nonbusiness income shall be excluded from the property factor. Property used both in the regular course of the taxpayer's trade or business and in the production of nonbusiness income shall be included in the factor only to the extent the property is used in the regular course of the taxpayer's trade or business. The method of determining the portion of the value to be included in the factor will depend upon the facts of each case.

[~~c)~~](iii) The property factor shall reflect the average value of property includable in the factor. Refer to [~~G.6~~]Subsection (7)(f).

[~~2.~~](b) Property Used for the Production of Business Income. Property shall be included in the property factor if it is actually used or is available for or capable of being used during the tax period in the regular course of the trade or business of the taxpayer. Property held as reserves or standby facilities or property held as a reserve source of materials shall be included in the factor. For example, a plant temporarily idle or raw material reserves not currently being processed are includable in the factor. Property or equipment under construction during the tax period, except inventoriable goods in process, shall be excluded from the factor until the property is actually used in the regular course of the trade or business of the taxpayer. If the property is partially used in the regular course of the trade or business of the taxpayer while under construction, the value of the property to the extent used shall be included in the property factor.

[~~3.~~](c) Consistency in Reporting. In filing returns with this state, if the taxpayer departs from or modifies the manner of valuing property, or of excluding or including property in the property factor, used in returns for prior years, the taxpayer shall disclose in the return for the current year the nature and extent of the modification. If the returns or reports filed by the taxpayer with all states to which the taxpayer reports under UDITPA are not uniform in the valuation of property and in the exclusion or inclusion of property in the property factor, the taxpayer shall disclose in its return to this state the nature and extent of the variance.

[~~4.~~](d) Numerator. The numerator of the property factor shall include the average value of the real and tangible personal property owned or rented by the taxpayer and used in this state during the tax period in the regular course of the trade or business of the taxpayer. Property in transit between locations of the taxpayer to which it belongs shall be considered to be at the destination for purposes of the property factor. Property in transit between a buyer and seller that is included by a taxpayer in the denominator of its property factor in accordance with its regular accounting practices shall be included in the numerator according to the state of destination. The value of mobile or movable property such as construction equipment, trucks, or leased electronic equipment that are located within and without this state during the tax period shall be determined for purposes of the numerator of the factor on the basis of total time within the state during the tax period. An automobile assigned to a traveling employee shall be included in the numerator of the factor of the state to which the employee's compensation is assigned under the payroll factor or in the numerator of the state in which the automobile is licensed.

[~~5.~~](e) Valuation of Owned Property.

[~~a~~](i) Property owned by the taxpayer shall be valued at its original cost. As a general rule original cost is deemed to be the basis of the property for state franchise or income tax purposes (prior to any adjustments) at the time of acquisition by the taxpayer and adjusted by subsequent capital additions or improvements thereto and partial disposition thereof, by reasons including sale, exchange, and abandonment. However, capitalized intangible drilling and development costs shall be included in the property factor whether or not they have been expensed for either federal or state tax purposes.

[~~b~~](ii) Inventory of stock of goods shall be included in the factor in accordance with the valuation method used for state tax purposes.

[~~c~~](iii) Property acquired by gift or inheritance shall be included in the factor at its basis for determining depreciation.

[~~6.~~](f) Valuation of Rented Property.

[~~a~~](i) Property rented by the taxpayer is valued at eight times its net annual rental rate. The net annual rental rate for any item of rented property is the annual rental rate paid by the taxpayer for the property, less the aggregate annual subrental rates paid by subtenants of the taxpayer. See [~~J.2.~~]Subsection (10)(b) for special rules where the use of the net annual rental rate produces a negative or clearly inaccurate value or where property is used by the taxpayer at no charge or rented at a nominal rental rate.

[~~b~~](ii) Subrents are not deducted when the subrents constitute business income because the property that produces the subrents is used in the regular course of the trade or business of the taxpayer when it is producing the income. Accordingly there is no reduction in its value.

[~~c~~](iii) Annual rental rate is the amount paid as rental for property for a 12-month period; i.e., the amount of the annual rent. Where property is rented for less than a 12-month period, the rent paid for the actual period of rental shall constitute the annual rental rate for the tax period. However, where a taxpayer has rented property for a term of 12 or more months and the current tax period covers a period of less than 12 months (due, for example, to a reorganization or change of accounting period), the rent paid for the short tax period shall be annualized. If the rental term is for less than 12 months, the rent shall not be annualized beyond its term. Rent shall not be annualized because of the uncertain duration when the rental term is on a month to month basis.

[~~d~~](iv) Annual rent is the actual sum of money or other consideration payable, directly or indirectly, by the taxpayer or for its benefit for the use of the property and includes:

[~~(1)~~](A) Any amount payable for the use of real or tangible personal property, or any part thereof, whether designated as a fixed sum of money or as a percentage of sales, profits or otherwise.

[~~(2)~~](B) Any amount payable as additional rent or in lieu of rents, such as interest, taxes, insurance, repairs or any other items that are required to be paid by the terms of the lease or other arrangement, not including amounts paid as service charges, such as utilities, and janitor services. If a payment includes rent and other charges unsegregated, the amount of rent shall be determined by consideration of the relative values of the rent and other items.

[~~e~~](v) Annual rent does not include:

[~~(1)~~](A) incidental day-to-day expenses such as hotel or motel accommodations, or daily rental of automobiles;

[~~(2)~~](B) royalties based on extraction of natural resources, whether represented by delivery or purchase. For this purpose, a royalty includes any consideration conveyed or credited to a holder of an interest in property that constitutes a sharing of current or future production of natural resources from that property, irrespective of the method of payment or how that consideration may be characterized, whether as a royalty, advance royalty, rental, or otherwise.

[~~f~~](vi) Leasehold improvements shall, for the purposes of the property factor, be treated as property owned by the taxpayer regardless of whether the taxpayer is entitled to remove the improvements or the improvements revert to the lessor upon expiration of the lease. Hence, the original cost of leasehold improvements shall be included in the factor.

[~~7.~~](g) Averaging Property Values. As a general rule, the average value of property owned by the taxpayer shall be determined by averaging the values at the beginning and end of the tax period. However, the Tax Commission may require or allow averaging by monthly values if that method of averaging is required to properly reflect the average value of the taxpayer's property for the tax period.

[~~a~~](i) Averaging by monthly values will generally be applied if substantial fluctuations in the values of the property exist during the tax period or where property is acquired after the beginning of the tax period or disposed of before the end of the tax period.

[~~b~~](ii) Example: The monthly value of the taxpayer's property was as follows:

TABLE

| | |
|---|---|
| January | $ 2,000 |
| February | 2,000 |
| March | 3,000 |
| April | 3,500 |
| May | 4,500 |
| June | 10,000 |
| July | 15,000 |
| August | 17,000 |
| September | 23,000 |
| October | 25,000 |
| November | 13,000 |
| December | 2,000 |
| Total | $120,000 |

The average value of the taxpayer's property includable in the property factor for the income year is determined as follows:

$120,000 / 12 = $10,000

[~~c~~](iii) Averaging with respect to rented property is achieved automatically by the method of determining the net annual rental rate of the property as set forth in [~~G.6.a~~)]Subsection (7)(f)(i).

[~~H.~~](8) Payroll Factor.

[~~1.~~](a) The payroll factor of the apportionment formula shall include the total amount paid by the taxpayer in the regular course of its trade or business for compensation during the tax period.

[~~2.~~](b) The total amount paid to employees is determined upon the basis of the taxpayer's accounting method. If the taxpayer has adopted the accrual method of accounting, all compensation properly accrued shall be deemed to have been paid. Notwithstanding the taxpayer's method of accounting, at the election of the taxpayer, compensation paid to employees may be included in the payroll factor by use of the cash method if the taxpayer is required to report compensation under that method for unemployment compensation purposes. The compensation of any employee on account of activities that are connected with the production of nonbusiness income shall be excluded from the factor.

[~~3.~~](c) The term "compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services. Payments made to an independent contractor or any other person not properly classifiable as an employee are excluded. Only amounts paid directly to employees are included in the payroll factor. Amounts considered paid directly include the value of board, rent, housing, lodging, and other benefits or services furnished to employees by the taxpayer in return for personal services.

[~~a~~](i) The term "employee" means:

[~~(1)~~](A) any officer of a corporation; or

[~~(2)~~](B) any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee. Generally, a person will be considered to be an employee if he is included by the taxpayer as an employee for purposes of the payroll taxes imposed by the Federal Insurance Contributions Act. However, since certain individuals are included within the term employees in the Federal Insurance Contributions Act who would not be employees under the usual common law rules, it may be established that a person who is included as an employee for purposes of the Federal Insurance Contributions Act is not an employee for purposes of this rule.

[~~b~~](ii)(A) In filing returns with this state, if the taxpayer departs from or modifies the treatment of compensation paid used in returns for prior years, the taxpayer shall disclose in the return for the current year the nature and extent of the modification.

[~~(1)~~](B) If the returns or reports filed by the taxpayer with all states to which the taxpayer reports under UDITPA are not uniform in the treatment of compensation paid, the taxpayer shall disclose in its return to this state the nature and extent of the variance.

[~~4.~~](d) Denominator. The denominator of the payroll factor is the total compensation paid everywhere during the tax period. Accordingly, compensation paid to employees whose services are performed entirely in a state where the taxpayer is immune from taxation, for example, by P.L. 86-272, are included in the denominator of the payroll factor.

[~~5.~~](e) Numerator. The numerator of the payroll factor is the total amount paid in this state during the tax period by the taxpayer for compensation. The tests in Section 59-7-316 to be applied in determining whether compensation is paid in this state are derived from the Model Unemployment Compensation Act. Accordingly, if compensation paid to employees is included in the payroll factor by use of the cash method of accounting or if the taxpayer is required to report compensation under that method for unemployment compensation purposes, it shall be presumed that the total wages reported by the taxpayer to this state for unemployment compensation purposes constitute compensation paid in this state except for compensation excluded under H. The presumption may be overcome by satisfactory evidence that an employee's compensation is not properly reportable to this state for unemployment compensation purposes.

[~~6.~~](f) Compensation Paid in this State. Compensation is paid in this state if any one of the following tests applied consecutively are met:

[~~a~~](i) The employee's service is performed entirely within the state.

[~~b~~](ii) The employee's service is performed entirely within and without the state, but the service performed without the state is incidental to the employee's service within the state. The word incidental means any service that is temporary or transitory in nature, or that is rendered in connection with an isolated transaction.

[~~c~~](iii) If the employee's services are performed both within and without this state, the employee's compensation will be attributed to this state:

[~~(1)~~](A) if the employee's base of operations is in this state; or

[~~(2)~~](B) if there is no base of operations in any state in which some part of the service is performed, but the place from which the service is directed or controlled is in this state; or

[~~(3)~~](C) if the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed but the employee's residence is in this state.

[~~d~~](iv) The term "base of operations" is the place of more or less permanent nature from which the employee starts his work and to which he customarily returns in order to receive instructions from the taxpayer or communications from his customers or other persons or to replenish stock or other materials, repair equipment, or perform any other functions necessary to the exercise of his trade or profession at some other point or points. The term "place from which the service is directed or controlled" means the place from which the power to direct or control is exercised by the taxpayer.

[~~1.~~](9) Sales Factor. In General.

[~~1.~~](a) Section 59-7-302(5) defines the term "sales" to mean all gross receipts of the taxpayer not allocated under Section 59-7-306 through 59-7-310. Thus, for purposes of the sales factor of the apportionment formula for the trade or business of the taxpayer, the term sales means all gross receipts derived by the taxpayer from transactions and activity in the regular course of the trade or business. The following are rules determining sales in various situations.

[~~a~~](i) In the case of a taxpayer engaged in manufacturing and selling or purchasing and reselling goods or products, sales includes all gross receipts from the sales of goods or products (or other property of a kind that would properly be included in the inventory of the taxpayer if on hand at the close of the tax period) held by the taxpayer primarily for sale to customers in the ordinary course of its trade or business. Gross receipts for this purpose means gross sales, less returns and allowances and includes all interest income, service charges, carrying charges, or time-price differential charges incidental to sales. Federal and state excise taxes (including sales taxes) shall be included as part of receipts if taxes are passed on to the buyer or included as part of the selling price of the product.

[~~b~~](ii) In the case of cost plus fixed fee contracts, such as the operation of a government-owned plant for a fee, sales includes the entire reimbursed cost, plus the fee.

[~~c~~](iii) In the case of a taxpayer engaged in providing services, such as the operation of an advertising agency, or the performance of equipment service contracts, or research and development contracts, sales includes the gross receipts from the performance of services including fees, commissions, and similar items.

[~~d~~](iv) In the case of a taxpayer engaged in renting real or tangible property, sales includes the gross receipts from the rental, lease or licensing of the use of the property.

[~~e~~](v) In the case of a taxpayer engaged in the sale, assignment, or licensing of intangible personal property such as patents and copyrights, sales includes the gross receipts therefrom.

[~~f~~](vi) If a taxpayer derives receipts from the sale of equipment used in its business, those receipts constitute sales. For example, a truck express company owns a fleet of trucks and sells its trucks under a regular replacement program. The gross receipts from the sales of the trucks are included in the sales factor.

[~~g~~](vii) In some cases certain gross receipts should be disregarded in determining the sales factor in order that the apportionment formula will operate fairly to apportion to this state the income of the taxpayer's trade or business. See [~~J.3~~]Subsection (10)(c).

[~~h~~](viii) In filing returns with this state, if the taxpayer departs from or modifies the basis for excluding or including gross receipts in the sales factor used in returns for prior years, the taxpayer shall disclose in the return for the current year the nature and extent of the modification.

[~~i~~](ix) If the returns or reports filed by the taxpayer with all states to which the taxpayer reports under UDITPA are not uniform in the inclusion or exclusion of gross receipts, the taxpayer shall disclose in its return to this state the nature and extent of the variance.

[~~2.~~](b) Denominator. The denominator of the sales factor shall include the total gross receipts derived by the taxpayer from transactions and activity in the regular course of its trade or business, except receipts excluded under [~~J.3~~]Subsection (10)(c).

[~~3.~~](c) Numerator. The numerator of the sales factor shall include gross receipts attributable to this state and derived by the taxpayer from transactions and activity in the regular course of its trade or business. All interest income, service charges, carrying charges, or time-price differential charges incidental to gross receipts shall be included regardless of the place where the accounting records are maintained or the location of the contract or other evidence of indebtedness.

[~~4.~~](d) Sales of Tangible Personal Property in this State.

[~~a~~](i) Gross receipts from the sales of tangible personal property (except sales to the United States government; see [~~I.5.~~]Subsection (9)(e) are in this state:

[~~(1)~~](A) if the property is delivered or shipped to a purchaser within this state regardless of the f.o.b. point or other conditions of sale; or

[~~(2)~~](B) if the property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the taxpayer is not taxable in the state of the purchaser.

[~~b~~](ii) Property shall be deemed to be delivered or shipped to a purchaser within this state if the recipient is located in this state, even though the property is ordered from outside this state.

[~~c~~](iii) Property is delivered or shipped to a purchaser within this state if the shipment terminates in this state, even though the property is subsequently transferred by the purchaser to another state.

[~~d~~](iv) The term "purchaser within this state" shall include the ultimate recipient of the property if the taxpayer in this state, at the designation of the purchaser, delivers to or has the property shipped to the ultimate recipient within this state.

[~~e~~](v) When property being shipped by a seller from the state of origin to a consignee in another state is diverted while en route to a purchaser in this state, the sales are in this state.

[~~f~~](vi) If the taxpayer is not taxable in the state of the purchaser, the sale is attributed to this state if the property is shipped from an office, store, warehouse, factory, or other place of storage in this state.

[~~g~~](vii) If a taxpayer whose salesman operates from an office located in this state makes a sale to a purchaser in another state in which the taxpayer is not taxable and the property is shipped directly by a third party to the purchaser, the following rules apply:

[~~(1)~~](A) If the taxpayer is taxable in the state from which the third party ships the property, then the sale is in that state.

[~~(2)~~](B) If the taxpayer is not taxable in the state from which the property is shipped, the sale is in this state.

[~~5.~~](e)(i) Sales of Tangible Personal Property to United States Government in this state.

[~~a~~](ii) Gross receipts from the sales of tangible personal property to the United States government are in this state if the property is shipped from an office, store, warehouse, factory, or other place of storage in this state. For purposes of this rule, only sales for which the United States government makes direct payment to the seller pursuant to the terms of a contract constitute sales to the United States government. Thus, as a general rule, sales by a subcontractor to the prime contractor, the party to the contract with the United States government, do not constitute sales to the United States government.

[~~6.~~](f) Sales Other than Sales of Tangible Personal Property in this State.

[~~a~~](i) In general, Section 59-7-319(1) provides for the inclusion in the numerator of the sales factor of gross receipts from transactions other than sales of tangible personal property (including transactions with the United States government). Under Section 59-7-319(1), gross receipts are attributed to this state if the income producing activity that gave rise to the receipts is performed wholly within this state. Also, gross receipts are attributed to this state if, with respect to a particular item of income, the income producing activity is performed within and without this state but the greater proportion of the income producing activity is performed in this state, based on costs of performance.

[~~b~~](ii) The term "income producing activity" applies to each separate item of income and means the transactions and activity directly engaged in by the taxpayer in the regular course of its trade or business for the ultimate purpose of obtaining gains or profit. Income producing activity does not include transactions and activities performed on behalf of a taxpayer, such as those conducted on its behalf by an independent contractor. Accordingly, the income producing activity includes the following:

[~~(1)~~](A) the rendering of personal services by employees or the utilization of tangible and intangible property by the taxpayer in performing a service;

[~~(2)~~](B) the sale, rental, leasing, or licensing or other use of real property;

[~~(3)~~](C) the rental, leasing, licensing or other use of intangible personal property; or

[~~(4)~~](D) the sale, licensing or other use of intangible personal property. The mere holding of intangible personal property is not, of itself, an income producing activity.

[~~c~~](iii) The term "costs of performance" means direct costs determined in a manner consistent with generally accepted accounting principles and in accordance with accepted conditions or practices in the trade or business of the taxpayer.

[~~d~~](iv) Receipts (other than from sales of tangible personal property) in respect to a particular income producing activity are in this state if:

[~~(1)~~](A) the income producing activity is performed wholly within this state; or

[~~(2)~~](B) the income producing activity is performed both in and outside this state and a greater proportion of the income producing

activity is performed in this state than in any other state, based on costs of performance.

[~~e~~](v) The following are special rules for determining when receipts from the income producing activities described below are in this state:

[~~(1)~~](A) Gross receipts from the sale, lease, rental or licensing of real property are in this state if the real property is located in this state.

[~~(2)~~](B) Gross receipts from the rental, lease, or licensing of tangible personal property are in this state if the property is located in this state. The rental, lease, licensing or other use of tangible personal property in this state is a separate income producing activity from the rental, lease, licensing or other use of the same property while located in another state. Consequently, if the property is within and without this state during the rental, lease or licensing period, gross receipts attributable to this state shall be measured by the ratio that the time the property was physically present or was used in this state bears to the total time or use of the property everywhere during the period.

[~~(3)~~](C) Gross receipts for the performance of personal services are attributable to this state to the extent services are performed in this state. If services relating to a single item of income are performed partly within and partly without this state, the gross receipts for the performance of services shall be attributable to this state only if a greater portion of the services were performed in this state, based on costs of performance. Usually where services are performed partly within and partly without this state, the services performed in each state will constitute a separate income producing activity. In that case, the gross receipts for the performance of services attributable to this state shall be measured by the ratio that the time spent in performing services in this state bears to the total time spent in performing services everywhere. Time spent in performing services includes the amount of time expended in the performance of a contract or other obligation that gives rise to gross receipts. Personal service not directly connected with the performance of the contract or other obligations, as for example, time expended in negotiating the contract, is excluded from the computations.

[~~J.~~](10) Special Rules:

[~~1.~~](a) Section 59-7-320 provides that if the allocation and apportionment provisions of UDITPA do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for, or the tax administrator may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

[~~a~~](i) separate accounting;

[~~b~~](ii) the exclusion of any one or more of the factors;

[~~c~~](iii) the inclusion of one or more additional factors that will fairly represent the taxpayer's business activity in this state; or

[~~d~~](iv) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

[~~2.~~](b) Property Factor.

The following special rules are established in respect to the property factor of the apportionment formula:

[~~a~~](i) If the subrents taken into account in determining the net annual rental rate under G.6.b) produce a negative or clearly inaccurate value for any item of property, another method that will properly reflect the value of rented property may be required by the Tax Commission or requested by the taxpayer. In no case however, shall the value be less than an amount that bears the same ratio to the annual rental rate paid by the taxpayer for property as the fair market value of that portion of property used by the taxpayer bears to the total fair market value of the rented property.

[~~b~~](ii) If property owned by others is used by the taxpayer at no charge or rented by the taxpayer for a nominal rate, the net annual rental rate for the property shall be determined on the basis of a reasonable market rental rate for that property.

[~~3.~~](c) Sales Factors.

The following special rules are established in respect to the sales factor of the apportionment formula:

[~~a~~](i) Where substantial amounts of gross receipts arise from an incidental or occasional sale of a fixed asset used in the regular course of the taxpayer's trade or business, those gross receipts shall be excluded from the sales factor. For example, gross receipts from the sale of a factory or plant will be excluded.

[~~b~~](ii) Insubstantial amounts of gross receipts arising from incidental or occasional transactions or activities may be excluded from the sales factor unless exclusion would materially affect the amount of income apportioned to this state. For example, the taxpayer ordinarily may include or exclude from the sales factor gross receipts from such transactions as the sale of office furniture, and business automobiles.

[~~c~~](iii) Where the income producing activity in respect to business income from intangible personal property can be readily identified, that income is included in the denominator of the sales factor and, if the income producing activity occurs in this state, in the numerator of the sales factor as well. For example, usually the income producing activity can be readily identified in respect to interest income received on deferred payments on sales of tangible property, see [~~I.1.a)~~]Subsection (9)(a)(i), and income from the sale, licensing or other use of intangible personal property, see [~~I.6.b)(4)~~]Subsection (9)(f)(ii)(D).

[~~(1)~~](A) Where business income from intangible property cannot readily be attributed to any particular income producing activity of the taxpayer, the income cannot be assigned to the numerator of the sales factor for any state and shall be excluded from the denominator of the sales factor. For example, where business income in the form of dividends received on stock, royalties received on patents or copyrights, or interest received on bonds, debentures or government securities results from the mere holding of the intangible personal property by the taxpayer, such dividends and interest shall be excluded from the denominator of the sales factor.

[~~(2)~~](B) Exclude from the denominator of the sales factor, receipts from the sales of securities unless the taxpayer is a dealer therein.

[~~d~~](iv) Where gains and losses on the sale of liquid assets are not excluded from the sales factor by other provisions under [~~J.3.a)~~]Subsections (10)(c)(i) through [~~c~~](iii), such gains or losses shall be treated as provided in this [~~J.3.d)~~]Subsection (10)(c)(iv). This [~~J.3.d)~~]Subsection (10)(c)(iv) does not provide rules relating to the treatment of other receipts produced from holding or managing such assets.

[~~(1)~~](A) If a taxpayer holds liquid assets in connection with one or more treasury functions of the taxpayer, and the liquid assets produce business income when sold, exchanged or otherwise disposed, the overall net gain from those transactions for each treasury function for the tax period is included in the sales factor. For purposes of this [~~J.3.d)~~]Subsection (10)(c)(iv), each treasury function will be considered separately.

[~~(2)~~](B) For purposes of this [~~J.3.d)~~]Subsection (10)(c)(iv), a liquid asset is an asset (other than functional currency or funds held in bank accounts) held to provide a relatively immediate source of funds to satisfy the liquidity needs of the trade or business. Liquid assets include:

[~~(a)~~](I) foreign currency (and trading positions therein) other than functional currency used in the regular course of the taxpayer's trade or business;

[~~(b)~~](II) marketable instruments (including stocks, bonds, debentures, options, warrants, futures contracts, etc.); and

[~~(c)~~](III) mutual funds which hold such liquid assets.

[~~(3)~~](C) An instrument is considered marketable if it is traded in an established stock or securities market and is regularly quoted by brokers or dealers in making a market. Stock in a corporation which is unitary with the taxpayer, or which has a substantial business relationship with the taxpayer, is not considered marketable stock.

[~~(4)~~](D) For purposes of this J.3.d), a treasury function is the pooling and management of liquid assets for the purpose of satisfying the cash flow needs of the trade or business, such as providing liquidity for a taxpayer's business cycle, providing a reserve for business contingencies, business acquisitions, etc. A taxpayer principally engaged in the trade or business of purchasing and selling instruments or other items included in the definition of liquid assets set forth herein is not performing a treasury function with respect to income so produced.

[~~(5)~~](E) Overall net gain refers to the total net gain from all transactions incurred at each treasury function for the entire tax period, not the net gain from a specific transaction.

[~~4.~~](d) Domestic International Sales Corporation (DISC). In any case in which a corporation, subject to the income tax jurisdiction of Utah, owns 50 percent or more of the voting power of the stock of a corporation classified as a DISC under the provisions of Sec. 992 Internal Revenue Code, a combined filing with the DISC corporation is required.

[~~5.~~](e) Partnership or Joint Venture Income. Income or loss from partnership or joint venture interests shall be included in income and apportioned to Utah through application of the three-factor formula consisting of property, payroll and sales. For apportionment purposes, the portion of partnership or joint venture property, payroll and sales to be included in the corporation's property, payroll and sales factors shall be computed on the basis of the corporation's ownership interest in the partnership or joint venture, and otherwise in accordance with other applicable provisions of this rule.

**KEY: taxation, franchises, historic preservation, trucking industries**
**Date of Enactment or Last Substantive Amendment: [~~July 20, 2005~~]2006**
**Notice of Continuation: April 3, 2002**
**Authorizing, and Implemented or Interpreted Law: 59-7-302 through 59-7-321**

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# Tax Commission, Auditing
# R865-6F-16
## Apportionment of Income of Long-Term Construction Contractors Pursuant to Utah Code Ann. Sections 59-7-302 through 321, and 59-7-501

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29029
FILED: 09/14/2006, 15:38

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 78 (2005 General Session) provides that taxpayers may elect a double-weighted sales factor to apportion their business income to Utah. (DAR NOTE: H.B. 78 (2005) is found at Chapter 225, Laws of Utah 2005, and was effective 01/01/2006.)

SUMMARY OF THE RULE OR CHANGE: The proposed amendment indicates how the double-weighted sales factor shall be calculated if one of the factors is missing.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-7-302 through 59-7-321

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--Any fiscal impact was taken into account in H.B. 78 (2005).
❖ LOCAL GOVERNMENTS: None--Any fiscal impact was taken into account in H.B. 78 (2005).
❖ OTHER PERSONS: None--Any fiscal impact was taken into account in H.B. 78 (2005).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Taxpayers may choose between two methods (the traditional three factor and the double-weighted sales factor) to apportion business income to Utah.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Taxpayers may choose between two methods to apportion business income to Utah. D'Arcy Dixon, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2006

AUTHORIZED BY: D'Arcy Dixon, Commissioner

**R865. Tax Commission, Auditing.**
**R865-6F. Franchise Tax.**
**R865-6F-16. Apportionment of Income of Long-Term Construction Contractors Pursuant to Utah Code Ann. Sections 59-7-302 through 321[~~, and 59-7-501~~].**

[~~A.~~](1) When a taxpayer elects to use the percentage-of-completion method of accounting, or the completed contract method of accounting for long-term contracts, and has income from sources both within and without this state, the amount of business income derived from such long- term contracts from sources within this state is determined pursuant to this rule.

[~~B.~~](2) Business income is apportioned to this state by a three-factor formula consisting of property, payroll, and sales--regardless of the method of accounting for long-term contracts elected by the taxpayer. [~~The total of the property, payroll, and sales percentages is divided by three to determine the apportionment percentage. The apportionment percentage is then applied to business income to determine the amount apportioned to this state.~~]The fraction by which business income shall be apportioned to the state shall be determined in accordance with rule R865-6F-8(3) and (6). Except as modified by this rule, the property factor shall be determined in accordance with R865-6F-8(7), the payroll factor in accordance with R865-6F-8(8), and the sales factor in accordance with R865-6F-8(9).

[~~1.~~](a) Percentage-of-completion method. Under this method of accounting for long-term contracts, the amount included each year as business income from each contract is the amount by which the gross contract price (which corresponds to the percentage of the entire contract completed during the income years) exceeds all expenditures made during the income year in connection with the contract. Beginning and ending material and supplies inventories must be appropriately accounted for in reporting expenditures.

[~~2.~~](b) Completed-contract method. Under this method of accounting, business income derived from long-term contracts is reported for the income year in which the contract is completed. A special computation is required to compute the amount of business income attributable to this state from each completed contract. All receipts and expenditures applicable to the contracts, whether complete or incomplete at the end of the income year, are excluded from other business income, which are apportioned by the regular three-factor formula of property, payroll, and sales.

[~~C.~~](3) Property factor. In general, the numerator and denominator of the property factor is determined as set forth in [~~Utah Code Ann.~~ ]Sections 59-7-312, 59-7-313, and 59-7-314 and the rules thereunder. However, the following special rules are also applicable:

[~~1.~~](a) The average value of the taxpayer's cost (including materials and labor) of construction in progress, to the extent these costs exceed progress billings, are included in the denominator of the property factor. The value of those construction costs attributable to construction projects in this state are included in the numerator of the property factor. It may be necessary to use monthly averages if yearly averages do not properly reflect the average value of the taxpayer's equity.

[~~2.~~](b) Rent paid for the use of equipment directly attributable to a particular construction project is included in the property factor at eight times the net annual rental rate, even though the rental expense may be capitalized into the cost of construction.

[~~3.~~](c) The property factor is computed in the same manner for all long-term-contract methods of accounting and is computed for each income year, even though under the completed-contract method of accounting business income is computed separately.

[~~D.~~](4) Payroll factor. In general, the numerator and denominator of the payroll factor are determined as set forth in [~~Utah Code Ann.~~ ]Sections 59-7-315 and 59-7-316 and the rules thereunder. However, the following special rules are also applicable.

[~~1.~~](a) Compensation paid to employees attributable to a particular construction project is included in the payroll factor even though capitalized into the cost of construction.

[~~2.~~](b) Compensation paid to employees who, in the aggregate, perform most of their services in a state to which their employer does not report them for unemployment tax purposes, is attributed to the state where the services are performed. For example, a taxpayer engaged in a long-term contract in State X sends several key employees to that state to supervise the project. The taxpayer, for unemployment tax purposes reports these employees to State Y where the main office is maintained and where the employees reside. For payroll factor purposes and in accordance with [~~Utah Code Ann.~~ ]Section 59-7-316 and the rule thereunder, the compensation is assigned to the numerator of State X.

[~~3.~~](c) The payroll factor is computed in the same manner for all long-term-contract methods of accounting and is computed for each income year, even though under the completed contract method of accounting, business income is computed separately.

[~~E.~~](5) Sales Factor. In general, the numerator and denominator of the sales factor shall be determined as set forth in [~~Utah Code Ann.~~ ]Sections 59-7-317, 59-7-318, and 59-7-319 and the rules thereunder. However, the following special rules are also applicable.

[~~1.~~](a) Gross receipts derived from the performance of a contract are attributable to this state if the construction project is located in this state. If the construction project is located partly within and partly without this state, the gross receipts attributable to this state are based upon the ratio which construction costs for the project in this state incurred during the coming year bears to the total of such construction costs for the entire project during the income year. Progress billings are ordinarily used to reflect gross receipts and must be shown in both the numerator and denominator of the sales factor.

[~~2.~~](b) If the percentage-of-completion method is used, the sales factor includes only that portion of the gross contract price which corresponds to the percentage of the entire contract which was completed during the income year. For example, a construction contractor which had elected the percentage-of-completion method of accounting entered into a $9,000,000 long-term construction contract. At the end of its current income year (the second since starting the project) it estimated that the project was 30 percent completed. The amount of gross receipts included in the sales factor for the current income year is $2,700,000 (30 percent of $9,000,000), regardless of whether the taxpayer uses the accrual method or the cash method of accounting for receipts and disbursements.

[~~3.~~](c) If the completed-contract method of accounting is used, the sales factor includes the portion of the gross receipts (progress billings) received under the cash basis or accrued, whichever is applicable, during the income year attributable to each contract. For example, a construction contractor which elected the completed-contract method of accounting entered into a long-term construction contract. At the end of its current income year (the second since starting the project) it had billed, and accrued on its books a total of $5,000,000 of which $2,000,000 had accrued in the first year the contract was undertaken, and $3,000,000 in the current (second) year. The amount of gross receipts included in the sales factor for the current income year is $3,000,000. If the taxpayer keeps its books on the cash basis, and as of the end of its current income year has received only

$2,500,000 of the $3,000,000 billed during the current year, the amount of gross receipts to be included in the sales factor for the current year is $2,500,000.

[~~4.~~](d) The sales factor, except as noted above in [~~subparagraphs 2. and 3.~~]Subsections (5)(b) and (c), is computed in the same manner for all long-term contract methods of accounting and is computed for each income year--even though under the completed-contract method of accounting, business income is computed separately.

[~~F.~~](6) The total of the property, payroll, and sales percentages is divided by three to determine the apportionment percentage which is then applied to business income to establish the amount apportioned to this state.

[~~G.~~](7) The completed-contract method of accounting provides that the reporting of income (or loss) is deferred until the year the construction project is completed. In order to determine the amount of income which is attributable to sources within this state, a separate computation is made for each contract completed during the income year, regardless of whether the project is located within or without this state. The amount of income from each contract completed during the income year apportioned to this state is added to other business income apportioned to this state by the regular three-factor formula, and that total together with all nonbusiness income allocated to this state becomes the measure of tax for the income year. The amount of income (or loss) from each contract which is derived from sources within this state using the completed-contract method of accounting is computed as follows.

[~~1.~~](a) In the income year the contract is completed, the income (or loss) therefrom is determined.

[~~2.~~](b) The income (or loss) determined at [~~Paragraph G.1.~~]Subsection (7)(a) is apportioned to this state by the following method:

[~~(a)~~](i) a fraction is determined for each year the contract was in progress (the numerator of which is the amount of construction costs paid or accrued each year the contract was in progress, and the denominator of which is the total of all construction costs for the project);

[~~(b)~~](ii) each [~~percentage~~]fraction determined in [~~(a)~~]Subsection (7)(b)(i) is multiplied by the apportionment formula percentage for that particular year;

[~~(c)~~](iii) these factors are totaled; and

[~~(d)~~](iv) the total income is multiplied by this combined percentage, and the resulting income (or loss) is the amount of contract business income assigned to this state.

[~~3.~~](c) A corporation using the completed-contract method of accounting is required to include income derived from sources within this state from contracts within or without this state or income from incomplete contracts in progress outside this state in the year of withdrawal, dissolution, or cessation of business pursuant to [~~Paragraph G.4~~]Subsection (7)(d).

[~~4.~~](d) The amount of income (or loss) from each such contract apportioned to this state is determined as if the percentage-of-completion method of accounting were used for all such contracts on the date of withdrawal, dissolution, or cessation of business. The amount of business income (or loss) for each such contract is the amount by which the gross contract price from each such contract from the commencement thereof to the date of withdrawal, dissolution, or cessation of business exceeds all expenditures made during such period in connection with each such contract. Beginning and ending material and supplies inventories must be appropriately accounted for in reporting expenditures in connection with each contract.

**KEY: taxation, franchises, historic preservation, trucking industries**
**Date of Enactment or Last Substantive Amendment: [~~July 20, 2005~~]2006**
**Notice of Continuation: April 3, 2002**
**Authorizing, and Implemented or Interpreted Law: 59-7-302 through 59-7-321**

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# Tax Commission, Auditing
# R865-6F-19
## Taxation of Trucking Companies Pursuant to Utah Code Ann. Sections 59-7-302 through 59-7-321

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29021
FILED: 09/14/2006, 14:44

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 78 (2005 General Session) provides that taxpayers may elect a double-weighted sales factor to apportion their business income to Utah. (DAR NOTE: H.B. 78 (2005) is found at Chapter 225, Laws of Utah 2005, and was effective 01/01/2006.)

SUMMARY OF THE RULE OR CHANGE: The proposed amendment indicates how the double-weighted sales factor shall be calculated if one of the factors is missing.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-7-302 through 59-7-321

ANTICIPATED COST OR SAVINGS TO:
- ❖ THE STATE BUDGET: None--Any fiscal impact was taken into account in H.B. 78 (2005).
- ❖ LOCAL GOVERNMENTS: None--Any fiscal impact was taken into account in H.B. 78 (2005).
- ❖ OTHER PERSONS: None--Any fiscal impact was taken into account in H.B. 78 (2005).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Taxpayers may choose between two methods (the traditional three factor and the double-weighted sales factor) to apportion business income to Utah.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Taxpayers may choose between two methods to apportion sales tax to Utah. D'Arcy Dixon, Commissioner

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

210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2006

AUTHORIZED BY: D'Arcy Dixon, Commissioner

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**R865. Tax Commission, Auditing.**
**R865-6F. Franchise Tax.**
**R865-6F-19. Taxation of Trucking Companies Pursuant to Utah Code Ann. Sections 59-7-302 through 59-7-321.**

[~~A.~~](1) Definitions:

[~~1.~~](a) "Average value" of property means the amount determined by averaging the values of real and personal property at the beginning and end of the income tax year. The Tax Commission may require the averaging of monthly values during the income year or other averaging as necessary to reflect properly the average value of the trucking company's property.

[~~2.~~](b) "Business and nonbusiness income" are as defined in R865- 6F-8[~~(A)~~](1).

[~~3.~~](c) "Mobile property" means all motor vehicles, including trailers, engaged directly in the movement of tangible personal property.

[~~4.~~](d) "Mobile property mile" means the movement of a unit of mobile property a distance of one mile, whether loaded or unloaded.

[~~5.~~](e) "Original cost" means the basis of the property for federal income tax purposes (prior to any federal income tax adjustments, except for subsequent capital additions, improvements thereto, or partial dispositions); or if the property has no such basis, or if the valuation of the property is unascertainable under the foregoing valuation standards, the property is included in the property factor at its fair market value as of the date of acquisition by the taxpayer.

[~~6.~~](f) "Property used during the course of the income year" means property that is available for use in the taxpayer's trade or business during the income year.

[~~7.~~](g) "Trucking company" means a [~~corportion~~]corporation engaged in or transacting the business of transporting freight, merchandise, or other property for hire.

[~~8.~~](h) "Value of owned real and tangible personal property" means the original cost of owned real and tangible personal property.

[~~9.~~](i) "Value of rented real and tangible personal property" means the product of eight times the net annual rental rate of rented real and tangible personal property.

[~~B.~~](2) When a trucking company has income from sources both within and without this state, the amount of business income from sources within this state shall be determined pursuant to this rule. In those cases, the first step is to determine what portion of the trucking company's income constitutes business income and what portion constitutes nonbusiness income. Nonbusiness income is directly allocable to specific states and business income is apportioned among the states in which the business is conducted and pursuant to the property, payroll, and sales apportionment factors set forth in this rule. The sum of the items of nonbusiness income directly allocated to this state, plus the amount of business income apportioned to this state, constitutes the amount of the taxpayer's entire net income subject to tax in this state.

[~~C.~~](3) [~~In general, the~~]The fraction by which business income shall be apportioned to the state shall be determined in accordance with rule R865-6F-8(3) and (6). Except as modified by this rule, the property factor shall be determined in accordance with R865-6F-8[~~(G)~~](7), the payroll factor in accordance with R865-6F-8[~~(H)~~](8), and the sales factor in accordance with R865-6F-8[~~(I)~~](9)[~~, except as modified by this rule~~].

[~~D.~~](4) The denominator of the property factor shall be the average value of the total of the taxpayer's real and tangible personal property owned or rented and used within and without this state during the income year. The numerator of the property factor shall be the average value of the taxpayer's real and tangible personal property owned or rented and used, or available for use, within this state during the income year.

[~~1.~~](a) In the determination of the numerator of the property factor, all property, except mobile property, shall be included in the numerator of the property factor.

[~~2.~~](b) Mobile property located within and without this state during the income year shall be included in the numerator of the property factor in the ratio that the mobile property's miles within this state bear to the total miles of mobile property within and without this state.

[~~E.~~](5) The denominator of the payroll factor is the compensation paid within and without this state by the taxpayer during the income year for the production of business income. The numerator of the payroll factor is the compensation paid within this state during the income year by the taxpayer for the production of business income.

[~~1.~~](a) With respect to all personnel, except those performing services within and without this state, compensation shall be included in the numerator as provided in R865-6F-8[~~(H)~~](8).

[~~2.~~](b) With respect to personnel performing services within and without this state, compensation shall be included in the numerator of the payroll factor in the ratio that their services performed within this state bear to their services performed within and without this state.

[~~F.~~](6) In general, all revenue derived from transactions and activities in the regular course of the taxpayer's trade or business that produce business income shall be included in the denominator of the revenue factor. The numerator of the revenue factor is the total revenue of the taxpayer in this state during the income year.

[~~1.~~](a) The total state revenue of the taxpayer, other than revenue from hauling freight, mail, and express, shall be attributable to this state in accordance with R865-6F-8[~~(I)~~](9).

[~~2.~~](b) The total revenue of the taxpayer attributable to this state during the income year from hauling freight, mail, and express shall be:

[~~a~~](i) Intrastate: all receipts from any shipment that both originates and terminates within this state; and

[~~b~~](ii) Interstate: that portion of the receipts from movements or shipments passing through, into, or out of this state as determined

by the ratio that the mobile property miles traveled by the movements or shipments within this state bear to the total mobile property miles traveled by the movements or shipments within and without this state.

[~~G.~~](7) The taxpayer shall maintain the records necessary to identify mobile property and to enumerate by state the mobile property miles traveled by mobile property. These records are subject to review by the Tax Commission or its agents.

[~~H.~~](8) This rule requires apportionment of income to this state if during the course of the income tax year, the trucking company:

[~~1.~~](a) owned or rented any real or personal property in this state;

[~~2.~~](b) made any pickups or deliveries within this state;

[~~3.~~](c) traveled more than 25,000 mobile property miles within this state, provided that the total mobile property miles traveled within this state during the income tax year exceeded three percent of the total mobile property miles traveled in all states by the trucking company during the period; or [~~4.~~](d) made more than 12 trips into this state.

**KEY: taxation, franchises, historic preservation, trucking industries**
**Date of Enactment or Last Substantive Amendment: [~~July 20, 2005~~]2006**
**Notice of Continuation: April 3, 2002**
**Authorizing, and Implemented or Interpreted Law: 59-7-302 through 59-7-321**

♦ ♦

# Tax Commission, Auditing
# R865-6F-29
# Taxation of Railroads Pursuant to Utah Code Ann. Sections 59-7-302 through 59-7-321

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29020
FILED: 09/14/2006, 14:40

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 78 (2005 General Session) provides that taxpayers may elect a double-weighted sales factor to apportion their business income to Utah. (DAR NOTE: H.B. 78 (2005) is found at Chapter 225, Laws of Utah 2005, and was effective 01/01/2006.)

SUMMARY OF THE RULE OR CHANGE: The proposed amendment indicates how the double-weighted sales factor shall be calculated if one of the factors is missing.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-7-302 through 59-7-321

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--Any fiscal impact was taken into account in H.B. 78 (2005).
❖ LOCAL GOVERNMENTS: None--Any fiscal impact was taken into account in H.B. 78 (2005).
❖ OTHER PERSONS: None--Any fiscal impact was taken into account in H.B. 78 (2005).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Taxpayers may choose between two methods (the traditional three factor and the double-weighted sales factor) to apportion business income to Utah.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Taxpayers may choose between two methods to apportion business income to Utah. D'Arcy Dixon, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2006

AUTHORIZED BY: D'Arcy Dixon, Commissioner

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**R865. Tax Commission, Auditing.**
**R865-6F. Franchise Tax.**
**R865-6F-29. Taxation of Railroads Pursuant to Utah Code Ann. Sections 59-7-302 through 59-7-321.**

[~~A.~~](1) Definitions.

[~~1.~~](a) "Average value" of property means the amount determined by averaging the values of real and personal property at the beginning and ending of the income tax year. The Tax Commission may require the averaging of monthly values during the income year or other averaging as necessary to reflect properly the average value of the railroad's property.

[~~2.~~](b) "Business and nonbusiness income" are as defined in R865-6F-8[~~(A)~~](1).

[~~3.~~](c) "Car-mile" means a movement of a unit of car equipment a distance of one mile.

[~~4.~~](d) "Locomotive" means a self-propelled unit of equipment designed solely for moving other equipment.

[~~5.~~](e) "Locomotive-mile" means the movement of a locomotive a distance of one mile under its own power.

[~~6.~~](f) "Net annual rental rate" means the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

[~~7.~~](g) "Original cost" means the basis of the property for federal income tax purposes (prior to any federal income tax adjustments except for subsequent capital additions, improvements thereto or partial dispositions). If the original cost of property is unascertainable under the foregoing valuation standards, the property is included in the property factor at its fair market value as of the date of acquisition by the taxpayer.

[~~8.~~](h) "Property used during the income year" means property that is available for use in the taxpayer's trade or business during the income year.

[~~9.~~](i) "Rent" does not include the per diem and mileage charges paid by the taxpayer for the temporary use of railroad cars owned or operated by another railroad.

[~~10.~~](j) "Value of owned real and tangible personal property" means the original cost of owned real and tangible personal property.

[~~11.~~](k) "Value of rented real and tangible personal property" means the product of eight times the net annual rental rate of rented real and tangible personal property.

[~~B.~~](2) When a railroad has income from sources both within and without this state, the amount of business income from sources within this state shall be determined pursuant to this rule. In those cases, the first step is to determine what portion of the railroad's income constitutes business income and what portion constitutes nonbusiness income. Nonbusiness income is directly allocable to specific states and business income is apportioned among the states in which the business is conducted and pursuant to the property, payroll, and sales apportionment factors set forth in this rule. The sum of the items of nonbusiness income directly allocated to this state, plus the amount of business income apportioned to this state, constitutes the amount of the taxpayer's entire net income subject to tax in this state.

[~~C.~~](3) [~~In general, the~~]The fraction by which business income shall be apportioned to the state shall be determined in accordance with rule R865-6F-8(3) and (6). Except as modified by this rule, the property factor shall be determined in accordance with R865-6F-8[~~(G)~~](7), the payroll factor in accordance with R865-6F-[~~08(H)~~]8(8),and the sales factor in accordance with R865-6F- 8[~~(I)~~](9)[~~, except as modified by this rule~~].

[~~D.~~](4) The denominator of the property factor shall be the average value of the total of the taxpayer's real and tangible personal property owned or rented and used within and without this state during the income year. The numerator of the property factor shall be the average value of the taxpayer's real and tangible personal property owned or rented and used within this state during the income year.

[~~1.~~](a) In determining the numerator of the property factor, all property except mobile or movable property such as passenger cars, freight cars, locomotives and freight containers located within and without this state during the income year shall be included in the numerator of the property factor.

[~~2.~~](b) Mobile or movable property such as passenger cars, freight cars, locomotives and freight containers located within and without this state during the income year shall be included in the numerator of the property factor in the ratio that locomotive-miles and car-miles in the state bear to the total of locomotive-miles and car-miles both within and without this state.

[~~E.~~](5) The denominator of the payroll factor is the total compensation paid within and without this state by the taxpayer during the income year for the production of business income. The numerator of the payroll factor is the amount of compensation paid within this state during the income year for the production of business income.

[~~1.~~](a) With respect to all personnel except engine men and trainmen performing services on interstate trains, compensation shall be included in the numerator as provided in R865-6F-8[~~(H)~~](8).

[~~2.~~](b) With respect to engine men and trainmen performing services on interstate trains, compensation shall be included in the numerator of the payroll factor in the ratio that their services performed in this state bear to their services performed within and without this state.

[~~3.~~](c) Compensation for services performed in this state shall be deemed to be the compensation reported or required to be reported by employees for determination of their income tax liability to this state.

[~~F.~~](6) In general, all revenue derived from transactions and activities in the regular course of the taxpayer's trade or business within and without this state that produce business income, except per diem and mileage charges that are calculated by the taxpayer, shall be included in the denominator of the revenue factor. The numerator of the revenue factor is the total revenue of the taxpayer within this state during the income year.

[~~1.~~](a) The total revenue of the taxpayer in this state during the income year, other than revenue from hauling freight, passengers, mail and express, shall be attributable to this state in accordance with R865-6F-8[~~(I)~~](9).

[~~2.~~](b) The total revenue of the taxpayer attributable to this state during the income year for the numerator of the revenue factor from hauling freight, mail and express shall be attributable to this state as follows:

[~~a)~~](i) Intrastate: all receipts from shipments that both originate and terminate within this state; and

[~~b)~~](ii) Interstate: that portion of the receipts from each movement or shipment passing through, into, or out of this state is determined by the ratio that the miles traveled by the movement or shipment in this state bears to the total miles traveled by the movement or shipment from point of origin to destination.

[~~3.~~](c) The total revenue of the taxpayer attributable to this state during the income year for the numerator of the revenue factor from hauling passengers shall be attributable to this state as follows:

[~~a)~~](i) Intrastate: all receipts from the transportation of passengers, including mail and express handled in passenger service, that both originate and terminate within this state; and

[~~b)~~](ii) Interstate: that portion of the receipts from the transportation of interstate passengers, including mail and express handled in passenger service, determined by the ratio that passenger miles in this state bear to the total of passenger miles within and without this state.

[~~G.~~](7) The taxpayer shall maintain the records necessary to identify mobile property and to enumerate by state the mobile property miles traveled by mobile property. These records are subject to review by the Tax Commission or its agents.

**KEY: taxation, franchises, historic preservation, trucking industries**

**Date of Enactment or Last Substantive Amendment: [~~July 20, 2005~~]2006**

**Notice of Continuation: April 3, 2002**

**Authorizing, and Implemented or Interpreted Law: 59-7-302 through 59-7-321**

# Tax Commission, Auditing
# R865-6F-31
## Taxation of Publishing Companies Pursuant to Utah Code Ann. Sections 59-7-302 through 59-7-321

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29031
FILED: 09/14/2006, 15:51

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 78 (2005 General Session) provides that taxpayers may elect a double-weighted sales factor to apportion their business income to Utah. (DAR NOTE: H.B. 78 (2005) is found at Chapter 225, Laws of Utah 2005, and was effective 01/01/2006.)

SUMMARY OF THE RULE OR CHANGE: The proposed amendment indicates how the double-weighted sales factor shall be calculated if one of the factors is missing.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-7-302 through 59-7-321

ANTICIPATED COST OR SAVINGS TO:
- THE STATE BUDGET: None--Any fiscal impact was taken into account in H.B. 78 (2005).
- LOCAL GOVERNMENTS: None--Any fiscal impact was taken into account in H.B. 78 (2005).
- OTHER PERSONS: None--Any fiscal impact was taken into account in H.B. 78 (2005).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Taxpayers may choose between two methods (the traditional three factor and the double-weighted sales factor) to apportion business income to Utah.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Taxpayers may choose between two methods to apportion business income to Utah. D'Arcy Dixon, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2006

AUTHORIZED BY: D'Arcy Dixon, Commissioner

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**R865. Tax Commission, Auditing.**
**R865-6F. Franchise Tax.**
**R865-6F-31. Taxation of Publishing Companies Pursuant to Utah Code Ann. Sections 59-7-302 through 59-7-321.**

[~~A.~~](1) Definitions.

[~~1.~~](a) "Outer-jurisdictional property" means certain types of tangible personal property, such as orbiting satellites, undersea transmission cables and the like, that are owned or rented by the taxpayer and used in the business of publishing, licensing, selling or otherwise distributing printed material, but that are not physically located in any particular state.

[~~2.~~](b) "Print" or "printed material" means the physical embodiment or printed version of any thought or expression, including a play, story, article, column or other literary, commercial, educational, artistic or other written or printed work. The determination of whether an item is or consists of print or printed material shall be made without regard to its content. Printed material may take the form of a book, newspaper, magazine, periodical, trade journal, or any other form of printed matter and may be contained on any medium or property.

[~~3.~~](c) "Purchaser" and "subscriber" mean the individual, residence, business or other outlet that is the ultimate or final recipient of the print or printed material. Neither term shall mean or include a wholesaler or other distributor of print or printed material.

[~~4.~~](d) "Terrestrial facility" shall include any telephone line, cable, fiber optic, microwave, earth station, satellite dish, antennae, or other relay system or device that is used to receive, transmit, relay or carry any data, voice, image or other information that is transmitted from or by any outer-jurisdictional property to the ultimate recipient thereof.

[~~B.~~](2) When a taxpayer in the business of publishing, selling, licensing or distributing books, newspapers, magazines, periodicals, trade journals, or other printed material has income from sources both within and without this state, the amount of business income from sources within this state shall be determined pursuant to this rule. In those cases, the first step is to determine what portion of the taxpayer's income constitutes business income and what portion constitutes nonbusiness income. Nonbusiness income is directly allocable to specific states and business income is apportioned among the states in which the business is conducted and pursuant to the property, payroll, and sales apportionment factors set forth in this rule. The sum of the items of nonbusiness income directly allocated to this state, plus the amount of business income apportioned to this state, constitutes the amount of the taxpayer's entire net income subject to tax in this state.

[~~C.~~](3) [~~In general, the~~]The fraction by which business income shall be apportioned to the state shall be determined in accordance with rule R865-6F-8(3) and (6). Except as modified by this rule, the property factor shall be determined in accordance with R865-6F-8[~~(G)~~](7), the payroll factor in accordance with R865-6F-8[~~(H)~~](8), and the sales factor in accordance with R865-6F-8[~~(I)~~](9)[~~, except as modified by this rule~~].

[~~D.~~](4) All real and tangible personal property, including outer-jurisdictional property, whether owned or rented, that is used in the business shall be included in the denominator of the property factor.

[~~E.~~](5)(a) All real and tangible personal property owned or rented by the taxpayer and used within this state during the tax period shall be included in the numerator of the property factor.

[~~1.~~](b) Outer-jurisdictional property owned or rented by the taxpayer and used in this state during the tax period shall be included in the numerator of the property factor in the ratio that the value of the property attributable to its use by the taxpayer in business activities within this state bears to the value of the property attributable to its use in the taxpayer's business activities within and without this state.

[~~a~~](i) The value of outer-jurisdictional property attributed to the numerator of the property factor of this state shall be determined by the ratio that the number of uplinks and downlinks, or half-circuits, used during the tax period to transmit from this state and to receive in this state any data, voice, image or other information bears to the number of uplinks and downlinks or half-circuits used for transmissions within and without this state.

[~~b~~](ii) If information regarding uplink and downlink or half-circuit usage is not available or if measurement of activity is not applicable to the type of outer-jurisdictional property used by the taxpayer, the value of that property attributed to the numerator of the property factor of this state shall be determined by the ratio that the amount of time, in terms of hours and minutes of use, or other measurement of use of outer-jurisdictional property that was used during the tax period to transmit from this state and to receive within this state any data, voice, image or other information bears to the total amount of time or other measurement of use that was used for transmissions within and without this state.

[~~c~~](iii) Outer-jurisdictional property shall be considered to have been used by the taxpayer in its business activities within this state when that property, wherever located, has been employed by the taxpayer in any manner in the publishing, sale, licensing or other distribution of books, newspapers, magazines or other printed material, and any data, voice, image or other information is transmitted to or from this state either through an earth station or terrestrial facility located within this state.

[~~(i)~~](A) One example of the use of outer-jurisdictional property is when the taxpayer owns its own communications satellite or leases the use of uplinks, downlinks or circuits or time on a communications satellite for the purpose of sending messages to its newspaper printing facilities or employees. The states in which any printing facility that receives the satellite communications are located and the state from which the communications were sent would, under this rule, apportion the cost of the owned or rented satellite to their respective property factors based upon the ratio of the in-state use of the satellite to its usage within and without the state.

[~~(ii)~~](B) Assume that ABC Newspaper Co. owns a total of $400,000,000 of property and, in addition, owns and operates a communication satellite for the purpose of sending news articles to its printing plant in this state, as well as for communicating with its printing plants and facilities or news bureaus, employees and agents located in other states and throughout the world. Also assume that the total value of its real and tangible personal property that was permanently located in this state for the entire income year was valued at $3,000,000. Assume also that the original cost of the satellite is $100,000,000 for the tax period and that of the 10,000 uplinks and downlinks or half-circuits of satellite transmissions used by the taxpayer during the tax period, 200 or 2% are attributable to its satellite communications received in and sent from this state. Assume further that the company's mobile property that was used partially within this state, consisting of 40 delivery trucks, was determined to have an original cost of $4,000,000 and was used in this state for 95 days. The total value of property attributed to this state is determined as follows:

TABLE

| | |
|---|---|
| Value of property permanently in state = | $3,000,000 |
| Value of mobile property: | |
| 95/365 or (.260274) x $4,000,000 = | $1,041,096 |
| Value of leased satellite property used in-state: | |
| (.02) x $100,000,000 = | $2,000,000 |
| Total value of property attributable to state = | $6,041,096 |
| Total property factor percentage: | |
| $6,041,096/$500,000,000 = | 1.2082% |

[~~F.~~](6) The payroll factor shall be determined in accordance with Sections 59-7-315 and 59-7-316.

[~~G.~~](7) The denominator of the sales factor shall include the total gross receipts derived by the taxpayer from transactions and activity in the regular course of its trade or business, except receipts that may be excluded under R865-6F-8[~~(J)(3)~~](10)(c).

[~~H.~~](8) The numerator of the sales factor shall include all gross receipts of the taxpayer from sources within this state, including the following:

[~~1.~~](a) Gross receipts derived from the sale of tangible personal property, including printed materials, delivered or shipped to a purchaser or a subscriber in this state; and

[~~2.~~](b) Except as provided in [~~H.2.b~~)]Subsection (8)(b)(ii), gross receipts derived from advertising and the sale, rental, or other use of the taxpayer's customer lists or any portion thereof shall be attributed to this state as determined by the taxpayer's circulation factor during the tax period. The circulation factor shall be determined for each publication of printed material containing advertising and shall be equal to the ratio that the taxpayer's in-state circulation to purchasers and subscribers of its printed material bears to its circulation to purchasers and subscribers within and without the state.

[~~a~~](i) The circulation factor for an individual publication shall be determined by reference to the rating statistics as reflected in such sources as Audit Bureau of Circulations or other comparable sources, provided that the source selected is consistently used from year to year for that purpose. If none of the foregoing sources are available, or, if available, not in form or content sufficient for these purposes, the circulation factor shall be determined from the taxpayer's books and records.

[~~b~~](ii) When specific items of advertisements can be shown, upon clear and convincing evidence, to have been distributed solely to a limited regional or local geographic area in which this state is located, the taxpayer may petition, or the Tax Commission may require, that a portion of those receipts be attributed to the sales factor numerator of this state on the basis of a regional or local geographic area circulation factor and not upon the basis of the circulation factor provided by [~~H.2.a~~)]Subsection (8)(b)(i). This attribution shall be based upon the ratio that the taxpayer's circulation to purchasers and subscribers located in this state of the printed material containing specific items of advertising bears to its total circulation of printed material to purchasers and subscribers located within the regional or local geographic area. This alternative attribution method shall be permitted only upon the condition that receipts are not double counted or otherwise included in the numerator of any other state.

[~~c~~](iii) If the purchaser or subscriber is the United States government or if the taxpayer is not taxable in a state, the gross receipts from all sources, including the receipts from the sale of printed material, from advertising, and from the sale, rental or other use of the taxpayer's customer lists, or any portion thereof that would have been attributed by the circulation factor to the numerator of the sales factor for that state, shall be included in the numerator of the sales factor of this state if the printed material or other property is shipped from an office, store, warehouse, factory, or other place of storage or business in this state.

**KEY: taxation, franchises, historic preservation, trucking industries**
**Date of Enactment or Last Substantive Amendment: [~~July 20, 2005~~]2006**
**Notice of Continuation: April 3, 2002**
**Authorizing, and Implemented or Interpreted Law: 59-7-302 through 59-7-321**

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# Tax Commission, Auditing
# R865-6F-32
## Taxation of Financial Institutions Pursuant to Utah Code Ann. Sections 59-7-302 through 59-7-321

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29032
FILED: 09/14/2006, 16:35

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 78 (2005 General Session) provides that taxpayers may elect a double-weighted sales factor to apportion their business income to Utah. (DAR NOTE: H.B. 78 (2005) is found at Chapter 225, Laws of Utah 2005, and was effective 01/01/2006.)

SUMMARY OF THE RULE OR CHANGE: The proposed amendment indicator how the double-weighted sales factor shall be calculated if one of the factors is missing.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-7-302 through 59-7-321

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--Any fiscal impact was taken into account in H.B. 78 (2005).
❖ LOCAL GOVERNMENTS: None--Any fiscal impact was taken into account in H.B. 78 (2005).
❖ OTHER PERSONS: None--Any fiscal impact was taken into account in H.B. 78 (2005).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Taxpayers may choose between two methods (the traditional three factor and the double-weighted sales factor) to apportion business income to Utah.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Taxpayers may choose between two methods to apportion business income to Utah. D'Arcy Dixon, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2006

AUTHORIZED BY: D'Arcy Dixon, Commissioner

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**R865. Tax Commission, Auditing.**
**R865-6F. Franchise Tax.**
**R865-6F-32. Taxation of Financial Institutions Pursuant to Utah Code Ann. Sections 59-7-302 through 59-7-321.**

[~~A.~~](1) Definitions.

[~~1.~~](a) "Billing address" means the location indicated in the books and records of the taxpayer on the first day of the taxable year, or on the later date in the taxable year when the customer relationship began, where any notice, statement or bill relating to a customer's account is mailed.

[~~2.~~](b) "Borrower or credit card holder located in this state" means:

[~~a~~](i) a borrower, other than a credit card holder, that is engaged in a trade or business that maintains its commercial domicile in this state; or

[~~b~~](ii) a borrower that is not engaged in a trade or business, or a credit card holder, whose billing address is in this state.

[~~3.~~](c) "Commercial domicile" means:

[~~a~~](i) the place from which the trade or business is principally managed and directed; or

[~~b~~](ii) if a taxpayer is organized under the laws of a foreign country, or of the Commonwealth of Puerto Rico, or any territory or possession of the United States, that taxpayer's commercial domicile shall be deemed for the purposes of this rule to be the state of the United States or the District of Columbia from which that taxpayer's trade or business in the United States is principally managed and directed. It shall be presumed, subject to rebuttal, that the location from which the taxpayer's trade or business is principally managed and directed is the state of the United States or the District of Columbia to

which the greatest number of employees are regularly connected or out of which they are working, irrespective of where the services of those employees are performed, as of the last day of the taxable year.

[~~4.~~](d) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services that are included in the employee's gross income under the federal Internal Revenue Code. In the case of employees not subject to the federal Internal Revenue Code, the determination of whether payments constitute gross income under the federal Internal Revenue Code shall be made as though those employees were subject to the federal Internal Revenue Code.

[~~5.~~](e) "Credit card" means a credit, travel, or entertainment card.

[~~6.~~](f) "Credit card issuer's reimbursement fee" means the fee a taxpayer receives from a merchant's bank because one of the persons to whom the taxpayer has issued a credit card has charged merchandise or services to the credit card.

[~~7.~~](g) "Employee" means, with respect to a particular taxpayer, any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee of that taxpayer.

[~~8.~~](h) "Financial institution" means:

[~~a~~](i) any corporation or other business entity registered under state law as a bank holding company or registered under the Federal Bank Holding Company Act of 1956, as amended, or registered as a savings and loan holding company under the Federal National Housing Act, as amended;

[~~b~~](ii) a national bank organized and existing as a national bank association pursuant to the provisions of the National Bank Act, 12 U.S.C. Sections21 et seq.;

[~~c~~](iii) a savings association or federal savings bank as defined in the Federal Deposit Insurance Act, 12 U.S.C. Section 1813(b)(1);

[~~d~~](iv) any bank, industrial loan corporation, or thrift institution incorporated or organized under the laws of any state;

[~~e~~](v) any corporation organized under the provisions of 12 U.S.C. Sections611 through 631.

[~~f~~](vi) any agency or branch of a foreign depository as defined in 12 U.S.C. Section3101;

[~~g~~](vii) a production credit association organized under the Federal Farm Credit Act of 1933, all of whose stock held by the Federal Production Credit Corporation has been retired;

[~~h~~](viii) any corporation whose voting stock is more than 50 percent owned, directly or indirectly, by any person or business entity described in [~~A.8.a~~)]Subsections (1)(h)(i) through [~~A.8.g~~)](vii), other than an insurance company taxable under Title 59, Chapter 9, Taxation of Admitted Insurers;

[~~i~~](ix) a corporation or other business entity that derives more than 50 percent of its total gross income for financial accounting purposes from finance leases. For purposes of this subsection, a "finance lease" shall mean any lease transaction that is the functional equivalent of an extension of credit and that transfers substantially all of the benefits and risks incident to the ownership of property. The phrase shall include any direct financing lease or leverage lease that meets the criteria of Financial Accounting Standards Board Statement No. 13, Accounting for Leases, or any other lease that is accounted for as a financing lease by a lessor under generally accepted accounting principles. For this classification to apply:

[~~(1)~~](A) the average of the gross income in the current tax year and immediately preceding two tax years must satisfy the more than 50 percent requirement; and

[~~(2)~~](B) gross income from incidental or occasional transactions shall be disregarded;

[~~j~~](x) any other person or business entity, other than an insurance company, a credit union exempt from the corporation franchise tax under Section 59-7-102, a real estate broker, or a securities dealer, that derives more than 50 percent of its gross income from activities that a person described in [~~A.8.b~~)]Subsections (1)(h)(ii) through [~~A.8.g~~)](vii) and [~~A.8.i~~)](1)(h)(ix) is authorized to transact.

[~~(1)~~](A) For purposes of this subsection, the computation of gross income shall not include income from non-recurring, extraordinary items; and

[~~(2)~~](B) The Tax Commission is authorized to exclude any person from the application of [~~A.8.j~~)]Subsection (1)(h)(x) upon receipt of proof, by clear and convincing evidence, that the income-producing activity of that person is not in substantial competition with those persons described in [~~A.8.b~~)]Subsections (1)(h)(ii) through [~~A.8.g~~)](vii) and [~~A.8.i~~)](1)(h)(ix).

[~~9.~~](i) "Gross rents" means the actual sum of money or other consideration payable for the use or possession of property.

[~~a~~)](i) Gross rents includes:

[~~(1)~~](A) any amount payable for the use or possession of real property or tangible property whether designated as a fixed sum of money or as a percentage of receipts, profits or otherwise;

[~~(2)~~](B) any amount payable as additional rent or in lieu of rent, such as interest, taxes, insurance, repairs or any other amount required to be paid by the terms of a lease or other arrangement; and

[~~(3)~~](C) a proportionate part of the cost of any improvement to real property, made by or on behalf of the taxpayer, that reverts to the owner or lessor upon termination of a lease or other arrangement. The amount included in gross rents is the amount of amortization or depreciation allowed in computing the taxable income base for the taxable year. However, where a building is erected on leased land by or on behalf of the taxpayer, the value of the land is determined by multiplying the gross rent by eight and the value of the building is determined in the same manner as if owned by the taxpayer.

[~~b~~)](ii) Gross rents does not include:

[~~(1)~~](A) reasonable amounts payable as separate charges for water and electric service furnished by the lessor;

[~~(2)~~](B) reasonable amounts payable as service charges for janitorial services furnished by the lessor;

[~~(3)~~](C) reasonable amounts payable for storage, provided those amounts are payable for space not designated and not under the control of the taxpayer; and

[~~(4)~~](D) that portion of any rental payment applicable to the space subleased from the taxpayer and not used by the taxpayer.

[~~10.~~](j) "Loan" means any extension of credit resulting from direct negotiations between the taxpayer and the taxpayer's customer, or the purchase, in whole or in part, of an extension of credit from another.

[~~a~~)](i) Loan includes participations, syndications, and leases treated as loans for federal income tax purposes.

[~~b~~)](ii) Loan does not include properties treated as loans under Section 595 of the federal Internal Revenue Code, futures or forward contracts, options, notional principal contracts such as swaps, credit card receivables, including purchased credit card relationships, non-interest bearing balances due from depository institutions, cash items in the process of collection, federal funds sold, securities purchased under agreements to resell, assets held in a trading account, securities, interests in a real estate mortgage investment conduit as defined in Section 860D of the Internal Revenue Code, or other mortgage-backed or asset-backed security, and other similar items.

[~~11.~~](k) "Loans secured by real property" means that fifty percent or more of the aggregate value of the collateral used to secure a loan or

other obligation, when valued at fair market value as of the time the original loan or obligation was incurred, was real property.

[~~12.~~](l) "Merchant discount" means the fee, or negotiated discount, charged to a merchant by the taxpayer for the privilege of participating in a program whereby a credit card is accepted in payment for merchandise or services sold to the card holder.

[~~13.~~](m) "Participation" means an extension of credit in which an undivided ownership interest is held on a pro rata basis in a single loan or pool of loans and related collateral. In a loan participation, the credit originator initially makes the loan and then subsequently resells all or a portion of it to other lenders. The participation may or may not be known to the borrower.

[~~14.~~](n) "Person" means an individual, estate, trust, partnership, corporation, and any other business entity.

[~~15.~~](o) "Principal base of operations" means:

[~~a~~](i) with respect to transportation property, the place of more or less permanent nature from which that property is regularly directed or controlled; and

[~~b~~](ii) with respect to an employee, the place of more or less permanent nature from which the employee regularly:

[~~(1)~~](A) starts his work and to which he customarily returns in order to receive instructions from his employer;

[~~(2)~~](B) communicates with his customers or other persons; or

[~~(3)~~](C) performs any other functions necessary to the exercise of his trade or profession at some other point or points.

[~~16. a~~](p)(i) "Real property owned" and "tangible personal property owned" mean real and tangible personal property, respectively:

[~~(1)~~](A) on which the taxpayer may claim depreciation for federal income tax purposes; or

[~~(2)~~](B) property to which the taxpayer holds legal title and on which no other person may claim depreciation for federal income tax purposes, or could claim depreciation if subject to federal income tax.

[~~b~~](ii) Real and tangible personal property do not include coin, currency, or property acquired in lieu of or pursuant to a foreclosure.

[~~17.~~](q) "Regular place of business" means an office at which the taxpayer carries on business in a regular and systematic manner and is continuously maintained, occupied, and used by employees of the taxpayer.

[~~18.~~](r) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country.

[~~19.~~](s) "Syndication" means an extension of credit in which two or more persons fund and each person is at risk only up to a specified percentage of the total extension of credit or up to a specified dollar amount.

[~~20.~~](t) "Taxable" means:

[~~a~~](i) a taxpayer is subject in another state to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, a corporate stock tax, including a bank shares tax, a single business tax, an earned surplus tax, or any tax imposed upon or measured by net income; or

[~~b~~](ii) another state has jurisdiction to subject the taxpayer to taxes regardless of whether that state actually imposes those taxes.

[~~21.~~](u) "Transportation property" means vehicles and vessels capable of moving under their own power, such as aircraft, trains, water vessels and motor vehicles, as well as any equipment or containers attached to that property, such as rolling stock, barges, and trailers.

[~~B.~~](2) Apportionment and Allocation.

[~~1.~~](a) A financial institution whose business activity is taxable both within and without this state, or a financial institution whose business activity is taxable within this state and is a member of a unitary group that includes one or more financial institutions where any member of the group is taxable without this state, shall allocate and apportion its net income as provided in this rule. All items of nonbusiness income shall be allocated pursuant to the provisions of Section 59-7-306. A financial institution organized under the laws of a foreign country, the Commonwealth of Puerto Rico, or a territory or possession of the United States, whose effectively connected income, as defined under the federal Internal Revenue Code, is taxable both within this state and within another state, other than the state in which it is organized, shall allocate and apportion its net income as provided in this rule.

[~~2.~~](b) [~~All business income shall be apportioned to this state by multiplying that income by the apportionment percentage. The apportionment percentage is determined by adding the taxpayer's receipts factor described in C., property factor described in D., and payroll factor described in E., and dividing that sum by three. If one of the factors is missing, the two remaining factors are added and the sum is divided by two. If two of the factors are missing, the remaining factor is the apportionment percentage. A factor is missing if both its numerator and denominator are zero, but not merely because its numerator is zero.~~]The fraction by which business income shall be apportioned to the state shall be determined in accordance with rule R865-6F-8(3) and (6). Except as modified by this rule, the property factor shall be determined in accordance with R865-6F-8(7), the payroll factor in accordance with R865-6F-8(8), and the sales factor in accordance with R865-6F-8(9).

[~~3.~~](c) Each factor shall be computed according to the cash or accrual method of accounting as used by the taxpayer for the taxable year.

[~~4.~~](d) If a unitary group of corporations filing a combined report includes one or more corporations meeting the definition of financial institution and one or more corporations that do not meet that definition, the provisions of this rule regarding the calculation of the property, payroll, and receipts factors of the apportionment fraction shall apply only to those corporations meeting the definition of financial institution. Those corporations not meeting the definition of financial institution shall compute their apportionment data based on [~~Tax Commission~~]rule [~~R865-6F-8~~]R865-6F-8 or such other industry apportionment rule adopted by the Tax Commission that may be applicable. The apportionment data of all members of the unitary group shall be included in calculating a single apportionment fraction for the unitary group. The numerators and denominators of the property, payroll, and receipts factors of the financial institutions shall be added to the numerators and denominators, respectively, of the property, payroll, and sales factors of the nonfinancial institutions to determine the property, payroll, and sales factors of the unitary group.

[~~C.~~](3) Receipts Factor.

[~~1.~~](a) In general. The receipts factor is a fraction, the numerator of which is the receipts of the taxpayer in this state during the taxable year and the denominator of which is the receipts of the taxpayer within and without this state during the taxable year. The method of calculating receipts for purposes of the denominator is the same as the method used in determining receipts for purposes of the numerator. The receipts factor shall include only those receipts that constitute business income and are included in the computation of the apportionable income base for the taxable year.

[~~2.~~](b) Receipts from the lease of real property. The numerator of the receipts factor includes receipts from the lease or rental of real property owned by the taxpayer and receipts from the sublease of real property, if the property is located within this state.

[~~3.~~](c) Receipts from the lease of tangible personal property.

[~~a)~~](i) Except as described in [~~C.4.~~]Subsection (3)(d), the numerator of the receipts factor includes receipts from the lease or rental of tangible personal property owned by the taxpayer if the property is located within this state when it is first placed in service by the lessee.

[~~b)~~](ii) Receipts from the lease or rental of transportation property owned by the taxpayer are included in the numerator of the receipts factor to the extent that the property is used in this state.

[~~(1)~~](A) The extent an aircraft will be deemed to be used in this state and the amount of receipts that shall be included in the numerator of this state's receipts factor are determined by multiplying all the receipts from the lease or rental of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this state and the denominator of which is the total number of landings of the aircraft.

[~~(2)~~](B) If the extent of the use of any transportation property within this state cannot be determined, that property will be deemed to be used wholly in the state in which the property has its principal base of operations.

[~~(3)~~](C) A motor vehicle will be deemed to be used wholly in the state in which it is registered.

[~~4.~~](d) Interest from loans secured by real property.

[~~a)~~](i) The numerator of the receipts factor includes interest and fees or penalties in the nature of interest from loans secured by real property if the property is located within this state. If the property is located both within this state and one or more other states, the receipts described in this subsection are included in the numerator of the receipts factor if more than fifty percent of the fair market value of the real property is located within this state. If more than fifty percent of the fair market value of the real property is not located within any one state, the receipts described in this subsection shall be included in the numerator of the receipts factor if the borrower is located in this state.

[~~b)~~](ii) The determination of whether the real property securing a loan is located within this state shall be made as of the time the original agreement was made, and any and all subsequent substitutions of collateral shall be disregarded.

[~~5.~~](e) Interest from loans not secured by real property. The numerator of the receipts factor includes interest and fees or penalties in the nature of interest from loans not secured by real property if the borrower is located in this state.

[~~6.~~](f) Net gains from the sale of loans. The numerator of the receipts factor includes net gains from the sale of loans. Net gains from the sale of loans includes income recorded under the coupon stripping rules of Section 1286 of the Internal Revenue Code.

[~~a)~~](i) The amount of net gains, but not less than zero, from the sale of loans secured by real property included in the numerator is determined by multiplying the net gains by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to [~~C.4.~~]Subsection (3)(d), and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

[~~b)~~](ii) The amount of net gains, but not less than zero, from the sale of loans not secured by real property included in the numerator is determined by multiplying the net gains by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to [~~C.5.~~]Subsection (3)(e), and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

[~~7.~~](g) Receipts from credit card receivables. The numerator of the receipts factor includes interest and fees or penalties in the nature of interest from credit card receivables and receipts from fees charged to card holders, such as annual fees, if the billing address of the card holder is in this state.

[~~8.~~](h) Net gains from the sale of credit card receivables. The numerator of the receipts factor includes net gains, but not less than zero, from the sale of credit card receivables multiplied by a fraction, the numerator of which is the amount included in the numerator of the receipts factor pursuant to [~~C.7.~~]Subsection (3)(g), and the denominator of which is the taxpayer's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

[~~9.~~](i) Credit card issuer's reimbursement fees. The numerator of the receipts factor includes all credit card issuer's reimbursement fees multiplied by a fraction, the numerator of which is the amount included in the numerator of the receipts factor pursuant to [~~C.7.~~]Subsection (3)(g), and the denominator of which is the taxpayer's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

[~~10.~~](j) Receipts from merchant discount. The numerator of the receipts factor includes receipts from merchant discount if the commercial domicile of the merchant is in this state. The receipts shall be computed net of any cardholder charge backs, but shall not be reduced by any interchange transaction fees or by any issuer's reimbursement fees paid to another for charges made by its card holders.

[~~11.~~](k) Loan servicing fees.

[~~a)~~](i) The numerator of the receipts factor includes loan servicing fees derived from loans secured by real property multiplied by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to [~~C.4.~~]Subsection (3)(d), and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

[~~b)~~](ii) The numerator of the receipts factor includes loan servicing fees derived from loans not secured by real property multiplied by a fraction the numerator of which is the amount included in the numerator of the receipts factor pursuant to [~~C.5.~~]Subsection (3)(e), and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

[~~c)~~](iii) In circumstances in which the taxpayer receives loan servicing fees for servicing either the secured or the unsecured loans of another, the numerator of the receipts factor shall include those fees if the borrower is located in this state.

[~~12.~~](l) Receipts from services. The numerator of the receipts factor includes receipts from services not otherwise apportioned under this section if the service is performed in this state. If the service is performed both within and without this state, the numerator of the receipts factor includes receipts from services not otherwise apportioned under this section if a greater proportion of the income-producing activity is performed in this state based on cost of performance.

[~~13.~~](m) Receipts from investment assets and activities and trading assets and activities.

[~~a)~~](i) Interest, dividends, net gains, but not less than zero, and other income from investment assets and activities and from trading assets and activities shall be included in the receipts factor.

[~~b~~](ii) Investment assets and activities and trading assets and activities include investments securities, trading account assets, federal funds, securities purchased and sold under agreements to resell or repurchase, options, futures contracts, forward contracts, notional principal contracts such as swaps, equities, and foreign currency transactions.

[~~c~~](iii) The receipts factor shall include the following investment and trading assets and activities:

[~~(1)~~](A) The receipts factor shall include the amount by which interest from federal funds sold and securities purchased under resale agreements exceeds interest expense on federal funds purchased and securities sold under repurchase agreements.

[~~(2)~~](B) The receipts factor shall include the amount by which interest, dividends, gains and other income from trading assets and activities, including assets and activities in the matched book and arbitrage book, and foreign currency transactions, exceed amounts paid in lieu of interest, amounts paid in lieu of dividends, and losses from those assets and activities.

[~~d~~](iv) The numerator of the receipts factor includes interest, dividends, net gains, but not less than zero, and other income from investment assets and activities and from trading assets and activities described in [~~C.13.~~]Subsection (3)(m) that are attributable to this state.

[~~(1)~~](A) The amount of interest, dividends, net gains, but not less than zero, and other income from investment assets and activities in the investment accounts attributed to this state and included in the numerator is determined by multiplying all such income from assets and activities by a fraction, the numerator of which is the average value of the assets properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the average value of all those assets.

[~~(2)~~](B) The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this state and included in the numerator is determined by multiplying the amount of those funds and securities described in [~~C.13.e)(1)~~]Subsection (3)(m)(iii)(A) by a fraction, the numerator of which is the average value of federal funds sold and securities purchased under agreements to resell that are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the average value of all those funds and securities.

[~~(3)~~](C) The amount of interest, dividends, gains, and other income from trading assets and activities, including assets and activities in the matched book and arbitrage book and foreign currency transactions, but excluding amounts described in [~~C.13.d)(1)~~]Subsections (3)(m)(iv)(A) and [~~C.13.d)(2)~~](3)(m)(iv)(B), attributable to this state and included in the numerator is determined by multiplying the amount described in [~~C.13.e)(2)~~]Subsection (3)(m)(iii)(B) by a fraction, the numerator of which is the average value of those trading assets that are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the average value of all those assets.

[~~(4)~~](D) For purposes of this subsection, average value shall be determined using the rules for determining the average value of tangible personal property set forth in [~~D.3.~~]Subsections (4)(c) and [~~D.4.~~](d).

[~~e~~](v) In lieu of using the method set forth in [~~C.13.d)~~]Subsection (3)(m)(iv), the taxpayer may elect, or the Tax Commission may require in order to fairly represent the business activity of the taxpayer in this state, the use of the method set forth in this subsection.

[~~(1)~~](A) The amount of interest, dividends, net gains, but not less than zero, and other income from investment assets and activities in the investment account attributed to this state and included in the numerator is determined by multiplying all income from those assets and activities by a fraction, the numerator of which is the gross income from those assets and activities properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the gross income from all those assets and activities.

[~~(2)~~](B) The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this state and included in the numerator is determined by multiplying the amount of those funds and securities described in [~~C.13.e)(1)~~]Subsection (3)(m)(iii)(A) by a fraction, the numerator of which is the gross income from those funds and securities properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the gross income from all those funds and securities.

[~~(3)~~](C) The amount of interest, dividends, gains and other income from trading assets and activities, including assets and activities in the matched book and arbitrage book and foreign currency transactions, but excluding amounts described in [~~C.13.e)(1)~~]Subsections (3)(m)(v)(A) or [~~C.13.e)(2)~~](B), attributable to this state and included in the numerator is determined by multiplying the amount described in [~~C.13.e)(2)~~]Subsection (3)(m)(iii)(B) by a fraction, the numerator of which is the gross income from those trading assets and activities properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the gross income from all those assets and activities.

[~~f~~](vi) If the taxpayer elects or is required by the Tax Commission to use the method set forth in [~~C.13.e)~~]Subsection (3)(m)(v), the taxpayer shall use this method on all subsequent returns unless the taxpayer receives prior permission from the Tax Commission to use, or the Tax Commission requires, a different method.

[~~g~~](vii) The taxpayer shall have the burden of proving that an investment asset or activity or trading asset or activity was properly assigned to a regular place of business outside of this state by demonstrating that the day-to-day decisions regarding the asset or activity occurred at a regular place of business outside this state. Where the day-to-day decisions regarding an investment asset or activity or trading asset or activity occur at more than one regular place of business and one regular place of business is in this state and one regular place of business is outside this state, that asset or activity shall be considered to be located at the regular place of business of the taxpayer where the investment or trading policies or guidelines with respect to the asset or activity are established. Unless the taxpayer demonstrates to the contrary, policies and guidelines shall be presumed to be established at the commercial domicile of the taxpayer.

[~~14.~~](n) All other receipts. The numerator of the receipts factor includes all other receipts pursuant to the rules set forth in Rule R865-6F-8[~~(1)~~](9) and [~~(J)~~](10).

[~~15.~~](o) Attribution of certain receipts to commercial domicile.

[~~a~~](i) Except as provided in [~~C.15.b)~~]Subsection (3)(o)(ii), all receipts that would be assigned under this section to a state in which the taxpayer is not taxable shall be included in the numerator of the receipts factor if the taxpayer's commercial domicile is in this state.

[~~b) (1)~~](ii)(A) If a unitary group includes one or more financial institutions, and if any member of the unitary group is subject to the taxing jurisdiction of this state, the receipts of each financial institution in the unitary group shall be included in the numerator of this state's

receipts factor as provided in [~~C.1.~~]Subsections (3)(a) through [~~C.14.~~](n) rather than being attributed to the commercial domicile of the financial institution as provided in [~~C.15.a)~~]Subsection (3)(o)(i).

[~~(2)~~](B) If a unitary group includes one or more financial institutions whose commercial domicile is in this state, and if any member of the unitary group is taxable in another state under section 59-7-305, the receipts of each financial institution in the unitary group that would be included in the numerator of the other state's receipts factor under [~~C.1.~~]Subsections (3)(a) through [~~C.14.~~](n) may not be included in the numerator of this state's receipts factor.

[~~D.~~](4) Property Factor.

[~~1.~~](a) In General.

[~~a)~~](i) For taxpayers that do not elect to include the property described in [~~D.7.~~]Subsections (4)(g) through [~~D.9.~~](i) within the property factor, the property factor is a fraction, the numerator of which is the average value of real property and tangible personal property owned by or rented to the taxpayer that is located or used within this state during the taxable year, and the denominator of which is the average value of all that property located or used within and without this state during the taxable year.

[~~b)~~](ii) For taxpayers that elect to include the property described in [~~D.7.~~]Subsections (4)(g) through [~~D.9.~~](i) within the property factor, the property factor is a fraction, the numerator of which is the average value of real property and tangible personal property owned by or rented to the taxpayer that is located or used within this state during the taxable year, and the average value of the taxpayer's loans and credit card receivables that are located within this state during the taxable year, and the denominator of which is the average value of all that property located or used within and without this state during the taxable year.

[~~2.~~](b) Property included. The property factor shall include only property the income or expenses of which are included, or would have been included if not fully depreciated or expensed, or depreciated or expensed to a nominal amount, in the computation of the apportionable income base for the taxable year.

[~~3.~~](c) Value of property owned by the taxpayer.

[~~a)~~](i) For taxpayers that do not elect to include the property described in [~~D.7.~~]Subsections (4)(g) through [~~D.9.~~](i) within the property factor, the value of real property and tangible personal property owned by the taxpayer is the original cost or other basis of that property for federal income tax purposes without regard to depletion, depreciation or amortization.

[~~b)~~](ii) For taxpayers that elect to include the property described in [~~D.7.~~]Subsections (4)(g) through [~~D.9.~~](i) within the property factor:

[~~(1)~~](A) The value of real property and tangible personal property owned by the taxpayer is the original cost or other basis of that property for federal income tax purposes without regard to depletion, depreciation or amortization.

[~~(2)~~](B) Loans are valued at their outstanding principal balance, without regard to any reserve for bad debts. If a loan is charged-off in whole or in part for federal income tax purposes, the portion of the loan charged off is not outstanding. A specifically allocated reserve established pursuant to regulatory or financial accounting guidelines that is treated as charged-off for federal income tax purposes shall be treated as charged-off for purposes of this rule.

[~~(3)~~](C) Credit card receivables are valued at their outstanding principal balance, without regard to any reserve for bad debts. If a credit card receivable is charged-off in whole or in part for federal income tax purposes, the portion of the receivable charged-off is not outstanding.

[~~4.~~](d) Average value of property owned by the taxpayer. The average value of property owned by the taxpayer is computed on an annual basis by adding the value of the property on the first day of the taxable year and the value on the last day of the taxable year and dividing the sum by two.

[~~a)~~](i) If averaging on this basis does not properly reflect average value, the Tax Commission may require averaging on a more frequent basis, or the taxpayer may elect to average on a more frequent basis.

[~~b)~~](ii) When averaging on a more frequent basis is required by the Tax Commission or is elected by the taxpayer, the same method of valuation must be used consistently by the taxpayer with respect to property within and without this state and on all subsequent returns unless the taxpayer receives prior permission from the Tax Commission to use a different method, or the Tax Commission requires a different method of determining average value.

[~~5.~~](e) Average value of real property and tangible personal property rented to the taxpayer.

[~~a)~~](i) The average value of real property and tangible personal property that the taxpayer has rented from another and are not treated as property owned by the taxpayer for federal income tax purposes, shall be determined annually by multiplying the gross rents payable during the taxable year by eight.

[~~b)~~](ii) If the use of the general method described in this subsection results in inaccurate valuations of rented property, any other method that properly reflects the value may be adopted by the Tax Commission or by the taxpayer when approved in writing by the Tax Commission. Once approved, that other method of valuation must be used on all subsequent returns unless the taxpayer receives prior approval from the Tax Commission to use a different method, or the Tax Commission requires a different method of valuation.

[~~6.~~](f) Location of real property and tangible personal property owned or rented to the taxpayer.

[~~a)~~](i) Except as described in [~~D.6.b)~~]Subsection (4)(f)(ii), real property and tangible personal property owned by or rented to the taxpayer are considered located within this state if they are physically located, situated, or used within this state.

[~~b)~~](ii) Transportation property is included in the numerator of the property factor to the extent that the property is used in this state.

[~~(1)~~](A) The extent an aircraft will be deemed to be used in this state and the amount of value that shall be included in the numerator of this state's property factor is determined by multiplying the average value of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this state and the denominator of which is the total number of landings of the aircraft everywhere.

[~~(2)~~](B) If the extent of the use of any transportation property within this state cannot be determined, the property will be deemed to be used wholly in the state in which the property has its principal base of operations.

[~~(3)~~](C) A motor vehicle will be deemed to be used wholly in the state in which it is registered.

[~~7.~~](g) Location of Loans.

[~~a)~~](i) A loan is considered located within this state if it is properly assigned to a regular place of business of the taxpayer within this state.

[~~b)~~](ii) A loan is properly assigned to the regular place of business with which it has a preponderance of substantive contacts. A loan assigned by the taxpayer to a regular place of business without the state shall be presumed to have been properly assigned if:

[~~(1)~~](A) the taxpayer has assigned, in the regular course of its business, the loan on its records to a regular place of business consistent with federal or state regulatory requirements;

[~~(2)~~](B) the assignment on its records is based upon substantive contacts of the loan to the regular course of business; and

[~~(3)~~](C) the taxpayer uses the records reflecting assignment of loans for the filing of all state and local tax returns for which an assignment of loans to a regular place of business is required.

[~~c~~)](iii) The presumption of proper assignment of a loan provided in [~~D.7.b~~)]Subsection (4)(g)(ii) may be rebutted upon a showing by the Tax Commission, supported by a preponderance of the evidence, that the preponderance of substantive contacts regarding the loan did not occur at the regular place of business to which it was assigned on the taxpayer's records. When the presumption has been rebutted, the loan shall then be located within this state if:

[~~(1)~~](A) the taxpayer had a regular place of business within this state at the time the loan was made; and

[~~(2)~~](B) the taxpayer fails to show, by a preponderance of the evidence, that the preponderance of substantive contacts regarding the loan did not occur within this state.

[~~d~~)](iv) In the case of a loan assigned by the taxpayer to a place without this state that is not a regular place of business, it shall be presumed, subject to rebuttal by the taxpayer on a showing supported by the preponderance of the evidence, that the preponderance of substantive contacts regarding the loan occurred within this state if, at the time the loan was made the taxpayer's commercial domicile, as defined in this rule, was within this state.

[~~e~~)](v) To determine the state in which the preponderance of substantive contacts relating to a loan have occurred, the facts and circumstances regarding the loan at issue shall be reviewed on a case-by-case basis, and consideration shall be given to activities such as the solicitation, investigation, negotiation, approval, and administration of the loan.

[~~(1)~~](A) Solicitation. Solicitation is either active or passive.

[~~(a)~~](I) Active solicitation occurs when an employee of the taxpayer initiates the contact with the customer. The activity is located at the regular place of business at which the taxpayer's employee is regularly connected or working out of, regardless of where the services of the employee were actually performed.

[~~(b)~~](II) Passive solicitation occurs when the customer initiates the contact with the taxpayer. If the customer's initial contact was not at a regular place of business of the taxpayer, the regular place of business, if any, where the passive solicitation occurred is determined by the facts in each case.

[~~(2)~~](B) Investigation. Investigation is the procedure whereby employees of the taxpayer determine the credit-worthiness of the customer as well as the degree of risk involved in making a particular agreement. The activity is located at the regular place of business at which the taxpayer's employees are regularly connected or working out of, regardless of where the services of those employees were actually performed.

[~~(3)~~](C) Negotiation. Negotiation is the procedure whereby employees of the taxpayer and its customer determine the terms of the agreement, such as amount, duration, interest rate, frequency of repayment, currency denomination, and security required. The activity is located at the regular place of business at which the taxpayer's employees are regularly connected or working out of, regardless of where the services of those employees were actually performed.

[~~(4)~~](D) Approval. Approval is the procedure whereby employees or the board of directors of the taxpayer make the final determination whether to enter into the agreement.

[~~(a)~~](I) The activity is located at the regular place of business at which the taxpayer's employees are regularly connected or working out of, regardless of where the services of those employees were actually performed.

[~~(b)~~](II) If the board of directors makes the final determination, the activity is located at the commercial domicile of the taxpayer.

[~~(5)~~](E) Administration. Administration is the process of managing the account.

[~~(a)~~](I) Administration includes bookkeeping, collecting the payments, corresponding with the customer, reporting to management regarding the status of the agreement and proceeding against the borrower or the security interest if the borrower is in default.

[~~(b)~~](II) The activity is located at the regular place of business that oversees this activity.

[~~8.~~](h) Location of credit card receivables. For purposes of determining the location of credit card receivables, credit card receivables shall be treated as loans and shall be subject to the provisions of [~~D.7.~~]Subsection (4)(g).

[~~9.~~](i) Period for which properly assigned loan remains assigned. A loan that has been properly assigned to a state shall, absent any change of material fact, remain assigned to that state for the length of the original term of the loan. Thereafter, the loan may be properly assigned to another state if the loan has a preponderance of substantive contact to a regular place of business in that state.

[~~10.~~](j) Each taxpayer shall make an initial election on whether to include the property described in [~~D.7.~~]Subsections (4)(g) through [~~D.9.~~](i) within the property factor. The initial election is the election made or the filing position taken on the first return filed after the effective date of this rule. This election is irrevocable for a period of three years from the time the initial election is made, except in the case where a substantial ownership change occurs and commission approval is obtained to change the election. After the initial three-year period, the election may be revocable only with the prior approval of the commission and shall require the showing of a significant change in circumstance.

[~~E.~~](5) Payroll factor.

[~~1.~~](a) In general. The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the taxable year by the taxpayer for compensation and the denominator of which is the total compensation paid by the taxpayer both within and without this state during the taxable year. The payroll factor shall include only that compensation included in the computation of the apportionable income tax base for the taxable year.

[~~2.~~](b) Compensation relating to nonbusiness income and independent contractors. The compensation of any employee for services or activities connected with the production of nonbusiness income, and payments made to any independent contractor or any other person not properly classifiable as an employee, shall be excluded from both the numerator and denominator of this factor.

[~~3.~~](c) When compensation paid in this state. Compensation is paid in this state if any one of the following tests, applied consecutively, is met:

[~~a~~)](i) The employee's services are performed entirely within this state.

[~~b~~)](ii) The employee's services are performed both within and without the state, but the service performed without the state is incidental to the employee's service within the state. The term "incidental"means any service that is temporary or transitory in nature, or that is rendered in connection with an isolated transaction.

[~~c~~)](iii) If the employee's services are performed both within and without this state, the employee's compensation will be attributed to this state:

[~~(1)~~](A) if the employee's principal base of operations is within this state;

[~~(2)~~](B) if there is no principal base of operations in any state in which some part of the services are performed, but the place from which the services are directed or controlled is in this state; or

[~~(3)~~](C) if the principal base of operations and the place from which the services are directed or controlled are not in any state in which some part of the service is performed but the employee's residence is in this state.

[~~F.~~](6) This rule is effective for taxable years beginning after December 31, 1997.

**KEY: taxation, franchises, historic preservation, trucking industries**
**Date of Enactment or Last Substantive Amendment: [~~July 20, 2005~~]2006**
**Notice of Continuation: April 3, 2002**
**Authorizing, and Implemented or Interpreted Law: 59-7-302 through 59-7-321**

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# Tax Commission, Auditing
# R865-6F-33
## Taxation of Telecommunications Pursuant to Utah Code Ann. Sections 59-7-302 through 59-7-321

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29018
FILED: 09/14/2006, 14:00

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 78 (2005 General Session) provides that taxpayers may elect a double-weighted sales factor to apportion their business income to Utah. (DAR NOTE: H.B. 78 (2005) is found at Chapter 225, Laws of Utah 2005, and was effective 01/01/2006.)

SUMMARY OF THE RULE OR CHANGE: The proposed amendment indicates how the double-weighted sales factor shall be calculated if one of the factors is missing.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-7-302 through 59-7-321

ANTICIPATED COST OR SAVINGS TO:
- THE STATE BUDGET: None--Any fiscal impact was taken into account in H.B. 78 (2005).
- LOCAL GOVERNMENTS: Any fiscal impact was taken into account in H.B. 78 (2005).
- OTHER PERSONS: Any fiscal impact was taken into account in H.B. 78 (2005).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Taxpayers may choose between two methods (the traditional three factor and the double-weighted sales factor) to apportion business income to Utah.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Taxpayers may choose between two methods to apportion income. D'Arcy Dixon, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2006

AUTHORIZED BY: D'Arcy Dixon, Commissioner

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**R865. Tax Commission, Auditing.**
**R865-6F. Franchise Tax.**
**R865-6F-33. Taxation of Telecommunications Pursuant to Utah Code Ann. Sections 59-7-302 through 59-7-321.**

[~~A.~~](1) Definitions.

[~~1.~~](a) "Call" means a specific telecommunications transmission as described in [~~A.6~~]Subsection (1)(f).

[~~2.~~](b) "Channel termination point" means the point at which information can enter or leave the telecommunications network.

[~~3.~~](c) "Communications channel" means a communications path, which can be one-way or two-way, depending on the channel, between two or more points. The path may be designed for the transmission of signals representing human speech, digital or analog data, facsimile, or images.

[~~4.~~](d) "Outerjurisdictional property" means tangible personal property, such as orbiting satellites, undersea transmission cables and the like, that are owned or rented by the taxpayer and used in a telecommunications business, but that are not physically located in any particular state.

[~~5.~~](e) "Private telecommunications service" means a dedicated telephone service that entitles the subscriber to the exclusive or priority use of a communications channel or groups of communications channels from one or more channel termination points to another channel termination point.

[~~6.~~](f) "Telecommunications" means the electronic transmission of voice, data, image, and other information through the use of any medium such as wires, cables, electromagnetic waves, light waves, or any combination of those or similar media now in existence or that might be devised, but telecommunications does not include the information content of any such transmission.

[~~7.~~](g) "Telecommunications service" means providing telecommunications, including services provided by telecommunication service resellers, for a charge and includes telephone service, telegraph service, paging service, personal communication services and mobile or cellular telephone service, but does not include electronic information service or Internet access service.

[~~B.~~](2) Apportionment and Allocation.

[~~1.~~](a) A corporation engaged in the business of telecommunications that is taxable both within and without this state, shall allocate and apportion its net income as provided in this rule. All items of nonbusiness income shall be allocated pursuant to the provisions of Section 59-7-306.

[~~2.~~](b) All business income shall be apportioned to this state by multiplying that income by the apportionment percentage. The apportionment percentage is determined by adding the taxpayer's receipts factor, property factor and payroll factor and dividing that sum by three. If one of the factors is missing, the remaining factors are added and that sum is divided by two. If two of the factors are missing, the remaining factor is the apportionment percentage. A factor is missing if both its numerator and denominator are zero.

[~~3.~~](c) The fraction by which business income shall be apportioned to the state shall be determined in accordance with rule R865-6F-8(3) and (6). Except as otherwise provided in this rule, the property factor shall be determined in accordance with [~~Tax Commission rule~~ ]R865-6F-8[~~(G)~~](7), the payroll factor in accordance with [~~rule~~ ]R865-6F-8[~~(H)~~](8) and the sales factor in accordance with [~~rule~~ ]R865-6F-8[~~(I)~~](9).

[~~C.~~](3)(a) Property Factor.

[~~1.~~](b) Outerjurisdictional property that is used by a taxpayer in providing a telecommunications service shall be attributed to this state based on the ratio of property within this state used in providing that service, to property everywhere used in providing the service, exclusive of property not located in any state. The term "property" as used herein refers to property includable in the property factor of the Utah apportionment fraction as defined in Tax Commission rule R865-6F-8[~~(G)~~](7).

[~~D.~~](4) Sales Factor Numerator.

[~~1.~~](a) The following sales and receipts from telecommunications service other than interstate or international private telecommunications service, shall be included in the Utah sales and receipts numerator:

[~~a~~](i) receipts derived from charges for providing telephone "access" from a location within Utah. "Access" means that a call can be made or received from a point within this state. An example of this type of receipt is a monthly subscriber fee billed with reference to equipment located in Utah;

[~~b~~](ii) receipts derived from charges for unlimited calling privileges, if the charges are billed by reference to equipment located in Utah;

[~~c~~](iii) receipts derived from charges for individual toll calls that originate and terminate in Utah;

[~~d~~](iv) receipts derived from charges for individual toll calls that either originate or terminate in Utah and are billed by reference to a customer or equipment located in Utah;

[~~e~~](v) receipts derived from any other charges if the charges are not includable in another state's sales factor numerator under that state's law, and the customer's billing address is in Utah.

[~~2.~~](b) Gross receipts derived from providing interstate and international private telecommunications services shall be determined as follows:

[~~a~~](i) If the segment of the interstate or international channel between each termination point is separately billed, 100 percent of the charge imposed at each termination point in this state and for service in this state between those points is includable in the Utah sales factor. In addition, 50 percent of the charge imposed for service between a channel termination point outside this state and a point inside the state shall be included in the Utah sales factor. For purposes of this paragraph, termination points shall be measured by the nearest termination point inside the state to the first termination point outside the state.

[~~b~~](ii) If each segment of the interstate or international channel is not separately billed, the Utah sales shall be the same portion of the interstate or international channel charge that the number of channel termination points within this state bears to the total number of channel termination points within and without this state.

**KEY: taxation, franchises, historic preservation, trucking industries**
**Date of Enactment or Last Substantive Amendment: [~~July 20, 2005~~]2006**
**Notice of Continuation: April 3, 2002**
**Authorizing, and Implemented or Interpreted Law: 59-7-302 through 59-7-321**

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# Tax Commission, Auditing
# R865-6F-36
## Taxation of Registered Securities or Commodities Broker or Dealer Pursuant to Utah Code Ann. Sections 59-7-302 through 59-7-321

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29022
FILED: 09/14/2006, 14:49

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 78 (2005 General Session) provides that taxpayers may elect a double-weighted sales factor to apportion their business income to Utah. (DAR NOTE: H.B. 78 (2005) is found at Chapter 225, Laws of Utah 2005, and was effective 01/01/2006.)

SUMMARY OF THE RULE OR CHANGE: The proposed amendment indicates how the double-weighted sales factor shall be calculated if one of the factors is missing.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-7-302 through 59-7-321

ANTICIPATED COST OR SAVINGS TO:
- ❖ THE STATE BUDGET: None--Any fiscal impact was taken into account in H.B. 78 (2005).
- ❖ LOCAL GOVERNMENTS: None--Any fiscal impact was taken into account in H.B. 78 (2005).
- ❖ OTHER PERSONS: None--Any fiscal impact was taken into account in H.B. 78 (2005).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Taxpayers may choose between two methods (the traditional three factor and the double-weighted sales factor) to apportion business income to Utah.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Taxpayers may choose between two methods to apportion business income to Utah. D'Arcy Dixon, Commissioner

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

TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2006

AUTHORIZED BY: D'Arcy Dixon, Commissioner

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**R865. Tax Commission, Auditing.**
**R865-6F. Franchise Tax.**
**R865-6F-36. Taxation of Registered Securities or Commodities Broker or Dealer Pursuant to Utah Code Ann. Sections 59-7-302 through 59-7-321.**

[~~A.~~](1) Definitions.

[~~1.~~](a) "Brokerage commission income" means income earned by a registered securities or commodities broker or dealer from the purchase and sale of securities or commodities by the broker or dealer:

[~~a~~)](i) for which the broker or dealer does not take title; and

[~~b~~)](ii) as an agent for a customer's account.

[~~2.~~](b) "Commodity" is as defined in Section 475(e)(2), Internal Revenue Code.

[~~3.~~](c) "Principal transaction" means a transaction where the registered securities or commodities broker or dealer acts as a principal or underwriter for the broker or dealer's own account, rather than as an agent for the customer.

[~~4.~~](d) "Registered securities or commodities broker or dealer" means a corporation registered as a broker or dealer with the Securities and Exchange Commission or the Commodities Futures Trading Commission.

[~~5.~~](e) "Security" is as defined in Section 475(c)(2), Internal Revenue Code.

[~~6.~~](f) "Securities or commodities used to produce income" means securities or commodities that are purchased and held by a registered securities or commodities broker or dealer as a principal or underwriter for resale to its customers.

[~~B.~~](2) Apportionment and allocation.

[~~1.~~](a) A registered securities or commodities broker or dealer whose business activity is taxable both within and without this state shall allocate and apportion its net income as provided in this rule. All items of nonbusiness income shall be allocated pursuant to the provisions of Section 59-7-306.

~~[2. All business income shall be apportioned to this state by multiplying that income by the apportionment percentage. The apportionment percentage is determined by adding the taxpayer's property factor, payroll factor, and sales factor, and dividing that sum by three. If one of the factors is missing, the remaining factors are added and that sum is divided by two. If two of the factors are missing, the remaining factor is the apportionment percentage. A factor is missing if both its numerator and denominator are zero.~~

~~3.~~](b) The fraction by which business income shall be apportioned to the state shall be determined in accordance with rule R865-6F-8(3) and (6). Except as otherwise provided in this rule, the property factor shall be determined in accordance with R865-6F-8[~~(G)~~](7), the payroll factor in accordance with R865-6F-8[~~(H)~~](8), and the sales factor in accordance with R865-6F-8[~~(I)~~](9).

[~~C.~~](3) Property factor.

[~~1.~~](a) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used, or available for use, within this state during the taxable year, plus the average value of securities or commodities used to produce income during the taxable year that are held for resale exclusively through a branch, office, or other place of business in this state. The denominator is the average value of the total of the taxpayer's real and tangible personal property owned or rented and used within and without this state during the taxable year, plus the average value of all securities or commodities used to produce income during the taxable year.

[~~2.~~](b) Securities or commodities used to produce income shall be valued at original cost.

[~~D.~~](4) Sales factor.

[~~1.~~](a) The sales factor is a fraction, the numerator of which is the total revenue that is derived from transactions and activities in the regular course of the taxpayer's trade or business within this state during the taxable year. The denominator is the total revenue that is derived from transactions and activities in the regular course of the taxpayer's trade or business within and without this state during the taxable year.

[~~2.~~](b) Brokerage commission income shall be included in the denominator of the sales factor. Brokerage commission income shall be included in the numerator of the sales factor if the customer that is paying the commission is located in Utah. A customer is located in Utah if the mailing address of the customer as it appears in the broker or dealer's records is in Utah.

[~~3.~~](c) Gross receipts from principal transactions shall be included in the denominator of the sales factor. Gross receipts from principal transactions shall be included in the numerator of the sales factor if the sale is made through a branch, office, or other place of business in Utah. Gross receipts from principal transactions shall be determined after the deduction of any cost incurred by the taxpayer to acquire the securities or commodities.

[~~4.~~](d) Other gross receipts such as margin interest on brokerage accounts and account maintenance fees shall be included in the denominator of the sales factor, and, if the customer that is paying the amounts or fees is located in Utah based on the customer address as it appears in the broker or dealer's records, in the numerator of the sales factor.

**KEY: taxation, franchises, historic preservation, trucking industries**
**Date of Enactment or Last Substantive Amendment: [~~July 20, 2005~~]2006**
**Notice of Continuation: April 3, 2002**
**Authorizing, and Implemented or Interpreted Law: 59-7-302 through 59-7-321**

# Tax Commission, Auditing
# R865-12L-5
## Place of Sale Pursuant to Utah Code Ann. Section 59-12-207

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29027
FILED: 09/14/2006, 15:29

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: S.B. 233 (2006 General Session) provides that sourcing of sales is based on the business location of the seller. (DAR NOTE: S.B. 233 (2006) is found at Chapter 253, Laws of Utah 2006, and was effective 07/01/2006.)

SUMMARY OF THE RULE OR CHANGE: The proposed amendment deletes language that sourced a sale to a location other than the business location of the seller.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-12-207

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--The agency has been following the statutory language.
❖ LOCAL GOVERNMENTS: None--The agency has been following the statutory language.
❖ OTHER PERSONS: None--The agency has been following the statutory language.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The deleted language has not been followed.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no foreseen fiscal impacts to businesses with this rule. D'Arcy Dixon, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2006

AUTHORIZED BY: D'Arcy Dixon, Commissioner

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**R865. Tax Commission, Auditing.**
**R865-12L. Local Sales and Use Tax.**
**R865-12L-5. Place of Sale Pursuant to Utah Code Ann. Section 59-12-207.**

[~~A.~~](1) All retail sales shall be deemed to occur at the place of business of the retailer.

[~~B.~~](2) It is immaterial that delivery of the tangible personal property is made in a county or municipality other than that in which the retailer's place of business is located. There is no exemption from local sales or use tax on the basis of residence of or use by the purchaser in a county other than that in which the sale is made.[

~~C. If a seller has more than one place of business in Utah, and if two or more of such locations participate in the sale, the sale occurs at the place of business where the tangible personal property is located or the place from which it is shipped or delivered.~~]

**KEY: taxation, sales tax, restaurants, collections**
**Date of Enactment or Last Substantive Amendment: [~~June 29, 2004~~]2006**
**Notice of Continuation: April 16, 2002**
**Authorizing, and Implemented or Interpreted Law: 59-12-207**

# Tax Commission, Auditing
# R865-19S-32
## Leases and Rentals Pursuant to Utah Code Ann. Section 59-12-103

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29019
FILED: 09/14/2006, 14:34

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment clarifies statutory language setting forth the sales tax responsibilities of certain vendors.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment deletes language that appears in statute; and clarifies language that indicates the sales tax responsibility of a person that furnishes tangible personal property with an operator.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-12-103

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--The proposed amendment does not alter the sales tax responsibility of a person that furnishes tangible personal property with an operator.
❖ LOCAL GOVERNMENTS: None--The proposed amendment does not alter the sales tax responsibility of a person that furnishes tangible personal property with an operator.
❖ OTHER PERSONS: None--The proposed amendment does not alter the sales tax responsibility of a person that furnishes tangible personal property with an operator.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Under this amendment, a vendor that furnishes tangible personal property with an operator will remain as they currently exist.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no foreseen fiscal impacts to businesses with this rule. D'Arcy Dixon, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2006

AUTHORIZED BY: D'Arcy Dixon, Commissioner

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**R865. Tax Commission, Auditing.**
**R865-19S. Sales and Use Tax.**
**R865-19S-32. Leases and Rentals Pursuant to Utah Code Ann. Section 59-12-103.**

[~~A.~~](1) The lessor shall compute sales or use tax on all amounts received or charged in connection with a lease or rental of tangible personal property.

[~~B.~~](2) When a lessee has the right to possession, operation, or use of tangible personal property, the tax applies to the amount paid pursuant to the lease agreement, regardless of the duration of the agreement.

[~~C.~~](3) Lessors of tangible personal property shall furnish an exemption certificate when purchasing tangible personal property subject to the sales or use tax on rental receipts. Costs of repairs and renovations to tangible personal property are exempt if paid for by the lessor since it is assumed that those costs are recovered by the lessor in his rental receipts.

[~~D.~~](4) [~~Persons who furnish an operator with the rental equipment and charge for the use of the equipment and personnel are regarded as the consumers of the property leased or rented. An example of this type of rental is the furnishing of a crane and its operating personnel to a building erector. Sales or use tax then applies to the purchase of the equipment by the lessor rather than to the rental revenue.~~]A person that furnishes tangible personal property along with an operator, as described in the definition of lease or rental in Section 59-12-102, provides a service and shall:

(a) pay sales and use tax at the time that person purchases the tangible personal property that is furnished under this Subsection (4); and

(b) collect sales and use tax at the time that person provides the service if the service is subject to sales and use tax.[

~~E. Rentals to be applied on a future sale or purchase are subject to sales or use tax.~~]

**KEY: charities, tax exemptions, religious activities, sales tax**
**Date of Enactment or Last Substantive Amendment: [~~October 13, 2005~~]2006**
**Notice of Continuation: April 5, 2002**
**Authorizing, and Implemented or Interpreted Law: 59-12-103**

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# Tax Commission, Auditing
# R865-19S-34
## Admission to Places of Amusement Pursuant to Utah Code Ann. Section 59-12-103

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29033
FILED: 09/14/2006, 16:43

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Language in this section is removed that duplicates statutory language. Also, some changes were necessary for clarity and consistency.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment deletes language that is duplicated in statute, and makes technical changes.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-12-103

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--The proposed amendment deletes language that is duplicated in statute.
❖ LOCAL GOVERNMENTS: None--The proposed amendment deletes language that is duplicated in statute.
❖ OTHER PERSONS: None--The proposed amendment deletes language that is duplicated in statute.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The proposed amendment merely deletes language that is duplicated in statute.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no foreseen fiscal impacts to businesses with this rule. D'Arcy Dixon, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2006

AUTHORIZED BY: D'Arcy Dixon, Commissioner

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**R865. Tax Commission, Auditing.**
**R865-19S. Sales and Use Tax.**
**R865-19S-34. Admission to Places of Amusement Pursuant to Utah Code Ann. Section 59-12-103.**

[~~A. The phrase "place of amusement, entertainment, or recreation" is broad in meaning but conveys the basic idea of a definite location.~~

~~B.~~](1)(a) The amount paid for admission [~~to such a place~~ ]is subject to [~~the~~]sales and use tax, even though [~~such charge~~]that amount includes the right of the purchaser to participate in some activity[ ~~within the place~~].

(b) For example, the sale of a ticket for a ride upon a mechanical [~~or self-operated~~] device is an admission to a place of amusement.

[~~C.~~](2)(a) [~~Charges for admissions to swimming pools, skating rinks, and other places of amusement are subject to tax.~~]Additional charges for the rental of tangible personal property are subject to sales and use tax as the sale of tangible personal property.

(b) [~~Charges~~]For example:

(i) [~~for~~ ]towel rentals[~~,~~] and swimming suit rentals[~~, skate rentals, etc.,~~] at a swimming pool are [~~also~~] subject to sales and use tax[~~.~~];

(ii) [~~Locker~~]locker rental fees at a swimming pool are subject to sales tax if the lockers are tangible personal property.

**KEY: charities, tax exemptions, religious activities, sales tax**
**Date of Enactment or Last Substantive Amendment: [~~October 13, 2005~~]2006**
**Notice of Continuation: April 5, 2002**
**Authorizing, and Implemented or Interpreted Law: 59-12-103**

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# Tax Commission, Auditing
# R865-19S-49
## Sales to and by Farmers and Other Agricultural Producers Pursuant to Utah Code Ann. Section 59-12-104

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29024
FILED: 09/14/2006, 14:55

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 54 (2006 General Session) amended the sales tax exemption for the exclusive sale of seasonal crops sold during the harvest season. (DAR NOTE: H.B. 54 (2006) is found at Chapter 268, Laws of Utah 2006, and was effective 07/01/2006.)

SUMMARY OF THE RULE OR CHANGE: The proposed amendment deletes language from rule that is no longer a statutory criteria for the sales tax exemption.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-12-104

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--Any fiscal impact was taken into account in H.B. 54 (2006).
❖ LOCAL GOVERNMENTS: None--Any fiscal impact was taken into account in H.B. 54 (2006).
❖ OTHER PERSONS: None--Any fiscal impact was taken into account in H.B. 54 (2006).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--While some sales that were taxable are now exempt, other sales that were exempt are now taxable.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Anticipated impact is minimal to none. Under the law, a business may or may not now need to collect sales tax. D'Arcy Dixon, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2006

AUTHORIZED BY: D'Arcy Dixon, Commissioner

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**R865. Tax Commission, Auditing.**
**R865-19S. Sales and Use Tax.**
**R865-19S-49. Sales to and by Farmers and Other Agricultural Producers Pursuant to Utah Code Ann. Section 59-12-104.**

[~~A. 1.~~](1)(a) For purposes of the sales and use tax exemption for tangible personal property used or consumed primarily and directly in farming operations, a person is engaged in "farming operations" if that person may deduct farm related expenses under Sections 162 or 212, Internal Revenue Code.

[~~2.~~](b) To determine whether a person may deduct farm related expenses under Sections 162 or 212 of the Internal Revenue Code, the commission shall consider Treas. Reg. Sections 1.183-1 and 1.183-2.

[~~B.~~](2) The purchase of feed, medicine, and veterinary supplies by a farmer or other agricultural producer qualify for the sales and use tax exemption for tangible personal property used or consumed primarily and directly in farming operations if the feed, medicine, or veterinary supplies are used:

[~~1.~~](a) to produce or care for agricultural products that are for sale;

[~~2.~~](b) to feed or care for working dogs and working horses in agricultural use;

[~~3.~~](c) to feed or care for animals that are marketed.

[~~C.~~](3) Fur-bearing animals that are kept for breeding or for their products are agricultural products.

[~~D.~~](4) A vendor making sales to a farmer or other agricultural producer is liable for the tax unless that vendor obtains from the purchaser a certificate as set forth in Rule R865-19S-23.

[~~E.~~](5) Poultry, eggs, and dairy products are not seasonal products for purposes of the sales and use tax exemption for the exclusive sale of [~~locally grown~~ ]seasonal crops, seedling plants, or garden, farm, or other agricultural produce sold [~~by a producer~~ ]during the harvest season.

**KEY: charities, tax exemptions, religious activities, sales tax**
**Date of Enactment or Last Substantive Amendment: [~~October 13, 2005~~]2006**
**Notice of Continuation: April 5, 2002**
**Authorizing, and Implemented or Interpreted Law: 59-12-104**

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# Tax Commission, Auditing
# R865-19S-76
## Painters, Polishers and Car Washers Pursuant to Utah Code Ann. Section 59-12-103 and 59-12-104

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29030
FILED: 09/14/2006, 15:40

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 51 (2006 General Session) amended the sales taxation of car washes. (DAR NOTE: H.B. 51 (2006) is found at Chapter 181, Laws of Utah 2006, and was effective 07/01/2006.)

SUMMARY OF THE RULE OR CHANGE: The proposed amendment deletes language indicating services that are taxable since some of the listed taxable services are no longer taxable. Services that are taxable are listed in statute.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-12-103 and 59-12-104

ANTICIPATED COST OR SAVINGS TO:
- ❖ THE STATE BUDGET: None--Any fiscal impact was taken into account in H.B. 51 (2006).
- ❖ LOCAL GOVERNMENTS: None--Any fiscal impact was taken into account in H.B. 51 (2006).
- ❖ OTHER PERSONS: None--Any fiscal impact was taken into account in H.B. 51 (2006).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Under the new legislation, some additional car washes are exempt from sales tax.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Some additional car washes are exempt from sales tax. D'Arcy Dixon, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2006

AUTHORIZED BY: D'Arcy Dixon, Commissioner

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**R865. Tax Commission, Auditing.**
**R865-19S. Sales and Use Tax.**
**R865-19S-76. Painters, Polishers, and Car Washers[, Etc.] Pursuant to Utah Code Ann. [Section]Sections 59-12-103 and 59-12-104.**

[A. Charges for painting, polishing, washing, cleaning, and waxing tangible personal property are subject to tax, and no deduction is allowed for the service involved.

B.](1) Sales of paint, wax, or other material [which becomes a part of the customer's tangible personal property, ]to persons engaged in the business of painting and polishing of tangible personal property are exempt as sales for resale if the paint, wax, or other material becomes a part of the customer's tangible personal property. However, the vendor of these items must be given a resale certificate as provided for in Rule R865-19S-23.

[C.](2) Sales of soap, washing mitts, polishing cloths, spray equipment, sand paper, and similar items to painters, polishers, and car washes[, etc.,] are sales to the final consumer and are subject to tax.

**KEY: charities, tax exemptions, religious activities, sales tax**
**Date of Enactment or Last Substantive Amendment: [October 13, 2005]2006**
**Notice of Continuation: April 5, 2002**
**Authorizing, and Implemented or Interpreted Law: 59-12-103; 59-12-104**

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# Tax Commission, Auditing
# R865-19S-80
## Printer's Purchases and Sales Pursuant to Utah Code Ann. Section 59-12-103

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29023
FILED: 09/14/2006, 14:52

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: S.B. 127 (2005 General Session) made changes to the definition of purchase price, removing delivery charges from the definition. (DAR NOTE: S.B. 127 is found at Chapter 158, Laws of Utah 2005, and was effective 07/01/2005.)

SUMMARY OF THE RULE OR CHANGE: The proposed amendment deletes services that are delivery charges from examples of taxable sales by a printer.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-12-103

ANTICIPATED COST OR SAVINGS TO:
- THE STATE BUDGET: None--Any fiscal impacts were taken into account in S.B. 127 (2005).
- LOCAL GOVERNMENTS: None--Any fiscal impacts were taken into account in S.B. 127 (2005).
- OTHER PERSONS: None--Any fiscal impacts were taken into account in S.B. 127 (2005).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The amended definition of purchase price exempts from sales tax certain services that were previously taxable.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Printers may have less items upon which they are collecting sales tax. D'Arcy Dixon, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2006

AUTHORIZED BY: D'Arcy Dixon, Commissioner

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**R865. Tax Commission, Auditing.**
**R865-19S. Sales and Use Tax.**
**R865-19S-80. Printers' Purchases and Sales Pursuant to Utah Code Ann. Section 59-12-103.**

[A.](1) Definitions.

[1.a)](a)(i) "Pre-press materials" means materials that:

[(1)](B) are reusable;

[(2)](C) are used in the production of printed matter;

[(3)](D) do not become part of the final printed matter; and

[(4)](E) are sold to the customer.

[b)](ii) Pre-press materials include film, magnetic media, compact disks, typesetting paper, and printing plates.

[2.a)](b)(i) "Printer" means a person that reproduces multiple copies of images, regardless of the process employed or the name by which that person is designated.

[b)](ii) A printer includes a person that employs the processes of letterpress, offset, lithography, gravure, engraving, duplicating, silk screen, bindery, or lettership.

[~~B.~~](2) Purchases by a printer.

[~~1.~~](a)(i) Purchases of tangible personal property by a printer are subject to sales and use tax if the property will be used or consumed by the printer.

[~~a)~~](ii) Examples of tangible personal property used or consumed by the printer include conditioners, solvents, developers, and cleaning agents.

[~~2.~~](b)(i) A printer may purchase tax free for resale any tangible personal property that becomes a component part of the finished goods for resale.

[~~a)~~](ii) Examples of tangible personal property that becomes a component part of the finished goods for resale include glue, stitcher wire, paper, and ink.

[~~3.~~](c) A printer may purchase pre-press materials tax free if the printer's invoice, or other written material provided to the purchaser, states that reusable pre-press materials are included with the purchase. A description and the quantity of the actual items used in the order is not necessary. The statement must not restrict the customer from taking physical possession of the pre-press materials.

[~~4.~~](d) The tax treatment of a printer's purchase of graphic design services shall be determined in accordance with rule R865-19S-111.

[~~C.~~](3) Sales by a printer.

[~~1.~~](a) Except as provided in this Subsection [~~C.~~](3), a printer shall collect sales and use tax on the following:

[~~a)~~](i) charges for printed material, even though the paper may be furnished by the customer;

[~~b)~~](ii) charges for envelopes;

[~~c)~~](iii) charges for services performed in connection with the printing or the sale of printed matter, such as cutting, folding, and binding[~~, addressing, and mailing~~];

[~~d)~~](iv) charges for pre-press materials purchased tax exempt by the printer; and

[~~e)~~](v) charges for reprints and proofs.

[~~2.~~](b) Charges for postage are not subject to sales and use tax.

[~~3.~~](c) Sales by a printer are exempt from sales and use tax if:

[~~a)~~](i) the sale qualifies for exemption under Section 59-12-104; and

[~~b)~~](ii) the printer obtains from the purchaser a certificate as set forth in rule R865-19S-23.

[~~4.~~](d) If the printer's customer is purchasing printed material for resale, but will not resell the pre-press materials, the printer must collect sales and use tax on the pre-press materials.

[~~5.~~](e) If printed material is shipped outside of the state, charges for pre-press materials are exempt from sales tax as a sale of goods sold in interstate commerce only if the pre-press materials are physically shipped out of state with the printed material. If pre-press materials are retained in the state by the printer for any reason, the pre-press materials do not qualify for the sales tax exemption for goods sold in interstate commerce, and as such, the printer must collect sales tax on the part of the transaction relating to the pre-press materials.

[~~D.~~](4) If a sale by a printer consists of items that are subject to sales and use tax as well as items or services that are not taxable, the nontaxable items or services must be separately stated on the invoice or the entire sale is subject to sales and use tax.

**KEY: charities, tax exemptions, religious activities, sales tax**
**Date of Enactment or Last Substantive Amendment: [~~October 13, 2005~~]2006**
**Notice of Continuation: April 5, 2002**
**Authorizing, and Implemented or Interpreted Law: 59-12-103**

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# Tax Commission, Auditing
# R865-19S-85
## Sales and Use Tax Exemptions for New or Expanding Operations and Normal Operating Replacements Pursuant to Utah Code Ann. Section 59-12-104

**NOTICE OF PROPOSED RULE**
(Amendment)
DAR FILE NO.: 29028
FILED: 09/14/2006, 15:33

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: S.B. 31 (2006 General Session) amended the criteria for the sales tax exemption for a manufacturing facility. (DAR NOTE: S.B. 31 (2006) is found at Chapter 220, Laws of Utah 2006, and was effective 07/01/2006.)

SUMMARY OF THE RULE OR CHANGE: The proposed amendment deletes references to new and expanding operations and normal operating replacements since, under S.B. 31 (2006), those terms are no longer relevant in determining whether purchases by a manufacturing facility are eligible for the exemption.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-12-104

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--Any fiscal impacts were taken into account in S.B. 31 (2006).
❖ LOCAL GOVERNMENTS: None--Any fiscal impacts were taken into account in S.B. 31 (2006).
❖ OTHER PERSONS: None--Any fiscal impacts were taken into account in S.B. 31 (2006).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--More items are eligible for the sales tax exemption.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--More items are eligible for the sales tax exemption. D'Arcy Dixon, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
AUDITING
210 N 1950 W

SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/31/2006.

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2006

AUTHORIZED BY: D'Arcy Dixon, Commissioner

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**R865. Tax Commission, Auditing.**
**R865-19S. Sales and Use Tax.**
**R865-19S-85. Sales and Use Tax Exemptions for [~~New or Expanding Operations and Normal Operating Replacements~~]Certain Purchases by a Manufacturing Facility Pursuant to Utah Code Ann. Section 59-12-104.**

[~~A.~~](1) Definitions:

[~~1.~~](a) "Establishment" means an economic unit of operations, that is generally at a single physical location in Utah, where qualifying manufacturing processes are performed. If a business operates in more than one location (e.g., branch or satellite offices), each physical location is considered separately from any other locations operated by the same business.

[~~2.~~](b) "Machinery and equipment" means:

[~~a~~](i) electronic or mechanical devices incorporated into a manufacturing process from the initial stage where actual processing begins, through the completion of the finished end product, and including final processing, finishing, or packaging of articles sold as tangible personal property. This definition includes automated material handling and storage devices when those devices are part of the integrated continuous production cycle; and

[~~b~~](ii) any accessory that is essential to a continuous manufacturing process. Accessories essential to a continuous manufacturing process include:

[~~(i)~~](A) bits, jigs, molds, or devices that control the operation of machinery and equipment; and

[~~(ii)~~](B) gas, water, electricity, or other similar supply lines installed for the operation of the manufacturing equipment, but only if the primary use of the supply line is for the operation of the manufacturing equipment.

[~~3.~~](c) "Manufacturer" means a person who functions within a manufacturing facility.

~~[4a) "New or expanding operations" means:~~

~~(i) the creation of a new manufacturing operation in this state; or~~

~~(ii) the expansion of an existing Utah manufacturing operation if the expanded operation increases production capacity or is substantially different in nature, character, or purpose from that manufacturer's existing Utah manufacturing operation.~~

~~b) The definition of new or expanding operations is subject to limitations on normal operating replacements.~~

~~c) A manufacturer who closes operations at one location in this state and reopens the same operation at a new location does not qualify for the new or expanding operations sales and use tax exemption without demonstrating that the move meets the conditions set forth in A.4.a). Acquisitions of machinery and equipment for the new location may qualify for the normal operating replacements sales and use tax exemption if they meet the definition of normal operating replacements in A.5.~~

~~5. "Normal operating replacements" includes:~~

~~a) new machinery and equipment or parts, whether purchased or leased, that have the same or similar purpose as machinery or equipment retired from service due to wear, damage, destruction, or any other cause within 12 months before or after the purchase date, even if they improve efficiency or increase capacity.~~

~~b) if existing machinery and equipment or parts are kept for backup or infrequent use, any new, similar machinery and equipment or parts purchased and used for the same or similar function.~~

~~B.~~](2) The sales and use tax [~~exemptions for new or expanding operations and normal operating replacements apply~~]exemption for the purchase or lease of machinery and equipment by a manufacturing facility applies only to purchases or leases of tangible personal property used in the actual manufacturing process.

[~~1.~~](a) The exemptions do not apply to purchases of real property or items of tangible personal property that become part of the real property in which the manufacturing operation is conducted.

[~~2.~~](b) Purchases of qualifying machinery and equipment [~~or normal operating replacements~~ ]are treated as purchases of tangible personal property under R865-19S-58, even if the item is affixed to real property upon installation.

[~~C.~~](3) Machinery and equipment [~~or normal operating replacements~~ ]used for a nonmanufacturing activity qualify for the exemption if the machinery and equipment [~~or normal operating replacements~~ ]are primarily used in manufacturing activities. Examples of nonmanufacturing activities include:

[~~1.~~](a) research and development;

[~~2.~~](b) refrigerated or other storage of raw materials, component parts, or finished product; or

[~~3.~~](c) shipment of the finished product.

[~~D.~~](4) Where manufacturing activities and nonmanufacturing activities are performed at a single physical location, machinery and equipment [~~or normal operating replacements~~ ]purchased for use in the manufacturing operation are eligible for the sales and use tax exemption [~~for new or expanding operations or for normal operating replacements~~ ]if the manufacturing operation constitutes a separate and distinct manufacturing establishment.

[~~1.~~](a) Each activity is treated as a separate and distinct establishment if:

[~~a~~](i) no single SIC code includes those activities combined; or

[~~b~~](ii) each activity comprises a separate legal entity.

[~~2.~~](b) Machinery and equipment [~~or normal operating replacements~~ ]used in both manufacturing activities and nonmanufacturing activities qualify for the exemption [~~for new or expanding operations or for normal operating replacements~~ ]only if the machinery and equipment [~~or normal operating replacements~~ ]are primarily used in manufacturing activities.

[~~E.~~](5) The manufacturer shall retain records to support the claim that the machinery and equipment [~~or normal operating replacements~~ ]are qualified for exemption from sales and use tax under the provisions of this rule and Section 59-12-104.

[~~F.~~](6) If a purchase consists of items that are exempt from sales and use tax under this rule and Section 59-12-104, and items that are subject to tax, the tax exempt items must be separately stated on the invoice or the entire purchase will be subject to tax.

**KEY: charities, tax exemptions, religious activities, sales tax**
**Date of Enactment or Last Substantive Amendment: [~~October 13, 2005~~]2006**
**Notice of Continuation: April 5, 2002**
**Authorizing, and Implemented or Interpreted Law: 59-12-104**

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

# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1998).

## Administrative Services, Facilities Construction and Management
## R23-25
## Administrative Rules Adjudicative Proceedings

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**
DAR FILE NO.: 28993
FILED: 09/06/2006, 08:38

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is enacted under the authority of Section 63-46b-5 and Subsection 63a-5-103(1)(e) and is administered in accordance with the Utah Administrative Procedures Act. Rule R23-25 provides the standards and procedures for adjudicative proceedings.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Division of Facilities Construction and Management (DFCM) and the Utah Building Board have not received written comments, either in support or opposition to Rule R23-25.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuation of Rule R23-25 is necessary to provide an effective and efficient process for adjudicative proceedings. Therefore, this rule should be continued. While this rule is being continued, we intend on also presenting amendments to the rule at a future Building Board meeting for consideration and publication.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ADMINISTRATIVE SERVICES
FACILITIES CONSTRUCTION AND MANAGEMENT
Room 4110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Alan Bachman or Debbie Merrill at the above address, by phone at 801-538-3105 or 801-538-3240, by FAX at 801-538-3313 or 801-538-3313, or by Internet E-mail at abachman@utah.gov or debramerrill@utah.gov

AUTHORIZED BY: Keith Stepan, Director

EFFECTIVE: 09/06/2006

## Alcoholic Beverage Control, Administration
## R81-2
## State Stores

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**
DAR FILE NO.: 28994
FILED: 09/06/2006, 11:50

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 32A-1-107 authorizes the Alcoholic Beverage Control (ABC) Commission to adopt and issue rules; to set policy by rule that establishes criteria and procedures for granting, denying, suspending, or revoking licenses and permits; and to prescribe the conduct, management, and equipment of any premises where alcohol is sold, served, consumed, or stored.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS

SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule regulates operations in state liquor stores. It addresses procedures for making special orders of liquor by the public and for liquor returns, refunds and exchanges; requires that state stores post a warning sign; establishes guidelines to ensure employees acquire appropriate identification from customers; addresses what advertising is permitted; sets standards for refusal of service; prohibits minors from purchasing alcoholic beverages; establishes standards for accepting checks and credit cards for the purchase of alcoholic beverages; establishes store hours; and designates how much access industry members may have to the stores' premises. All of the regulations set forth in this rule remain important and applicable to liquor store operations. Therefore, this rule should be continued.

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

AUTHORIZED BY: Kenneth F. Wynn, Director

EFFECTIVE: 09/06/2006

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## Alcoholic Beverage Control, Administration
## R81-3
## Package Agencies

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**
DAR FILE NO.: 28997
FILED: 09/06/2006, 15:00

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 32A-1-107 authorizes the Alcoholic Beverage Control (ABC) Commission to adopt and issue rules; to set policy by rule that establishes criteria and procedures for granting, denying, suspending, or revoking licenses and permits; and to prescribe the conduct, management, and equipment of any premises where alcohol is sold, served, consumed, or stored.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule regulates operations at liquor package agencies throughout the state of Utah. It defines the five package agency types; addresses requirements for a change of package agency operator or location; clarifies compliance bond requirements; establishes procedures for special orders of liquor by the public and procedures for the return, refund, or exchange of liquor; requires package agents to post a warning sign on the premises; establishes guidelines for appropriate identification for liquor purchases; addresses how each type of package agency may list and promote products; establishes requirements for package agents who sell liquor on consignment; establishes application and evaluation guidelines for persons requesting a package agency contract; sets the operational restrictions for each agency type; sets guidelines for refusal of service to patrons; addresses the issue of minors on the package agency premises; permits type 4 package agencies to provide room service; and sets guidelines for package agency personnel to accept credit cards for the purchase of liquor. All of the regulations set forth in this rule remain important and applicable to the operations of a liquor package agency. Therefore, this rule should be continued.

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

AUTHORIZED BY: Kenneth F. Wynn, Director

EFFECTIVE: 09/06/2006

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## Alcoholic Beverage Control, Administration
## R81-4A
## Restaurant Liquor Licenses

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**
DAR FILE NO.: 28998
FILED: 09/06/2006, 15:47

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 32A-1-107 authorizes the Alcoholic Beverage Control (ABC) Commission to adopt and issue rules; to set policy by rule that establishes criteria and procedures for granting, denying, suspending, or revoking licenses and permits; and to prescribe the conduct, management, and equipment of any premises where alcohol is sold, served, consumed, or stored.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule regulates operations at establishments holding full-service restaurant liquor licenses. It establishes operational guidelines for businesses that operate with a liquor license during some hours of the day and a beer license during other hours of the same day; requires license applicants to bring their completed applications before the ABC Commission for approval; clarifies compliance bond and insurance requirements; establishes procedures by which a restaurant licensee orders liquor from liquor stores; sets hours of operation; establishes food sale and record requirements; sets liquor storage requirements; establishes regulations for the use of alcoholic product flavorings; requires that alcoholic beverage service and consumption must be at a patron's table; sets requirements for alcoholic beverage menus and price lists; requires restaurant employees to wear an ID badge; and permits brown bagging of alcoholic beverages onto the restaurant premises for use at privately-hosted events. All of the regulations set forth in this rule remain important and applicable to the operations of a full-service restaurant. Therefore, this rule should be continued.

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

AUTHORIZED BY: Kenneth F. Wynn, Director

EFFECTIVE: 09/06/2006

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# Alcoholic Beverage Control, Administration
# R81-5
# Private Clubs

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**
DAR FILE NO.: 28999
FILED: 09/07/2006, 10:04

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 32A-1-107 authorizes the Alcoholic Beverage Control (ABC) Commission to adopt and issue rules; to set policy by rule that establishes criteria and procedures for granting, denying, suspending, or revoking licenses and permits; and to prescribe the conduct, management, and equipment of any premises where alcohol is sold, served, consumed, or stored.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule regulates operations at establishments licensed as private clubs. It sets guidelines for license application procedures and establishes operational restrictions for the different club classifications; addresses bond and insurance requirements; sets advertising requirements; establishes procedures for the purchase of liquor from state liquor stores; sets operating hours; permits private club customers to run a tab for the purchase of alcoholic beverages; permits liquor products used for all purposes including cooking and flavoring to be stored in a common storage area; identifies liquor price list requirements; establishes requirements for employee ID badges; allows patrons to bring alcoholic beverages onto the club's premises for privately hosted events; establishes procedures for assessing club membership fees; prohibits minors from being in lounge or bar areas of private clubs; defines terms regarding sexually oriented adult entertainment and prohibits minors from being on the premises of private clubs with that type of entertainment; and sets regulations for the assessment and collection of visitor card fees. All of the regulations set forth in this rule remain important and applicable to the operations of a private club. Therefore, this rule should be continued.

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

AUTHORIZED BY: Kenneth F. Wynn, Director

EFFECTIVE: 09/07/2006

## Commerce, Administration
# R151-14
## New Automobile Franchise Act Rules

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**
DAR FILE NO.: 28995
FILED: 09/06/2006, 12:11

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The New Automobile Franchise Act (NAFA), Section 13-14-101 et seq., governs the distribution and sales of new motor vehicles through franchise arrangements, and regulates the relationship between franchisers and franchisees. Sections 13-14-104 and 13-14-105 authorize the Utah Motor Vehicle Franchise Advisory Board and the department to promulgate rules regarding the administration of NAFA.

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

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary to administer the registration of franchisees and franchisers and to conduct administrative proceedings before the Board. Therefore, the rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
COMMERCE
ADMINISTRATION
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Masuda Medcalf at the above address, by phone at 801-530-7663, by FAX at 801-530-6446, or by Internet E-mail at mmedcalf@utah.gov

AUTHORIZED BY: Francine Giani, Executive Director

EFFECTIVE: 09/06/2006

## Insurance, Administration
# R590-210
## Privacy of Consumer Information Exemption for Manufacturer Warranties and Service Contracts

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**
DAR FILE NO.: 29035
FILED: 09/15/2006, 14:36

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsections 31A-2-201(2), 31A-2-202(1), and 31A-2-201(3)(a) empower the Commissioner to administer and enforce Title 31A of the Utah Code. Subsection 31A-23-317(3) authorizes the Commissioner to adopt rules implementing the requirements of Title V, Sections 501 to 505 of the federal act (15 U.S.C 6801 through 6807). Title V, Section 505 (15 U.S.C. 6805) empowers the commissioner to enforce Subtitle A of Title V of the Gramm-Leach-Bliley Act of 1999 (15 U.S.C. 6801 through 6820). As allowed by the federal law, the rule provides an exemption to warranty and service contract providers from the department's privacy rule, Rule R590-206, which sets restrictions on the disclosure of nonpublic personal health and financial information, as well as requires licensees to disclose their privacy policies to customers.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has received no written comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R590-206 is applicable to all licensees of the department. Persons or entities that provide warranty or service contracts on consumer goods are required to register with the department and provide certain information about their ability to perform under the warranty or service contract. Technically a registration could be considered a license issued by the department. Unless those contracts are exempted from the rule, the provider must comply with Rule R590-206. Without the exemption, the persons or entitles providing the warranties or service contracts will experience immediate and substantial costs to be in compliance with Rule R590-206. Without the exemption, they will either be out of compliance or will have to stop providing the product or provide the product subject to being in violation of the rule. The impact to the public is immediate and perilous. It will impact the delivery of these products in interstate commerce and will result in increased costs to purchasers. It will impact the supply of these products in the market. Therefore, this rule should be continued. Warranty and service contract providers are not subject to Gramm-Leach-Bliley. However, because they are required to register with the department, they can be technically considered to be "licensees" of the department and without exemption would be subject to Rule R590-206, which applies only to financial service entities under Gramm-Leach-Bliley.

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

INSURANCE
ADMINISTRATION
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 09/15/2006

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## School and Institutional Trust Lands, Administration

## R850-140

## Development Property

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**
DAR FILE NO.: 29015
FILED: 09/14/2006, 08:45

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 53C-4-101 directs the agency to establish criteria by rule for the sale, exchange, lease, or other disposition or conveyance of trust lands, including procedures for determining fair market value of those lands. This rule allows Trust Lands Administration to designate certain of its lands in a special category in order to facilitate the development of those lands for optimum revenue generation.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The agency has not received any written comments concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule allows Trust Lands Administration to designate certain of its lands in a special category in order to facilitate the development of those lands for optimum revenue generation. Under this rule, the agency has successfully initiated and completed complex business transactions on designated lands in a manner more reflective of a traditional business approach to land development than a governmental approach. The rule specifically exempts applications on designated lands from several other agency rules and serves to expedite the process of completing transactions. Because real estate transactions are time sensitive, discontinuation of this rule would inhibit a number of prospective transactions and limit their potential for revenue generation. Therefore, this rule should be continued.

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

SCHOOL AND INSTITUTIONAL TRUST LANDS
ADMINISTRATION
Room 500
675 E 500 S
SALT LAKE CITY UT 84102-2818, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Ric McBrier at the above address, by phone at 801-538-5170, by FAX at 801-328-9452, or by Internet E-mail at ricmcbrier@utah.gov

AUTHORIZED BY: Kevin S. Carter, Director

EFFECTIVE: 09/14/2006

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# 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

Commerce
Occupational and Professional Licensing
No. 28876 (AMD): R156-40-302c. Qualifications for Licensure - Examination Requirements.
Published: August 1, 2006
Effective: September 14, 2006

No. 28294 (NEW): R156-77. Direct-Entry Midwife Act Rules.
Published: November 15, 2005
Effective: September 14, 2006

No. 28294 (First CPR): R156-77. Direct-Entry Midwife Act Rules.
Published: April 1, 2006
Effective: September 14, 2006

No. 28294 (Second CPR): R156-77. Direct-Entry Midwife Act Rules.
Published: August 1, 2006
Effective: September 14, 2006

Environmental Quality
Air Quality
No. 28814 (AMD): R307-415-4. Applicability.
Published: July 1, 2006
Effective: September 7, 2006

Environmental Response and Remediation
No. 28880 (AMD): R311-206. Underground Storage Tanks: Financial Assurance Mechanisms.
Published: August 1, 2006
Effective: September 15, 2006

Health
Health Systems Improvement, Emergency Medical Services
No. 28813 (AMD): R426-100. Emergency Medical Services Do Not Resuscitate.
Published: July 1, 2006
Effective: September 6, 2006

Insurance
Administration
No. 28488 (AMD): R590-226. Submission of Life Insurance Filings.
Published: February 15, 2006
Effective: September 7, 2006

No. 28488 (First CPR): R590-226. Submission of Life Insurance Filings.
Published: April 15, 2006
Effective: September 7, 2006

No. 28488 (Second CPR): R590-226. Submission of Life Insurance Filings.
Published: July 1, 2006
Effective: September 7, 2006

No. 28487 (AMD): R590-227. Submission of Annuity Filings.
Published: February 15, 2006
Effective: September 7, 2006

No. 28487 (First CPR): R590-227. Submission of Annuity Filings.
Published: April 15, 2006
Effective: September 7, 2006

No. 28487 (Second CPR): R590-227. Submission of Annuity Filings.
Published: July 1, 2006
Effective: September 7, 2006

No. 28800 (NEW): R590-237. Access to Health Care Providers in Rural Counties.
Published: July 1, 2006
Effective: September 7, 2006

Public Safety
Fire Marshal
No. 28882 (AMD): R710-1-10. Fees.
Published: August 1, 2006
Effective: September 7, 2006

No. 28889 (AMD): R710-2-1. Adoption.
Published: August 1, 2006
Effective: September 7, 2006

No. 28888 (AMD): R710-6-6. Fees.
Published: August 1, 2006
Effective: September 7, 2006

No. 28884 (AMD): R710-7-8. Fees.
Published: August 1, 2006
Effective: September 7, 2006

Tax Commission
Administration
No. 28883 (AMD): R861-1A-40. Waiver of Requirement to Post Security Prior to Judicial Review Pursuant to Utah Code Ann. Section 59-1-611.
Published: August 1, 2006
Effective: September 15, 2006

Auditing
No. 28863 (AMD): R865-19S-78. Charges for Labor to Repair or Renovate Tangible Personal Property Pursuant to Utah Code Ann. Section 59-12-103.
Published: July 15, 2006
Effective: September 15, 2006

No. 28886 (AMD): R865-19S-98. Sales to Nonresidents of Vehicles, Off-highway Vehicles, and Boats Required to be Registered, and Sales to Nonresidents of Boat Trailers and Outboard Motors Pursuant to Utah Code Ann. Section 59-12-104.
Published: August 1, 2006
Effective: September 15, 2006

No. 28862 (AMD): R865-19S-113. Sales Tax Obligations of Jeep, Snowmobile, and Boat Tour Operators, River Runners, Outfitters, and Other Sellers Providing Similar Services Pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-107.
Published: July 15, 2006
Effective: September 15, 2006

Motor Vehicle Enforcement
No. 28885 (AMD): R877-23V-5. Temporary Motor Vehicle Registration Permits and Extension Permits Issued by Dealers Pursuant to Utah Code Ann. Section 41-3-302.
Published: August 1, 2006
Effective: September 15, 2006

**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, 2006, including notices of effective date received through September 15, 2006, the effective dates of which are no later than October 1, 2006. 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
CPR = Change in proposed rule
EMR = Emergency rule (120 day)
NEW = New rule
EXD = Expired
NSC = Nonsubstantive rule change
REP = Repeal
R&R = Repeal and reenact
5YR = Five-Year Review

| CODE REFERENCE | TITLE | FILE NUMBER | ACTION | EFFECTIVE DATE | BULLETIN ISSUE/PAGE |
|---|---|---|---|---|---|
| **Administrative Services** | | | | | |
| Administrative Rules | | | | | |
| R15-4 | Administrative Rulemaking Procedures | 28586 | EMR | 04/15/2006 | 2006-8/57 |
| Facilities Construction and Management | | | | | |
| R23-1 | Procurement of Construction | 28608 | AMD | 06/01/2006 | 2006-9/10 |
| R23-1 | Procurement of Construction | 28609 | AMD | 06/01/2006 | 2006-9/3 |
| R23-2 | Procurement of Architect-Engineer Services | 28607 | AMD | 06/01/2006 | 2006-9/12 |
| R23-25 | Administrative Rules Adjudicative Proceedings | 28993 | 5YR | 09/06/2006 | 2006-19/126 |
| Finance | | | | | |
| R25-2 | Finance Adjudicative Proceedings | 29077 | 5YR | 09/25/2006 | Not Printed |
| R25-5 | Payment of Per Diem to Boards | 28384 | AMD | 01/25/2006 | 2005-24/2 |
| R25-7 | Travel-Related Reimbursements for State Employees | 28702 | AMD | 07/01/2006 | 2006-10/2 |

| CODE REFERENCE | TITLE | FILE NUMBER | ACTION | EFFECTIVE DATE | BULLETIN ISSUE/PAGE |
|---|---|---|---|---|---|
| Fleet Operations | | | | | |
| R27-1 | Definitions | 28474 | 5YR | 01/30/2006 | 2006-4/33 |
| R27-1 | Definitions (5YR EXTENSION) | 28279 | NSC | 01/30/2006 | Not Printed |
| R27-1-2 | Definitions | 28368 | NSC | 01/01/2006 | Not Printed |
| R27-2 | Fleet Operations Adjudicative Proceedings | 28475 | 5YR | 01/30/2006 | 2006-4/33 |
| R27-3 | Vehicle Use Standards | 28477 | 5YR | 01/30/2006 | 2006-4/34 |
| R27-3 | Vehicle Use Standards (5YR EXTENSION) | 28280 | NSC | 01/30/2006 | Not Printed |
| R27-7 | Safety and Loss Prevention of State Vehicles | 28469 | 5YR | 01/20/2006 | 2006-4/34 |
| Fleet Operations, Surplus Property | | | | | |
| R28-1 | State Surplus Property Disposal | 28766 | AMD | 08/02/2006 | 2006-12/3 |
| R28-2 | Surplus Firearms | 28496 | 5YR | 02/07/2006 | 2006-5/47 |
| Information Technology Services | | | | | |
| R29-1 | Division of Information Technology Services Adjudicative Proceedings | 28788 | 5YR | 06/08/2006 | 2006-13/61 |
| R29-1 | Technology Services Adjudicative Proceedings | 28828 | NSC | 06/22/2006 | Not Printed |
| R29-2 | Telecommunications Services and Requirements | 28794 | NSC | 06/22/2006 | Not Printed |
| Purchasing and General Services | | | | | |
| R33-1 | Utah State Procurement Rules Definitions | 28436 | NSC | 02/22/2006 | Not Printed |
| R33-1-1 | Definitions | 28445 | AMD | 02/21/2006 | 2006-2/3 |
| R33-2-101 | Delegation of Authority of the Chief Procurement Officer | 28437 | NSC | 02/22/2006 | Not Printed |
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| R156-3a-501 | Administrative Penalties - Unlawful Conduct | 28671 | NSC | 05/10/2006 | Not Printed |
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| R616-2 | Safety Codes and Rules for Boilers and Pressure Vessels | 28515 | NSC | 02/27/2006 | Not Printed |
| R616-2 | Boiler and Pressure Vessel Rules | 28839 | NSC | 06/30/2006 | Not Printed |
| R616-2-3 | Safety Codes and Rules for Boilers and Pressure Vessels | 28257 | AMD | 01/01/2006 | 2005-20/43 |
| R616-2-3 | Safety Codes and Rules for Boilers and Pressure Vessels | 28564 | AMD | 05/17/2006 | 2006-8/42 |
| R616-3 | Elevator Rules | 28840 | NSC | 06/30/2006 | Not Printed |
| R616-3-3 | Safety Codes for Elevators | 28256 | AMD | 02/08/2006 | 2005-20/44 |
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| R628-4-2 | Fidelity Bond | 28533 | NSC | 03/07/2006 | Not Printed |
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| R628-10 | Rating Requirements to be a Permitted Depository | 28723 | NSC | 05/30/2006 | Not Printed |

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| R628-16 | Certification as a Dealer | 28534 | NSC | 03/07/2006 | Not Printed |
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| R647-1-106 | Definitions | 28337 | AMD | 02/23/2006 | 2005-23/46 |
| R647-2 | Exploration | 28338 | AMD | 02/23/2006 | 2005-23/48 |
| R647-3 | Small Mining Operations | 28339 | AMD | 02/23/2006 | 2005-23/51 |
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| R649-10 | Administrative Procedures | 28724 | 5YR | 05/11/2006 | 2006-11/96 |
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| R651-202 | Boating Advisory Council | 28623 | 5YR | 04/18/2006 | 2006-10/89 |
| R651-203 | Waterway Marking System | 28626 | 5YR | 04/18/2006 | 2006-10/90 |
| R651-204 | Regulating Waterway Markers | 28624 | 5YR | 04/18/2006 | 2006-10/90 |
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| R651-213 | Dealer Numbers and Registrations | 28632 | 5YR | 04/18/2006 | 2006-10/93 |
| R651-213 | Dealer Numbers and Registrations | 28651 | NSC | 05/10/2006 | Not Printed |
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| R651-218 | Carburetor Backfire Flame Control | 28654 | NSC | 05/10/2006 | Not Printed |
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| R651-224 | Towed Devices | 28826 | AMD | 08/22/2006 | 2006-14/24 |
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| R651-405 | Off-Highway Implement of Husbandry Sticker Fee | 28658 | NSC | 05/10/2006 | Not Printed |
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| R651-611 | Fee Schedule | 28513 | 5YR | 02/13/2006 | 2006-5/50 |
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| R651-802 | Scuba Diving | 28661 | NSC | 05/10/2006 | Not Printed |
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| R657-5-37B | Preference Point System | 28881 | NSC | 07/27/2006 | Not Printed |
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| R657-9 | Taking Waterfowl, Common Snipe and Coot | 28938 | 5YR | 08/21/2006 | 2006-18/62 |
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| R657-48 | Implementation of the Wildlife Species of Concern and Habitat Designation Advisory Committee | 28797 | AMD | 08/08/2006 | 2006-13/37 |
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| R873-22M-34 | Rule for Denial of Personalized Plate Requests Pursuant to Utah Code Ann. Sections 41-1a-104 and 41-1a-411 | 28806 | AMD | 08/07/2006 | 2006-13/51 |
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| R907-68 | Prioritization of New Transportation Capacity Projects | 28617 | AMD | 06/01/2006 | 2006-9/30 |
| R907-68 | Prioritization of New Transportation Capacity Projects | 28532 | AMD | 06/01/2006 | 2006-6/15 |
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| R909-19 | Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation and Certification | 29080 | 5YR | 09/25/2006 | Not Printed |

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| R912-8 | Minimum Tire, Axle and Suspension Ratings for Heavy Vehicles and the Use of Retractable or Variable Load Suspension Axles in Utah | 28703 | NEW | 06/22/2006 | 2006-10/78 |
| R912-9 | Pilot/Escort Requirements and Certification Program | 28616 | AMD | 06/01/2006 | 2006-9/31 |
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| R926-9 | Establishment and Operation of HOT Lanes or Toll Lanes on State Highways | 28538 | NEW | 04/20/2006 | 2006-6/17 |
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| R930-3 | Highway Noise Abatement | 28677 | AMD | 06/22/2006 | 2006-10/80 |
| R930-5 | Establishment and Regulation of At-Grade Railroad Crossings | 28489 | R&R | 04/25/2006 | 2006-4/18 |
| R930-6 | Manual of Accommodation of Utility Facilities and the Control and Protection of State Highway Rights-of-Way | 28360 | AMD | 01/27/2006 | 2005-24/31 |
| R930-6 | Manual of Accommodation of Utility Facilities and the Control and Protection of State Highway Rights-of-Way | 28774 | AMD | 07/28/2006 | 2006-12/50 |
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| R986-200 | Family Employment Program | 28755 | AMD | 08/01/2006 | 2006-12/58 |
| R986-300 | Refugee Resettlement Program | 28757 | AMD | 08/01/2006 | 2006-12/62 |
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| R986-400 | General Assistance and Working Toward Employment | 28759 | AMD | 08/01/2006 | 2006-12/64 |
| R986-600 | Workforce Investment Act | 28760 | AMD | 08/09/2006 | 2006-12/65 |
| R986-600-604 | Adults, Youth, and Dislocated Workers | 28400 | NSC | 01/01/2006 | Not Printed |
| R986-600-652 | Determining Eligibility for Training Providers | 28890 | NSC | 08/09/2006 | Not Printed |

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| R986-800-803 | Available Services | 28762 | AMD | 08/01/2006 | 2006-12/76 |
| R986-900 | Food Stamps | 28761 | AMD | 08/01/2006 | 2006-12/77 |
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| R994-406 | Fraud, Fault and Nonfault Overpayments | 28764 | AMD | 07/26/2006 | 2006-12/80 |
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# RULES INDEX - BY KEYWORD (SUBJECT)

**ABBREVIATIONS**

AMD = Amendment
CPR = Change in proposed rule
EMR = Emergency rule (120 day)
NEW = New rule
EXD = Expired
NSC = Nonsubstantive rule change
REP = Repeal
R&R = Repeal and reenact
5YR = Five-Year Review

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| **acceptable use** | | | | | |
| Governor, Planning and Budget, Chief Information Officer | 28704 | R365-7 | NSC | 06/22/2006 | Not Printed |
| **access** | | | | | |
| Environmental Quality, Drinking Water | 28421 | R309-545-7 | AMD | 03/08/2006 | 2006-1/19 |
| **access to information** | | | | | |
| Technology Services, Administration | 28747 | R895-1 | NEW | 07/25/2006 | 2006-12/43 |
| **accident prevention** | | | | | |
| Public Safety, Driver License | 28567 | R708-20 | 5YR | 03/21/2006 | 2006-8/76 |
| **accidents** | | | | | |
| Administrative Services, Fleet Operations | 28469 | R27-7 | 5YR | 01/20/2006 | 2006-4/34 |
| **accounts** | | | | | |
| Money Management Council, Administration | 28533 | R628-4-2 | NSC | 03/07/2006 | Not Printed |
| **accreditation** | | | | | |
| Education, Administration | 28463 | R277-410 | AMD | 03/06/2006 | 2006-3/7 |
| | 28808 | R277-410-4 | AMD | 08/08/2006 | 2006-13/11 |

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| **adjudicative procedures** | | | | | |
| Community and Economic Development, Community Development, Library | 28343 | R223-1 | NSC | 01/01/2006 | Not Printed |
| **adjudicative proceedings** | | | | | |
| Commerce, Administration | 28709 | R151-46b | 5YR | 05/03/2006 | 2006-11/92 |
| Community and Economic Development, Community Development, History | 28404 | R212-1 | NSC | 01/01/2006 | Not Printed |
| Natural Resources, Forestry, Fire and State Lands | 28852 | R652-8 | 5YR | 06/28/2006 | 2006-14/57 |
| Public Safety, Driver License | 28580 | R708-14-5 | NSC | 04/12/2006 | Not Printed |
| **administrative law** | | | | | |
| Administrative Services, Administrative Rules | 28586 | R15-4 | EMR | 04/15/2006 | 2006-8/57 |
| Administrative Services, Facilities Construction and Management | 28993 | R23-25 | 5YR | 09/06/2006 | 2006-19/126 |
| Human Services, Recovery Services | 28670 | R527-200 | 5YR | 04/24/2006 | 2006-10/88 |
| **administrative procedures** | | | | | |
| Administrative Services, Fleet Operations | 28475 | R27-2 | 5YR | 01/30/2006 | 2006-4/33 |
| Agriculture and Food, Animal Industry | 28971 | R58-14 | 5YR | 08/29/2006 | 2006-18/46 |
| Commerce, Administration | 28709 | R151-46b | 5YR | 05/03/2006 | 2006-11/92 |
| Commerce, Occupational and Professional Licensing | 28673 | R156-46b | 5YR | 04/25/2006 | 2006-10/86 |
| Community and Economic Development, Community Development, History | 28404 | R212-1 | NSC | 01/01/2006 | Not Printed |
| | 28406 | R212-3 | NSC | 01/01/2006 | Not Printed |
| Community and Culture, History | 28898 | R212-3 | 5YR | 07/27/2006 | 2006-16/34 |
| | 28907 | R212-4 | 5YR | 08/01/2006 | 2006-16/34 |
| Community and Economic Development, Community Development, History | 28407 | R212-4 | NSC | 01/01/2006 | Not Printed |
| Community and Economic Development, Community Development, Library | 28343 | R223-1 | NSC | 01/01/2006 | Not Printed |
| Corrections, Administration | 29049 | R251-108 | 5YR | 09/19/2006 | Not Printed |
| Environmental Quality, Drinking Water | 28417 | R309-150-6 | AMD | 03/08/2006 | 2006-1/12 |
| | 28418 | R309-405-4 | AMD | 03/08/2006 | 2006-1/14 |
| Environmental Quality, Radiation Control | 28872 | R313-17 | 5YR | 07/10/2006 | 2006-15/31 |
| Human Resource Management, Administration | 28685 | R477-12 | AMD | 07/01/2006 | 2006-10/61 |
| Labor Commission, Adjudication | 28547 | R602-2-1 | AMD | 05/05/2006 | 2006-7/14 |
| Natural Resources, Forestry, Fire and State Lands | 28852 | R652-8 | 5YR | 06/28/2006 | 2006-14/57 |
| | 28850 | R652-9 | 5YR | 06/28/2006 | 2006-14/58 |
| | 28536 | R652-20-1000 | AMD | 07/13/2006 | 2006-6/14 |
| | 28853 | R652-41 | 5YR | 06/28/2006 | 2006-14/58 |
| | 28854 | R652-80 | 5YR | 06/28/2006 | 2006-14/59 |
| | 28770 | R652-123 | NEW | 08/28/2006 | 2006-12/34 |
| School and Institutional Trust Lands, Administration | 28562 | R850-4-300 | AMD | 05/16/2006 | 2006-8/48 |
| | 28563 | R850-5-200 | AMD | 05/16/2006 | 2006-8/49 |
| | 28482 | R850-21-900 | AMD | 03/20/2006 | 2006-4/14 |
| | 28483 | R850-22-900 | AMD | 03/20/2006 | 2006-4/15 |

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| **administrative responsibility** | | | | | |
| Human Resource Management, Administration | 28689 | R477-2 | AMD | 07/01/2006 | 2006-10/38 |
| **admission guidelines** | | | | | |
| Human Services, Juvenile Justice Services | 28378 | R547-13 | AMD | 01/18/2006 | 2005-24/8 |
| **adoption** | | | | | |
| Health, Center for Health Data, Vital Records and Statistics | 28966 | R436-5 | 5YR | 08/28/2006 | 2006-18/61 |
| Human Services, Administration | 28927 | R495-880 | 5YR | 08/15/2006 | 2006-17/66 |
| **advertising** | | | | | |
| Transportation, Operations, Construction | 28559 | R916-1-7 | AMD | 05/16/2006 | 2006-8/51 |
| **affordable housing** | | | | | |
| Community and Culture, Olene Walker Housing Trust Fund | 28492 | R235-1 | NSC | 03/01/2006 | Not Printed |
| | 28402 | R235-1 | NEW | 03/01/2006 | 2006-1/9 |
| **air pollution** | | | | | |
| Environmental Quality, Air Quality | 28815 | R307-101 | 5YR | 06/16/2006 | 2006-14/40 |
| | 28545 | R307-101-2 | AMD | 06/16/2006 | 2006-7/5 |
| | 28822 | R307-110 | 5YR | 06/16/2006 | 2006-14/40 |
| | 28320 | R307-110-9 | AMD | 06/16/2006 | 2005-23/12 |
| | 28320 | R307-110-9 | CPR | 06/16/2006 | 2006-7/24 |
| | 28226 | R307-170 | AMD | 01/05/2006 | 2005-19/6 |
| | 28820 | R307-210 | 5YR | 06/16/2006 | 2006-14/41 |
| | 28601 | R307-210-1 | AMD | 06/15/2006 | 2006-9/19 |
| | 28821 | R307-223 | 5YR | 06/16/2006 | 2006-14/41 |
| | 28544 | R307-325 | AMD | 06/16/2006 | 2006-7/8 |
| | 28325 | R307-401 | CPR | 06/16/2006 | 2006-7/25 |
| | 28819 | R307-401 | 5YR | 06/16/2006 | 2006-14/42 |
| | 28325 | R307-401 | R&R | 06/16/2006 | 2005-23/14 |
| | 28322 | R307-405 | R&R | 06/16/2006 | 2005-23/22 |
| | 28816 | R307-405 | 5YR | 06/16/2006 | 2006-14/45 |
| | 28322 | R307-405 | CPR | 06/16/2006 | 2006-7/28 |
| | 28323 | R307-410 | CPR | 06/16/2006 | 2006-7/30 |
| | 28818 | R307-410 | 5YR | 06/16/2006 | 2006-14/51 |
| | 28323 | R307-410 | AMD | 06/16/2006 | 2005-23/31 |
| | 28814 | R307-415-4 | AMD | 09/07/2006 | 2006-13/19 |
| | 28549 | R307-415-7d | NSC | 03/28/2006 | Not Printed |
| | 28817 | R307-801 | 5YR | 06/16/2006 | 2006-14/52 |
| | 28502 | R307-801 | AMD | 06/16/2006 | 2006-5/22 |
| | 28468 | R307-801-5 | NSC | 02/22/2006 | Not Printed |
| **air quality** | | | | | |
| Environmental Quality, Air Quality | 28459 | R307-204 | NSC | 04/07/2006 | Not Printed |
| | 28602 | R307-204 | 5YR | 04/07/2006 | 2006-9/40 |
| | 28501 | R307-204 | AMD | 04/07/2006 | 2006-5/18 |

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| **air travel** | | | | | |
| Administrative Services, Finance | 28702 | R25-7 | AMD | 07/01/2006 | 2006-10/2 |
| **aircraft** | | | | | |
| Tax Commission, Motor Vehicle | 28806 | R873-22M-34 | AMD | 08/07/2006 | 2006-13/51 |
| **alcohol** | | | | | |
| Public Safety, Highway Patrol | 28342 | R714-500 | AMD | 01/05/2006 | 2005-23/59 |
| **alcoholic beverages** | | | | | |
| Alcoholic Beverage Control, Administration | 28985 | R81-1 | 5YR | 08/31/2006 | 2006-18/48 |
| | 28708 | R81-1-7 | AMD | 08/25/2006 | 2006-11/24 |
| | 28994 | R81-2 | 5YR | 09/06/2006 | 2006-19/126 |
| | 28997 | R81-3 | 5YR | 09/06/2006 | 2006-19/127 |
| | 28998 | R81-4A | 5YR | 09/06/2006 | 2006-19/128 |
| | 28999 | R81-5 | 5YR | 09/07/2006 | 2006-19/128 |
| | 28946 | R81-6 | 5YR | 08/23/2006 | 2006-18/49 |
| | 28961 | R81-7 | 5YR | 08/24/2006 | 2006-18/50 |
| | 28962 | R81-8 | 5YR | 08/24/2006 | 2006-18/50 |
| | 28963 | R81-9 | 5YR | 08/24/2006 | 2006-18/51 |
| | 28431 | R81-10A-7 | NSC | 01/01/2006 | Not Printed |
| | 28964 | R81-11 | 5YR | 08/24/2006 | 2006-18/51 |
| | 28965 | R81-12 | 5YR | 08/24/2006 | 2006-18/52 |
| **alternative language services** | | | | | |
| Education, Administration | 28522 | R277-716 | NEW | 04/03/2006 | 2006-5/10 |
| **alternative licensing** | | | | | |
| Education, Administration | 28590 | R277-503 | AMD | 05/16/2006 | 2006-8/10 |
| **alternative onsite wastewater systems** | | | | | |
| Environmental Quality, Water Quality | 28596 | R317-4 | AMD | 05/19/2006 | 2006-8/14 |
| **anatomical gift** | | | | | |
| Public Safety, Driver License | 28566 | R708-38 | 5YR | 03/20/2006 | 2006-8/77 |
| **annuity insurance filings** | | | | | |
| Insurance, Administration | 28487 | R590-227 | AMD | 09/07/2006 | 2006-4/8 |
| | 28487 | R590-227 | CPR | 09/07/2006 | 2006-13/57 |
| | 28487 | R590-227 | CPR | 09/07/2006 | 2006-8/55 |
| **annuity replacement** | | | | | |
| Insurance, Administration | 28527 | R590-93-6 | NSC | 03/06/2006 | Not Printed |
| **annuity suitability** | | | | | |
| Insurance, Administration | 28799 | R590-230 | AMD | 08/29/2006 | 2006-13/23 |
| **antipoverty programs** | | | | | |
| Community and Economic Development, Community Development, Community Services | 28353 | R202-100 | NSC | 01/01/2006 | Not Printed |
| **appeals** | | | | | |
| Crime Victim Reparations, Administration | 28868 | R270-2 | 5YR | 07/03/2006 | 2006-15/27 |

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| **appellate procedures** | | | | | |
| Administrative Services, Fleet Operations | 28475 | R27-2 | 5YR | 01/30/2006 | 2006-4/33 |
| Administrative Services, Information Technology Services | 28828 | R29-1 | NSC | 06/22/2006 | Not Printed |
| | 28788 | R29-1 | 5YR | 06/08/2006 | 2006-13/61 |
| | 28794 | R29-2 | NSC | 06/22/2006 | Not Printed |
| Corrections, Administration | 28576 | R251-104 | 5YR | 03/28/2006 | 2006-8/72 |
| **appraisals** | | | | | |
| Tax Commission, Property Tax | 28432 | R884-24P-19 | AMD | 03/06/2006 | 2006-2/31 |
| | 28908 | R884-24P-33 | AMD | 09/21/2006 | 2006-16/16 |
| **approval order** | | | | | |
| Environmental Quality, Air Quality | 28325 | R307-401 | CPR | 06/16/2006 | 2006-7/25 |
| | 28819 | R307-401 | 5YR | 06/16/2006 | 2006-14/42 |
| | 28325 | R307-401 | R&R | 06/16/2006 | 2005-23/14 |
| **ARC** | | | | | |
| Administrative Services, Fleet Operations | 28469 | R27-7 | 5YR | 01/20/2006 | 2006-4/34 |
| **archaeology** | | | | | |
| Community and Economic Development, Community Development, History | 28407 | R212-4 | NSC | 01/01/2006 | Not Printed |
| Community and Culture, History | 28907 | R212-4 | 5YR | 08/01/2006 | 2006-16/34 |
| **archeological permits** | | | | | |
| Public Lands Policy Coordinating Office, Administration | 28697 | R694-1 | NEW | 06/23/2006 | 2006-10/75 |
| **architects** | | | | | |
| Administrative Services, Facilities Construction and Management | 28607 | R23-2 | AMD | 06/01/2006 | 2006-9/12 |
| Commerce, Occupational and Professional Licensing | 28429 | R156-3a | AMD | 04/03/2006 | 2006-2/15 |
| | 28604 | R156-3a | 5YR | 04/10/2006 | 2006-9/39 |
| | 28429 | R156-3a | CPR | 04/03/2006 | 2006-5/44 |
| | 28671 | R156-3a-501 | NSC | 05/10/2006 | Not Printed |
| **art donations** | | | | | |
| Community and Economic Development, Community Development, Fine Arts | 28362 | R207-2 | NSC | 01/01/2006 | Not Printed |
| **art financing** | | | | | |
| Community and Economic Development, Community Development, Fine Arts | 28361 | R207-1 | NSC | 01/01/2006 | Not Printed |
| **art in public places** | | | | | |
| Community and Economic Development, Community Development, Fine Arts | 28361 | R207-1 | NSC | 01/01/2006 | Not Printed |
| | 28362 | R207-2 | NSC | 01/01/2006 | Not Printed |
| **art loans** | | | | | |
| Community and Economic Development, Community Development, Fine Arts | 28362 | R207-2 | NSC | 01/01/2006 | Not Printed |
| **art preservation** | | | | | |
| Community and Economic Development, Community Development, Fine Arts | 28361 | R207-1 | NSC | 01/01/2006 | Not Printed |

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| **art work** | | | | | |
| Community and Economic Development, Community Development, Fine Arts | 28362 | R207-2 | NSC | 01/01/2006 | Not Printed |
| **asbestos** | | | | | |
| Environmental Quality, Air Quality | 28502 | R307-801 | AMD | 06/16/2006 | 2006-5/22 |
| | 28817 | R307-801 | 5YR | 06/16/2006 | 2006-14/52 |
| | 28468 | R307-801-5 | NSC | 02/22/2006 | Not Printed |
| **asbestos hazard emergency response** | | | | | |
| Environmental Quality, Air Quality | 28817 | R307-801 | 5YR | 06/16/2006 | 2006-14/52 |
| | 28502 | R307-801 | AMD | 06/16/2006 | 2006-5/22 |
| | 28468 | R307-801-5 | NSC | 02/22/2006 | Not Printed |
| **assisted living facilities** | | | | | |
| Public Safety, Fire Marshal | 28578 | R710-3-3 | AMD | 05/16/2006 | 2006-8/43 |
| **athlete agent** | | | | | |
| Commerce, Occupational and Professional Licensing | 28830 | R156-9a | 5YR | 06/22/2006 | 2006-14/37 |
| **athletics** | | | | | |
| Education, Administration | 28701 | R277-517 | 5YR | 05/01/2006 | 2006-10/87 |
| **automobiles** | | | | | |
| Commerce, Administration | 28542 | R151-14 | AMD | 05/02/2006 | 2006-7/2 |
| | 28995 | R151-14 | 5YR | 09/06/2006 | 2006-19/129 |
| **banking** | | | | | |
| Commerce, Corporations and Commercial Code | 28860 | R154-2 | 5YR | 06/29/2006 | 2006-14/37 |
| **banking law** | | | | | |
| Money Management Council, Administration | 28606 | R628-10 | 5YR | 04/11/2006 | 2006-9/42 |
| | 28723 | R628-10 | NSC | 05/30/2006 | Not Printed |
| | 28600 | R628-12 | NSC | 05/10/2006 | Not Printed |
| **barrier** | | | | | |
| Transportation, Preconstruction | 28677 | R930-3 | AMD | 06/22/2006 | 2006-10/80 |
| **basic skills competency** | | | | | |
| Education, Administration | 28735 | R277-603 | NEW | 07/11/2006 | 2006-11/42 |
| | 28875 | R277-603-3 | NSC | 07/27/2006 | Not Printed |
| **bear** | | | | | |
| Natural Resources, Wildlife Resources | 28457 | R657-33 | AMD | 03/06/2006 | 2006-3/25 |
| **benefits** | | | | | |
| Community and Economic Development, Community Development, Community Services | 28388 | R202-205 | NSC | 01/01/2006 | Not Printed |
| | 28390 | R202-207 | NSC | 01/01/2006 | Not Printed |
| Workforce Services, Unemployment Insurance | 28763 | R994-401-203 | AMD | 07/26/2006 | 2006-12/79 |
| **bids** | | | | | |
| Transportation, Operations, Construction | 28559 | R916-1-7 | AMD | 05/16/2006 | 2006-8/51 |

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| **big game seasons** | | | | | |
| Natural Resources, Wildlife Resources | 28718 | R657-5 | AMD | 07/11/2006 | 2006-11/78 |
| | 28379 | R657-5 | AMD | 01/18/2006 | 2005-24/11 |
| | 28881 | R657-5-37B | NSC | 07/27/2006 | Not Printed |
| **birds** | | | | | |
| Natural Resources, Wildlife Resources | 28801 | R657-6-21 | AMD | 08/08/2006 | 2006-13/28 |
| | 28938 | R657-9 | 5YR | 08/21/2006 | 2006-18/62 |
| **birth** | | | | | |
| Health, Center for Health Data, Vital Records and Statistics | 28966 | R436-5 | 5YR | 08/28/2006 | 2006-18/61 |
| **bituminous-asphaltic sands** | | | | | |
| School and Institutional Trust Lands, Administration | 28483 | R850-22-900 | AMD | 03/20/2006 | 2006-4/15 |
| **block grant funding** | | | | | |
| Education, Administration | 28864 | R277-478 | 5YR | 07/03/2006 | 2006-15/28 |
| **boards** | | | | | |
| Administrative Services, Finance | 28384 | R25-5 | AMD | 01/25/2006 | 2005-24/2 |
| **boating** | | | | | |
| Natural Resources, Parks and Recreation | 28622 | R651-201 | 5YR | 04/18/2006 | 2006-10/89 |
| | 28623 | R651-202 | 5YR | 04/18/2006 | 2006-10/89 |
| | 28626 | R651-203 | 5YR | 04/18/2006 | 2006-10/90 |
| | 28624 | R651-204 | 5YR | 04/18/2006 | 2006-10/90 |
| | 28625 | R651-205 | 5YR | 04/18/2006 | 2006-10/90 |
| | 28509 | R651-206 | 5YR | 02/13/2006 | 2006-5/48 |
| | 28648 | R651-207 | NSC | 05/10/2006 | Not Printed |
| | 28627 | R651-207 | 5YR | 04/18/2006 | 2006-10/91 |
| | 28649 | R651-208 | NSC | 05/10/2006 | Not Printed |
| | 28628 | R651-208 | 5YR | 04/18/2006 | 2006-10/91 |
| | 28650 | R651-210 | NSC | 05/10/2006 | Not Printed |
| | 28629 | R651-210 | 5YR | 04/18/2006 | 2006-10/92 |
| | 28630 | R651-211 | 5YR | 04/18/2006 | 2006-10/92 |
| | 28631 | R651-212 | 5YR | 04/18/2006 | 2006-10/93 |
| | 28651 | R651-213 | NSC | 05/10/2006 | Not Printed |
| | 28632 | R651-213 | 5YR | 04/18/2006 | 2006-10/93 |
| | 28633 | R651-214 | 5YR | 04/18/2006 | 2006-10/94 |
| | 28510 | R651-215 | 5YR | 02/13/2006 | 2006-5/49 |
| | 28652 | R651-216 | NSC | 05/10/2006 | Not Printed |
| | 28634 | R651-216 | 5YR | 04/18/2006 | 2006-10/94 |
| | 28653 | R651-217 | NSC | 05/10/2006 | Not Printed |
| | 28635 | R651-217 | 5YR | 04/18/2006 | 2006-10/95 |
| | 28654 | R651-218 | NSC | 05/10/2006 | Not Printed |
| | 28636 | R651-218 | 5YR | 04/18/2006 | 2006-10/95 |
| | 28637 | R651-219 | 5YR | 04/18/2006 | 2006-10/96 |
| | 28655 | R651-220 | NSC | 05/10/2006 | Not Printed |

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| | 28639 | R651-221 | 5YR | 04/18/2006 | 2006-10/97 |
| | 28656 | R651-221 | NSC | 05/10/2006 | Not Printed |
| | 28511 | R651-222 | 5YR | 02/13/2006 | 2006-5/49 |
| | 28512 | R651-224 | 5YR | 02/13/2006 | 2006-5/50 |
| | 28826 | R651-224 | AMD | 08/22/2006 | 2006-14/24 |
| | 28640 | R651-226 | 5YR | 04/18/2006 | 2006-10/97 |
| | 28657 | R651-226 | NSC | 05/10/2006 | Not Printed |
| **boilers** | | | | | |
| Labor Commission, Safety | 28515 | R616-2 | NSC | 02/27/2006 | Not Printed |
| | 28839 | R616-2 | NSC | 06/30/2006 | Not Printed |
| | 28257 | R616-2-3 | AMD | 01/01/2006 | 2005-20/43 |
| | 28564 | R616-2-3 | AMD | 05/17/2006 | 2006-8/42 |
| **bonding requirements** | | | | | |
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| Transportation, Operations, Construction | 28559 | R916-1-7 | AMD | 05/16/2006 | 2006-8/51 |
| Workforce Services, Unemployment Insurance | 28722 | R994-308 | 5YR | 05/09/2006 | 2006-11/98 |
| **brachytherapy** | | | | | |
| Environmental Quality, Radiation Control | 28541 | R313-32 | AMD | 05/10/2006 | 2006-7/13 |
| **brain injury** | | | | | |
| Human Services, Services for People with Disabilities | 28845 | R539-1-8 | AMD | 08/22/2006 | 2006-14/17 |
| | 28716 | R539-1-8 | EMR | 05/05/2006 | 2006-11/88 |
| **breaks** | | | | | |
| Human Resource Management, Administration | 28682 | R477-8 | AMD | 07/01/2006 | 2006-10/52 |
| **breath testing** | | | | | |
| Public Safety, Highway Patrol | 28342 | R714-500 | AMD | 01/05/2006 | 2005-23/59 |
| **budgeting** | | | | | |
| Health, Health Care Financing, Coverage and Reimbursement Policy | 28680 | R414-304-11 | AMD | 07/01/2006 | 2006-10/24 |
| **building codes** | | | | | |
| Commerce, Occupational and Professional Licensing | 28286 | R156-56 | AMD | 01/01/2006 | 2005-21/6 |
| | 28285 | R156-56-707 | AMD | 01/01/2006 | 2005-21/25 |
| | 28805 | R156-56-707 | NSC | 06/29/2006 | Not Printed |
| | 28427 | R156-56-711 | NSC | 02/23/2006 | Not Printed |
| **building inspection** | | | | | |
| Commerce, Occupational and Professional Licensing | 28286 | R156-56 | AMD | 01/01/2006 | 2005-21/6 |
| | 28285 | R156-56-707 | AMD | 01/01/2006 | 2005-21/25 |
| | 28805 | R156-56-707 | NSC | 06/29/2006 | Not Printed |
| | 28427 | R156-56-711 | NSC | 02/23/2006 | Not Printed |

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| **burial** | | | | | |
| Community and Economic Development, Community Development, History | 28411 | R212-12 | NSC | 01/01/2006 | Not Printed |
| **capacity** | | | | | |
| Transportation, Administration | 28358 | R907-68 | NEW | 01/04/2006 | 2005-23/61 |
| | 28617 | R907-68 | AMD | 06/01/2006 | 2006-9/30 |
| | 28532 | R907-68 | AMD | 06/01/2006 | 2006-6/15 |
| **care receiver** | | | | | |
| Human Services, Aging and Adult Services | 28190 | R510-401 | AMD | 02/23/2006 | 2005-18/37 |
| | 28190 | R510-401 | CPR | 02/23/2006 | 2005-22/46 |
| **caregiver** | | | | | |
| Human Services, Aging and Adult Services | 28190 | R510-401 | AMD | 02/23/2006 | 2005-18/37 |
| | 28190 | R510-401 | CPR | 02/23/2006 | 2005-22/46 |
| **cash management** | | | | | |
| Money Management Council, Administration | 28534 | R628-16 | NSC | 03/07/2006 | Not Printed |
| **cemetery** | | | | | |
| Community and Economic Development, Community Development, History | 28411 | R212-12 | NSC | 01/01/2006 | Not Printed |
| **certification** | | | | | |
| Labor Commission, Safety | 28838 | R616-1 | NSC | 06/30/2006 | Not Printed |
| | 28515 | R616-2 | NSC | 02/27/2006 | Not Printed |
| | 28839 | R616-2 | NSC | 06/30/2006 | Not Printed |
| | 28257 | R616-2-3 | AMD | 01/01/2006 | 2005-20/43 |
| | 28564 | R616-2-3 | AMD | 05/17/2006 | 2006-8/42 |
| | 28840 | R616-3 | NSC | 06/30/2006 | Not Printed |
| | 28256 | R616-3-3 | AMD | 02/08/2006 | 2005-20/44 |
| **certifications** | | | | | |
| Transportation, Motor Carrier | 29080 | R909-19 | 5YR | 09/25/2006 | Not Printed |
| **certified court reporter** | | | | | |
| Commerce, Occupational and Professional Licensing | 28428 | R156-74 | AMD | 02/16/2006 | 2006-2/24 |
| **certified nurse midwife** | | | | | |
| Commerce, Occupational and Professional Licensing | 28352 | R156-44a | AMD | 01/05/2006 | 2005-23/4 |
| **charities** | | | | | |
| Tax Commission, Auditing | 28863 | R865-19S-78 | AMD | 09/15/2006 | 2006-14/28 |
| | 28886 | R865-19S-98 | AMD | 09/15/2006 | 2006-15/15 |
| | 28862 | R865-19S-113 | AMD | 09/15/2006 | 2006-14/29 |
| **charity** | | | | | |
| Commerce, Consumer Protection | 28573 | R152-22-3 | AMD | 05/16/2006 | 2006-8/9 |
| **child abuse** | | | | | |
| Human Services, Child and Family Services | 28919 | R512-203 | NSC | 08/29/2006 | Not Printed |
| | 28613 | R512-203 | NEW | 06/01/2006 | 2006-9/24 |

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| | 28920 | R512-300-4 | NSC | 08/29/2006 | Not Printed |
| | 28614 | R512-300-4 | AMD | 06/01/2006 | 2006-9/26 |
| **child care** | | | | | |
| Workforce Services, Employment Development | 28758 | R986-700 | AMD | 08/01/2006 | 2006-12/71 |
| | 28561 | R986-700-705 | NSC | 04/17/2006 | Not Printed |
| | 28481 | R986-700-709 | AMD | 04/12/2006 | 2006-4/31 |
| **child care facilities** | | | | | |
| Health, Health Systems Improvement, Child Care Licensing | 28245 | R430-2 | AMD | 02/06/2006 | 2005-20/14 |
| | 28245 | R430-2 | CPR | 02/06/2006 | 2005-24/33 |
| | 28593 | R430-2 | AMD | 05/25/2006 | 2006-8/33 |
| | 28246 | R430-3 | AMD | 02/06/2006 | 2005-20/18 |
| | 28246 | R430-3 | CPR | 02/06/2006 | 2005-24/35 |
| | 28248 | R430-4 | AMD | 02/06/2006 | 2005-20/23 |
| | 28594 | R430-4 | AMD | 05/25/2006 | 2006-8/34 |
| | 28248 | R430-4 | CPR | 02/06/2006 | 2005-24/37 |
| | 28249 | R430-6 | AMD | 02/06/2006 | 2005-20/26 |
| | 28249 | R430-6 | CPR | 02/06/2006 | 2005-24/41 |
| **child care providers** | | | | | |
| Health, Epidemiology and Laboratory Services, Environmental Services | 28825 | R392-110 | NEW | 09/18/2006 | 2006-14/13 |
| **child support** | | | | | |
| Human Services, Recovery Services | 28412 | R527-35 | AMD | 02/22/2006 | 2006-1/27 |
| | 28670 | R527-200 | 5YR | 04/24/2006 | 2006-10/88 |
| **child welfare** | | | | | |
| Human Services, Administration | 28927 | R495-880 | 5YR | 08/15/2006 | 2006-17/66 |
| Human Services, Child and Family Services | 28612 | R512-11 | NEW | 06/01/2006 | 2006-9/23 |
| | 28919 | R512-203 | NSC | 08/29/2006 | Not Printed |
| | 28613 | R512-203 | NEW | 06/01/2006 | 2006-9/24 |
| | 28920 | R512-300-4 | NSC | 08/29/2006 | Not Printed |
| | 28614 | R512-300-4 | AMD | 06/01/2006 | 2006-9/26 |
| | 28662 | R512-305 | AMD | 06/19/2006 | 2006-10/65 |
| **chiropractic physician** | | | | | |
| Commerce, Occupational and Professional Licensing | 28824 | R156-73 | 5YR | 06/19/2006 | 2006-14/39 |
| **chiropractors** | | | | | |
| Commerce, Occupational and Professional Licensing | 28824 | R156-73 | 5YR | 06/19/2006 | 2006-14/39 |
| **CIO** | | | | | |
| Governor, Planning and Budget, Chief Information Officer | 28791 | R365-5 | NSC | 06/22/2006 | Not Printed |
| **citation monitoring service** | | | | | |
| Public Safety, Driver License | 28786 | R708-44 | NEW | 08/08/2006 | 2006-13/46 |

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| **civil procedures** | | | | | |
| Human Services, Recovery Services | 28752 | R527-800 | 5YR | 05/24/2006 | 2006-12/86 |
| **Class I area** | | | | | |
| Environmental Quality, Air Quality | 28322 | R307-405 | R&R | 06/16/2006 | 2005-23/22 |
| | 28816 | R307-405 | 5YR | 06/16/2006 | 2006-14/45 |
| | 28322 | R307-405 | CPR | 06/16/2006 | 2006-7/28 |
| | 28818 | R307-410 | 5YR | 06/16/2006 | 2006-14/51 |
| **client rights** | | | | | |
| Community and Economic Development, Community Development, Community Services | 28359 | R202-201 | NSC | 01/01/2006 | Not Printed |
| **coal mining** | | | | | |
| Natural Resources, Oil, Gas and Mining; Coal | 28742 | R645-106 | 5YR | 05/17/2006 | 2006-12/87 |
| **communicable diseases** | | | | | |
| Human Services, Administration | 28598 | R495-862 | 5YR | 04/04/2006 | 2006-9/41 |
| **community action programs** | | | | | |
| Community and Economic Development, Community Development, Community Services | 28353 | R202-100 | NSC | 01/01/2006 | Not Printed |
| **community development** | | | | | |
| Community and Culture, Housing and Community Development | 28740 | R199-11 | AMD | 07/25/2006 | 2006-12/15 |
| Community and Economic Development, Community Development | 28350 | R199-11 | NSC | 01/01/2006 | Not Printed |
| Community and Culture, Housing and Community Development | 28647 | R199-11 | 5YR | 04/19/2006 | 2006-10/86 |
| **complaint** | | | | | |
| Human Services, Child Protection Ombudsman (Office of) | 28401 | R515-1 | NEW | 02/01/2006 | 2006-1/26 |
| **computer software** | | | | | |
| Governor, Planning and Budget, Chief Information Officer | 28789 | R365-3 | NSC | 06/22/2006 | Not Printed |
| **concealed firearm permit** | | | | | |
| Public Safety, Criminal Investigations and Technical Services, Criminal Identification | 28250 | R722-300 | AMD | 01/09/2006 | 2005-20/48 |
| | 28296 | R722-300-13 | NSC | 01/09/2006 | Not Printed |
| **concern** | | | | | |
| Natural Resources, Wildlife Resources | 28751 | R657-48 | 5YR | 05/24/2006 | 2006-12/88 |
| **confidentiality of information** | | | | | |
| Community and Economic Development, Community Development, Community Services | 28359 | R202-201 | NSC | 01/01/2006 | Not Printed |
| Human Resource Management, Administration | 28689 | R477-2 | AMD | 07/01/2006 | 2006-10/38 |
| | 28747 | R895-1 | NEW | 07/25/2006 | 2006-12/43 |
| **conflict of interest** | | | | | |
| Human Resource Management, Administration | 28687 | R477-9 | AMD | 07/01/2006 | 2006-10/55 |

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| **connections** | | | | | |
| Environmental Quality, Drinking Water | 28422 | R309-550-5 | AMD | 03/08/2006 | 2006-1/20 |
| **consumer protection** | | | | | |
| Commerce, Consumer Protection | 28574 | R152-1 | AMD | 05/16/2006 | 2006-8/7 |
| | 28777 | R152-1a | NEW | 09/18/2006 | 2006-13/4 |
| | 28573 | R152-22-3 | AMD | 05/16/2006 | 2006-8/9 |
| **continuous monitoring** | | | | | |
| Environmental Quality, Air Quality | 28226 | R307-170 | AMD | 01/05/2006 | 2005-19/6 |
| **contractors** | | | | | |
| Commerce, Occupational and Professional Licensing | 28611 | R156-55b | AMD | 06/01/2006 | 2006-9/15 |
| | 28772 | R156-55b | NSC | 06/12/2006 | Not Printed |
| | 28286 | R156-56 | AMD | 01/01/2006 | 2005-21/6 |
| | 28285 | R156-56-707 | AMD | 01/01/2006 | 2005-21/25 |
| | 28805 | R156-56-707 | NSC | 06/29/2006 | Not Printed |
| | 28427 | R156-56-711 | NSC | 02/23/2006 | Not Printed |
| **contracts** | | | | | |
| Administrative Services, Facilities Construction and Management | 28608 | R23-1 | AMD | 06/01/2006 | 2006-9/10 |
| | 28609 | R23-1 | AMD | 06/01/2006 | 2006-9/3 |
| Capitol Preservation Board (State), Administration | 28727 | R131-4 | 5YR | 05/12/2006 | 2006-11/92 |
| Transportation, Operations, Construction | 28559 | R916-1-7 | AMD | 05/16/2006 | 2006-8/51 |
| **controlled substances** | | | | | |
| Commerce, Occupational and Professional Licensing | 28310 | R156-37 | AMD | 02/16/2006 | 2005-22/8 |
| | 28310 | R156-37 | CPR | 02/16/2006 | 2006-2/35 |
| Tax Commission, Collections | 28539 | R867-2B | 5YR | 03/07/2006 | 2006-7/35 |
| **cooperative agreement** | | | | | |
| Natural Resources, Forestry, Fire and State Lands | 28525 | R652-122 | NSC | 03/07/2006 | Not Printed |
| **copyright** | | | | | |
| Governor, Planning and Budget, Chief Information Officer | 28789 | R365-3 | NSC | 06/22/2006 | Not Printed |
| **correctional institutions** | | | | | |
| Corrections, Administration | 29054 | R251-704 | 5YR | 09/19/2006 | Not Printed |
| **corrections** | | | | | |
| Corrections, Administration | 28576 | R251-104 | 5YR | 03/28/2006 | 2006-8/72 |
| | 29052 | R251-106 | 5YR | 09/19/2006 | Not Printed |
| | 29053 | R251-107 | 5YR | 09/19/2006 | Not Printed |
| | 29049 | R251-108 | 5YR | 09/19/2006 | Not Printed |
| | 28705 | R251-702 | 5YR | 05/03/2006 | 2006-11/93 |
| | 29055 | R251-705 | 5YR | 09/19/2006 | Not Printed |
| | 29057 | R251-706 | 5YR | 09/19/2006 | Not Printed |
| | 28706 | R251-708 | 5YR | 05/03/2006 | 2006-11/94 |
| | 28707 | R251-711 | 5YR | 05/03/2006 | 2006-11/94 |

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| | 28577 | R251-712 | 5YR | 03/28/2006 | 2006-8/72 |
| **cost sharing**<br>Health, Health Care Financing, Coverage and Reimbursement Policy | 28879 | R414-200-3 | EMR | 07/13/2006 | 2006-15/25 |
| **cougar**<br>Natural Resources, Wildlife Resources | 28940 | R657-10 | 5YR | 08/21/2006 | 2006-18/63 |
| **counselors**<br>Commerce, Occupational and Professional Licensing | 28603 | R156-60c-502 | AMD | 06/01/2006 | 2006-9/17 |
| **county jails**<br>Corrections, Administration | 28982 | R251-113 | 5YR | 08/30/2006 | 2006-18/52 |
| **court**<br>Health, Center for Health Data, Vital Records and Statistics | 28966 | R436-5 | 5YR | 08/28/2006 | 2006-18/61 |
| **court reporting**<br>Commerce, Occupational and Professional Licensing | 28428 | R156-74 | AMD | 02/16/2006 | 2006-2/24 |
| **coverage groups**<br>Health, Health Care Financing, Coverage and Reimbursement Policy | 28698 | R414-303-7 | AMD | 07/01/2006 | 2006-10/23 |
| **crime victims**<br>Crime Victim Reparations, Administration | 28867 | R270-1 | 5YR | 07/03/2006 | 2006-15/27 |
| | 28868 | R270-2 | 5YR | 07/03/2006 | 2006-15/27 |
| **criminal background checks**<br>Education, Rehabilitation | 28521 | R280-204 | NEW | 04/03/2006 | 2006-5/16 |
| **criminal records**<br>Corrections, Administration | 28714 | R251-111 | AMD | 08/01/2006 | 2006-11/34 |
| | 28713 | R251-111 | 5YR | 05/04/2006 | 2006-11/93 |
| **cultural resources**<br>Community and Economic Development, Community Development, History | 28403 | R212-7 | NSC | 01/01/2006 | Not Printed |
| **curricula**<br>Education, Administration | 28467 | R277-705 | AMD | 03/06/2006 | 2006-3/18 |
| | 28809 | R277-705-3 | AMD | 08/08/2006 | 2006-13/17 |
| **dam safety**<br>Natural Resources, Water Rights | 28710 | R655-10 | 5YR | 05/03/2006 | 2006-11/96 |
| | 28712 | R655-12 | 5YR | 05/03/2006 | 2006-11/97 |
| **damages**<br>Natural Resources, Wildlife Resources | 28796 | R657-24 | AMD | 08/08/2006 | 2006-13/29 |
| | 28455 | R657-24 | AMD | 03/06/2006 | 2006-3/24 |
| **dams**<br>Natural Resources, Water Rights | 28710 | R655-10 | 5YR | 05/03/2006 | 2006-11/96 |
| | 28711 | R655-11 | 5YR | 05/03/2006 | 2006-11/97 |
| | 28712 | R655-12 | 5YR | 05/03/2006 | 2006-11/97 |

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| **data processing** | | | | | |
| Administrative Services, Information Technology Services | 28794 | R29-2 | NSC | 06/22/2006 | Not Printed |
| **DCFS** | | | | | |
| Human Services, Child Protection Ombudsman (Office of) | 28401 | R515-1 | NEW | 02/01/2006 | 2006-1/26 |
| **de minimis** | | | | | |
| Environmental Quality, Air Quality | 28546 | R307-413 | REP | 06/16/2006 | 2006-7/9 |
| **debt** | | | | | |
| Human Services, Recovery Services | 28739 | R527-936 | 5YR | 05/16/2006 | 2006-12/87 |
| **deferred payment** | | | | | |
| Public Service Commission, Administration | 28765 | R746-200 | AMD | 07/25/2006 | 2006-12/36 |
| **definitions** | | | | | |
| Administrative Services, Fleet Operations | 28474 | R27-1 | 5YR | 01/30/2006 | 2006-4/33 |
| | 28279 | R27-1 | NSC | 01/30/2006 | Not Printed |
| | 28368 | R27-1-2 | NSC | 01/01/2006 | Not Printed |
| Environmental Quality, Air Quality | 28815 | R307-101 | 5YR | 06/16/2006 | 2006-14/40 |
| | 28545 | R307-101-2 | AMD | 06/16/2006 | 2006-7/5 |
| Environmental Quality, Radiation Control | 28869 | R313-12 | 5YR | 07/10/2006 | 2006-15/29 |
| Human Resource Management, Administration | 28692 | R477-1 | AMD | 07/01/2006 | 2006-10/32 |
| **delinquent balance** | | | | | |
| Public Service Commission, Administration | 28765 | R746-200 | AMD | 07/25/2006 | 2006-12/36 |
| **dental hygienists** | | | | | |
| Commerce, Occupational and Professional Licensing | 28823 | R156-69 | 5YR | 06/19/2006 | 2006-14/38 |
| | 28829 | R156-69 | AMD | 08/22/2006 | 2006-14/5 |
| **dentists** | | | | | |
| Commerce, Occupational and Professional Licensing | 28829 | R156-69 | AMD | 08/22/2006 | 2006-14/5 |
| | 28823 | R156-69 | 5YR | 06/19/2006 | 2006-14/38 |
| **depository** | | | | | |
| Money Management Council, Administration | 28606 | R628-10 | 5YR | 04/11/2006 | 2006-9/42 |
| | 28723 | R628-10 | NSC | 05/30/2006 | Not Printed |
| **development** | | | | | |
| School and Institutional Trust Lands, Administration | 29015 | R850-140 | 5YR | 09/14/2006 | 2006-19/130 |
| **developmentally disabled** | | | | | |
| Agriculture and Food, Administration | 28553 | R51-4 | 5YR | 03/16/2006 | 2006-8/69 |
| | 28804 | R861-1A-20 | AMD | 08/07/2006 | 2006-13/50 |
| | 28430 | R861-1A-37 | AMD | 03/06/2006 | 2006-2/29 |
| | 28883 | R861-1A-40 | AMD | 09/15/2006 | 2006-15/14 |
| **direct-entry midwife** | | | | | |
| Commerce, Occupational and Professional Licensing | 28294 | R156-77 | NEW | 09/14/2006 | 2005-22/14 |

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| | 28294 | R156-77 | CPR | 09/14/2006 | 2006-15/19 |
| | 28294 | R156-77 | CPR | 09/14/2006 | 2006-7/21 |
| **direction station** | | | | | |
| Corrections, Administration | 29050 | R251-703 | 5YR | 09/19/2006 | Not Printed |
| **disabilities** | | | | | |
| Human Services, Services for People with Disabilities | 28845 | R539-1-8 | AMD | 08/22/2006 | 2006-14/17 |
| | 28716 | R539-1-8 | EMR | 05/05/2006 | 2006-11/88 |
| | 28715 | R539-9 | EMR | 05/05/2006 | 2006-11/90 |
| | 28844 | R539-9 | NEW | 08/22/2006 | 2006-14/19 |
| **disciplinary actions** | | | | | |
| Education, Administration | 28810 | R277-609 | AMD | 08/08/2006 | 2006-13/15 |
| **discipline of employees** | | | | | |
| Human Resource Management, Administration | 28683 | R477-11 | AMD | 07/01/2006 | 2006-10/59 |
| | 28686 | R477-14 | AMD | 07/01/2006 | 2006-10/63 |
| **disclosure requirements** | | | | | |
| Tax Commission, Administration | 28804 | R861-1A-20 | AMD | 08/07/2006 | 2006-13/50 |
| | 28430 | R861-1A-37 | AMD | 03/06/2006 | 2006-2/29 |
| | 28883 | R861-1A-40 | AMD | 09/15/2006 | 2006-15/14 |
| **discrimination** | | | | | |
| Agriculture and Food, Administration | 28553 | R51-4 | 5YR | 03/16/2006 | 2006-8/69 |
| **disease control** | | | | | |
| Agriculture and Food, Animal Industry | 28926 | R58-4 | 5YR | 08/15/2006 | 2006-17/65 |
| | 28972 | R58-4-1 | NSC | 09/22/2006 | Not Printed |
| **dismissal of employees** | | | | | |
| Human Resource Management, Administration | 28683 | R477-11 | AMD | 07/01/2006 | 2006-10/59 |
| **displaced homemakers** | | | | | |
| Workforce Services, Employment Development | 28762 | R986-800-803 | AMD | 08/01/2006 | 2006-12/76 |
| **diversion programs** | | | | | |
| Commerce, Occupational and Professional Licensing | 28621 | R156-1 | AMD | 06/19/2006 | 2006-10/8 |
| **do not resuscitate** | | | | | |
| Health, Health Systems Improvement, Emergency Medical Services | 28813 | R426-100 | AMD | 09/06/2006 | 2006-13/22 |
| **domestic violence** | | | | | |
| Human Services, Child and Family Services | 28920 | R512-300-4 | NSC | 08/29/2006 | Not Printed |
| | 28614 | R512-300-4 | AMD | 06/01/2006 | 2006-9/26 |
| **drinking water** | | | | | |
| Environmental Quality, Drinking Water | 28416 | R309-105-9 | AMD | 03/08/2006 | 2006-1/11 |
| | 28417 | R309-150-6 | AMD | 03/08/2006 | 2006-1/12 |
| | 28418 | R309-405-4 | AMD | 03/08/2006 | 2006-1/14 |

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| | 28421 | R309-545-7 | AMD | 03/08/2006 | 2006-1/19 |
| | 28422 | R309-550-5 | AMD | 03/08/2006 | 2006-1/20 |
| | 28392 | R309-600 | NSC | 01/01/2006 | Not Printed |
| | 28380 | R309-605 | NSC | 01/01/2006 | Not Printed |
| **driver address record**<br>Public Safety, Driver License | 28784 | R708-42 | NEW | 08/08/2006 | 2006-13/44 |
| **driver education**<br>Public Safety, Driver License | 28565 | R708-18 | 5YR | 03/20/2006 | 2006-8/75 |
| | 28783 | R708-27 | AMD | 08/08/2006 | 2006-13/41 |
| **driver license verification**<br>Public Safety, Driver License | 28785 | R708-43 | NEW | 08/08/2006 | 2006-13/45 |
| **driver licenses**<br>Public Safety, Driver License | 28569 | R708-6 | 5YR | 03/23/2006 | 2006-8/74 |
| | 28786 | R708-44 | NEW | 08/08/2006 | 2006-13/46 |
| **drug abuse**<br>Human Resource Management, Administration | 28686 | R477-14 | AMD | 07/01/2006 | 2006-10/63 |
| **drug stamps**<br>Tax Commission, Collections | 28539 | R867-2B | 5YR | 03/07/2006 | 2006-7/35 |
| **drug/alcohol education**<br>Human Resource Management, Administration | 28686 | R477-14 | AMD | 07/01/2006 | 2006-10/63 |
| **dual employment**<br>Human Resource Management, Administration | 28682 | R477-8 | AMD | 07/01/2006 | 2006-10/52 |
| **earthquakes**<br>Natural Resources, Water Rights | 28711 | R655-11 | 5YR | 05/03/2006 | 2006-11/97 |
| **education**<br>Education, Administration | 28591 | R277-709 | AMD | 05/16/2006 | 2006-8/12 |
| **educational expenditures**<br>Education, Administration | 28864 | R277-478 | 5YR | 07/03/2006 | 2006-15/28 |
| | 28865 | R277-479 | 5YR | 07/03/2006 | 2006-15/28 |
| **educational program evaluations**<br>Education, Administration | 28465 | R277-501 | AMD | 03/06/2006 | 2006-3/10 |
| | 28737 | R277-506 | AMD | 07/11/2006 | 2006-11/35 |
| **educational tuition**<br>Human Resource Management, Administration | 28684 | R477-10 | AMD | 07/01/2006 | 2006-10/56 |
| **educator**<br>Education, Administration | 28592 | R277-510 | NSC | 04/12/2006 | Not Printed |
| | 28466 | R277-510 | NEW | 03/06/2006 | 2006-3/15 |

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| **elderly**<br>Human Services, Aging and Adult Services | 28190 | R510-401 | AMD | 02/23/2006 | 2005-18/37 |
| | 28190 | R510-401 | CPR | 02/23/2006 | 2005-22/46 |
| **electric assisted bicycle headgear**<br>Public Safety, Driver License | 28560 | R708-33 | 5YR | 03/17/2006 | 2006-8/76 |
| **electricians**<br>Commerce, Occupational and Professional Licensing | 28611 | R156-55b | AMD | 06/01/2006 | 2006-9/15 |
| | 28772 | R156-55b | NSC | 06/12/2006 | Not Printed |
| **electronic meeting**<br>Commerce, Administration | 28664 | R151-1-2 | AMD | 06/15/2006 | 2006-10/7 |
| **electronic preliminary lien filing**<br>Commerce, Occupational and Professional Licensing | 28848 | R156-38b | AMD | 08/22/2006 | 2006-14/2 |
| **elevators**<br>Labor Commission, Safety | 28840 | R616-3 | NSC | 06/30/2006 | Not Printed |
| | 28256 | R616-3-3 | AMD | 02/08/2006 | 2005-20/44 |
| **emergency medical services**<br>Health, Health Systems Improvement, Emergency Medical Services | 28725 | R426-5-8 | AMD | 08/30/2006 | 2006-11/52 |
| | 28470 | R426-7 | 5YR | 01/24/2006 | 2006-4/37 |
| | 28472 | R426-8 | 5YR | 01/24/2006 | 2006-4/38 |
| | 28813 | R426-100 | AMD | 09/06/2006 | 2006-13/22 |
| **emission controls**<br>Environmental Quality, Air Quality | 28544 | R307-325 | AMD | 06/16/2006 | 2006-7/8 |
| **emission fee**<br>Environmental Quality, Air Quality | 28814 | R307-415-4 | AMD | 09/07/2006 | 2006-13/19 |
| | 28549 | R307-415-7d | NSC | 03/28/2006 | Not Printed |
| **employee benefit plans**<br>Human Resource Management, Administration | 28688 | R477-6 | AMD | 07/01/2006 | 2006-10/43 |
| **employee performance evaluations**<br>Human Resource Management, Administration | 28684 | R477-10 | AMD | 07/01/2006 | 2006-10/56 |
| **employee productivity**<br>Human Resource Management, Administration | 28684 | R477-10 | AMD | 07/01/2006 | 2006-10/56 |
| **employees' rights**<br>Human Resource Management, Administration | 28685 | R477-12 | AMD | 07/01/2006 | 2006-10/61 |
| **employer liability**<br>Workforce Services, Unemployment Insurance | 28721 | R994-302 | 5YR | 05/09/2006 | 2006-11/98 |

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| **employment** | | | | | |
| Human Resource Management, Administration | 28691 | R477-4 | AMD | 07/01/2006 | 2006-10/40 |
| | 28780 | R477-4-9 | NSC | 07/01/2006 | Not Printed |
| | 28681 | R477-5 | AMD | 07/01/2006 | 2006-10/42 |
| Human Services, Services for People with Disabilities | 28715 | R539-9 | EMR | 05/05/2006 | 2006-11/90 |
| **employment support procedures** | | | | | |
| Workforce Services, Employment Development | 28756 | R986-100 | AMD | 08/01/2006 | 2006-12/51 |
| **energy assistance** | | | | | |
| Community and Economic Development, Community Development, Community Services | 28385 | R202-202 | NSC | 01/01/2006 | Not Printed |
| | 28386 | R202-203 | NSC | 01/01/2006 | Not Printed |
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| | 28391 | R202-208 | NSC | 01/01/2006 | Not Printed |
| **energy industries** | | | | | |
| Community and Economic Development, Community Development, Community Services | 28391 | R202-208 | NSC | 01/01/2006 | Not Printed |
| **energy loans** | | | | | |
| Community and Economic Development, Community Development, Energy Services | 28433 | R203-4 | NSC | 01/01/2006 | Not Printed |
| | 28434 | R203-5 | NSC | 01/01/2006 | Not Printed |
| **enforcement** | | | | | |
| Agriculture and Food, Animal Industry | 28971 | R58-14 | 5YR | 08/29/2006 | 2006-18/46 |
| Environmental Quality, Radiation Control | 28870 | R313-14 | 5YR | 07/10/2006 | 2006-15/30 |
| Human Services, Recovery Services | 28752 | R527-800 | 5YR | 05/24/2006 | 2006-12/86 |
| **engineering** | | | | | |
| Education, Administration | 28523 | R277-717 | AMD | 04/03/2006 | 2006-5/13 |
| | 28866 | R277-717 | 5YR | 07/03/2006 | 2006-15/29 |
| **engineers** | | | | | |
| Administrative Services, Facilities Construction and Management | 28607 | R23-2 | AMD | 06/01/2006 | 2006-9/12 |
| Commerce, Occupational and Professional Licensing | 28444 | R156-22 | AMD | 04/03/2006 | 2006-2/17 |
| | 28444 | R156-22 | CPR | 04/03/2006 | 2006-5/45 |
| | 28807 | R156-22-302c | AMD | 08/15/2006 | 2006-13/6 |
| | 28773 | R156-22-302d | AMD | 07/25/2006 | 2006-12/7 |
| **environmental health** | | | | | |
| Environmental Quality, Drinking Water | 28392 | R309-600 | NSC | 01/01/2006 | Not Printed |
| | 28380 | R309-605 | NSC | 01/01/2006 | Not Printed |
| **environmental protection** | | | | | |
| Environmental Quality, Air Quality | 28814 | R307-415-4 | AMD | 09/07/2006 | 2006-13/19 |

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| Environmental Quality, Drinking Water | 28417 | R309-150-6 | AMD | 03/08/2006 | 2006-1/12 |
| | 28418 | R309-405-4 | AMD | 03/08/2006 | 2006-1/14 |
| **equipment leasing** | | | | | |
| Commerce, Corporations and Commercial Code | 28860 | R154-2 | 5YR | 06/29/2006 | 2006-14/37 |
| **executions** | | | | | |
| Corrections, Administration | 29053 | R251-107 | 5YR | 09/19/2006 | Not Printed |
| **exemptions** | | | | | |
| Environmental Quality, Air Quality | 28546 | R307-413 | REP | 06/16/2006 | 2006-7/9 |
| Environmental Quality, Radiation Control | 28869 | R313-12 | 5YR | 07/10/2006 | 2006-15/29 |
| | 28802 | R313-19-34 | AMD | 08/11/2006 | 2006-13/20 |
| Natural Resources, Oil, Gas and Mining; Coal | 28742 | R645-106 | 5YR | 05/17/2006 | 2006-12/87 |
| **exemptions to wildland fire suppression fund** | | | | | |
| Natural Resources, Forestry, Fire and State Lands | 28770 | R652-123 | NEW | 08/28/2006 | 2006-12/34 |
| **exhibitions** | | | | | |
| Agriculture and Food, Marketing and Development | 28558 | R65-8 | 5YR | 03/16/2006 | 2006-8/70 |
| **extinguishers** | | | | | |
| Public Safety, Fire Marshal | 28882 | R710-1-10 | AMD | 09/07/2006 | 2006-15/10 |
| **eyeglasses** | | | | | |
| Health, Health Care Financing, Coverage and Reimbursement Policy | 28583 | R414-53 | AMD | 07/01/2006 | 2006-8/32 |
| **facility** | | | | | |
| Human Services, Substance Abuse and Mental Health, State Hospital | 28738 | R525-8 | 5YR | 05/16/2006 | 2006-12/86 |
| **fair employment practices** | | | | | |
| Human Resource Management, Administration | 28689 | R477-2 | AMD | 07/01/2006 | 2006-10/38 |
| | 28691 | R477-4 | AMD | 07/01/2006 | 2006-10/40 |
| | 28780 | R477-4-9 | NSC | 07/01/2006 | Not Printed |
| **fairs** | | | | | |
| Fair Corporation (Utah State), Administration | 28832 | R325-1 | 5YR | 06/22/2006 | 2006-14/53 |
| | 28833 | R325-2 | 5YR | 06/22/2006 | 2006-14/54 |
| | 28834 | R325-3 | 5YR | 06/22/2006 | 2006-14/54 |
| | 28835 | R325-4 | 5YR | 06/22/2006 | 2006-14/55 |
| | 28836 | R325-5 | 5YR | 06/22/2006 | 2006-14/55 |
| **family employment program** | | | | | |
| Workforce Services, Employment Development | 28755 | R986-200 | AMD | 08/01/2006 | 2006-12/58 |
| | 28537 | R986-200 | AMD | 05/01/2006 | 2006-6/19 |
| **fees** | | | | | |
| Labor Commission, Industrial Accidents | 28729 | R612-2-5 | AMD | 07/11/2006 | 2006-11/74 |
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| | 28169 | R651-611 | AMD | 01/01/2006 | 2005-18/46 |
| Public Safety, Driver License | 28565 | R708-18 | 5YR | 03/20/2006 | 2006-8/75 |
| **filing deadlines** | | | | | |
| Workforce Services, Unemployment Insurance | 28861 | R994-403-202 | AMD | 08/22/2006 | 2006-14/31 |
| **filing documents** | | | | | |
| Commerce, Corporations and Commercial Code | 28860 | R154-2 | 5YR | 06/29/2006 | 2006-14/37 |
| **filing fees** | | | | | |
| School and Institutional Trust Lands, Administration | 28562 | R850-4-300 | AMD | 05/16/2006 | 2006-8/48 |
| **finance** | | | | | |
| Administrative Services, Finance | 29077 | R25-2 | 5YR | 09/25/2006 | Not Printed |
| **financial disclosures** | | | | | |
| Community and Economic Development, Community Development, Community Services | 28387 | R202-204 | NSC | 01/01/2006 | Not Printed |
| Health, Health Care Financing, Coverage and Reimbursement Policy | 28680 | R414-304-11 | AMD | 07/01/2006 | 2006-10/24 |
| **financial institutions** | | | | | |
| Money Management Council, Administration | 28600 | R628-12 | NSC | 05/10/2006 | Not Printed |
| **financial responsibility** | | | | | |
| Environmental Quality, Environmental Response and Remediation | 28518 | R311-207-5 | AMD | 05/15/2006 | 2006-5/31 |
| **fire** | | | | | |
| Environmental Quality, Air Quality | 28602 | R307-204 | 5YR | 04/07/2006 | 2006-9/40 |
| **fire prevention** | | | | | |
| Public Safety, Fire Marshal | 28882 | R710-1-10 | AMD | 09/07/2006 | 2006-15/10 |
| | 28579 | R710-4 | AMD | 05/16/2006 | 2006-8/45 |
| | 28884 | R710-7-8 | AMD | 09/07/2006 | 2006-15/13 |
| | 28461 | R710-9 | AMD | 03/06/2006 | 2006-3/27 |
| | 28292 | R710-9 | AMD | 01/10/2006 | 2005-21/38 |
| **fire training** | | | | | |
| Public Safety, Fire Marshal | 28460 | R710-10 | NEW | 03/06/2006 | 2006-3/33 |
| | 28581 | R710-10-7 | NSC | 04/12/2006 | Not Printed |
| **firearms** | | | | | |
| Administrative Services, Fleet Operations, Surplus Property | 28496 | R28-2 | 5YR | 02/07/2006 | 2006-5/47 |
| **fires** | | | | | |
| Environmental Quality, Air Quality | 28459 | R307-204 | NSC | 04/07/2006 | Not Printed |
| **fireworks** | | | | | |
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| **fish** | | | | | |
| Natural Resources, Wildlife Resources | 28303 | R657-13 | AMD | 01/18/2006 | 2005-22/41 |

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| **floods** | | | | | |
| Natural Resources, Water Rights | 28711 | R655-11 | 5YR | 05/03/2006 | 2006-11/97 |
| **food inspections** | | | | | |
| Agriculture and Food, Animal Industry | 28506 | R58-10 | AMD | 04/03/2006 | 2006-5/2 |
| Agriculture and Food, Plant Industry | 28504 | R68-4 | 5YR | 02/10/2006 | 2006-5/47 |
| Agriculture and Food, Regulatory Services | 28555 | R70-330 | 5YR | 03/16/2006 | 2006-8/71 |
| | 28556 | R70-370 | 5YR | 03/16/2006 | 2006-8/71 |
| | 28557 | R70-380 | 5YR | 03/16/2006 | 2006-8/72 |
| | 28471 | R70-410 | 5YR | 01/24/2006 | 2006-4/35 |
| | 28485 | R70-410-1 | AMD | 03/20/2006 | 2006-4/4 |
| **food sales tax refunds** | | | | | |
| Community and Economic Development, Community Development, Community Services | 28353 | R202-100 | NSC | 01/01/2006 | Not Printed |
| **food service** | | | | | |
| Health, Epidemiology and Laboratory Services, Environmental Services | 28741 | R392-101 | AMD | 07/25/2006 | 2006-12/16 |
| | 28825 | R392-110 | NEW | 09/18/2006 | 2006-14/13 |
| **food stamps** | | | | | |
| Workforce Services, Employment Development | 28761 | R986-900 | AMD | 08/01/2006 | 2006-12/77 |
| **forensic** | | | | | |
| Human Services, Substance Abuse and Mental Health, State Hospital | 28738 | R525-8 | 5YR | 05/16/2006 | 2006-12/86 |
| **foster care** | | | | | |
| Human Services, Child and Family Services | 28662 | R512-305 | AMD | 06/19/2006 | 2006-10/65 |
| | 28663 | R512-306 | AMD | 06/19/2006 | 2006-10/67 |
| | 28750 | R512-308 | NEW | 08/02/2006 | 2006-12/23 |
| **franchises** | | | | | |
| Commerce, Administration | 28542 | R151-14 | AMD | 05/02/2006 | 2006-7/2 |
| | 28995 | R151-14 | 5YR | 09/06/2006 | 2006-19/129 |
| | 28543 | R151-35 | AMD | 05/02/2006 | 2006-7/3 |
| **freedom of information** | | | | | |
| Agriculture and Food, Administration | 28552 | R51-3 | 5YR | 03/16/2006 | 2006-8/69 |
| | 28442 | R182-1 | NSC | 01/01/2006 | Not Printed |
| | 28747 | R895-1 | NEW | 07/25/2006 | 2006-12/43 |
| **game laws** | | | | | |
| Natural Resources, Wildlife Resources | 28718 | R657-5 | AMD | 07/11/2006 | 2006-11/78 |
| | 28379 | R657-5 | AMD | 01/18/2006 | 2005-24/11 |
| | 28881 | R657-5-37B | NSC | 07/27/2006 | Not Printed |
| | 28801 | R657-6-21 | AMD | 08/08/2006 | 2006-13/28 |
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| | 28457 | R657-33 | AMD | 03/06/2006 | 2006-3/25 |
| **general assistance** | | | | | |
| Workforce Services, Employment Development | 28759 | R986-400 | AMD | 08/01/2006 | 2006-12/64 |
| | 28693 | R986-400 | AMD | 06/22/2006 | 2006-10/81 |
| **generator radioactive waste permit** | | | | | |
| Environmental Quality, Radiation Control | 28720 | R313-26 | 5YR | 05/09/2006 | 2006-11/95 |
| **government documents** | | | | | |
| Administrative Services, Records Committee | 28776 | R35-1 | AMD | 08/09/2006 | 2006-13/4 |
| | 28462 | R35-1 | AMD | 03/14/2006 | 2006-3/3 |
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| Community and Economic Development, Community Development, Community Services | 28390 | R202-207 | NSC | 01/01/2006 | Not Printed |
| **government ethics** | | | | | |
| Human Resource Management, Administration | 28687 | R477-9 | AMD | 07/01/2006 | 2006-10/55 |
| **government hearings** | | | | | |
| Administrative Services, Finance | 29077 | R25-2 | 5YR | 09/25/2006 | Not Printed |
| Commerce, Administration | 28709 | R151-46b | 5YR | 05/03/2006 | 2006-11/92 |
| Commerce, Occupational and Professional Licensing | 28673 | R156-46b | 5YR | 04/25/2006 | 2006-10/86 |
| Human Resource Management, Administration | 28683 | R477-11 | AMD | 07/01/2006 | 2006-10/59 |
| **government purchasing** | | | | | |
| Administrative Services, Purchasing and General Services | 28436 | R33-1 | NSC | 02/22/2006 | Not Printed |
| | 28445 | R33-1-1 | AMD | 02/21/2006 | 2006-2/3 |
| | 28437 | R33-2-101 | NSC | 02/22/2006 | Not Printed |
| | 28447 | R33-3 | AMD | 02/21/2006 | 2006-2/5 |
| | 28438 | R33-4 | NSC | 02/22/2006 | Not Printed |
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| **government records** | | | | | |
| Corrections, Administration | 28714 | R251-111 | AMD | 08/01/2006 | 2006-11/34 |
| | 28713 | R251-111 | 5YR | 05/04/2006 | 2006-11/93 |
| **governmental immunity act caps** | | | | | |
| Administrative Services, Risk Management | 28667 | R37-4 | R&R | 07/01/2006 | 2006-10/5 |
| **grant programs** | | | | | |
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| Community and Culture, Housing and Community Development | 28740 | R199-11 | AMD | 07/25/2006 | 2006-12/15 |
| Community and Economic Development, Community Development | 28350 | R199-11 | NSC | 01/01/2006 | Not Printed |
| Community and Culture, Housing and Community Development | 28647 | R199-11 | 5YR | 04/19/2006 | 2006-10/86 |
| Community and Economic Development, Community Development, Community Services | 28353 | R202-100 | NSC | 01/01/2006 | Not Printed |
| Health, Health Systems Improvement, Primary Care and Rural Health | 28644 | R434-30 | 5YR | 04/18/2006 | 2006-10/88 |
| **grievance procedures** | | | | | |
| Career Service Review Board, Administration | 28912 | R137-1 | 5YR | 08/04/2006 | 2006-17/66 |
| | 28804 | R861-1A-20 | AMD | 08/07/2006 | 2006-13/50 |
| | 28430 | R861-1A-37 | AMD | 03/06/2006 | 2006-2/29 |
| | 28883 | R861-1A-40 | AMD | 09/15/2006 | 2006-15/14 |
| **grievances** | | | | | |
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| | 28683 | R477-11 | AMD | 07/01/2006 | 2006-10/59 |
| | 28685 | R477-12 | AMD | 07/01/2006 | 2006-10/61 |
| **guardianship** | | | | | |
| Human Services, Child and Family Services | 28750 | R512-308 | NEW | 08/02/2006 | 2006-12/23 |
| **habitat designation** | | | | | |
| Natural Resources, Wildlife Resources | 28797 | R657-48 | AMD | 08/08/2006 | 2006-13/37 |
| | 28751 | R657-48 | 5YR | 05/24/2006 | 2006-12/88 |
| **Hatch Act** | | | | | |
| Human Resource Management, Administration | 28687 | R477-9 | AMD | 07/01/2006 | 2006-10/55 |
| **hazardous air pollutant** | | | | | |
| Environmental Quality, Air Quality | 28323 | R307-410 | AMD | 06/16/2006 | 2005-23/31 |
| | 28323 | R307-410 | CPR | 06/16/2006 | 2006-7/30 |
| **hazardous substances** | | | | | |
| Environmental Quality, Environmental Response and Remediation | 28880 | R311-206 | AMD | 09/15/2006 | 2006-15/5 |
| **hazardous waste** | | | | | |
| Environmental Quality, Solid and Hazardous Waste | 28947 | R315-1 | 5YR | 08/24/2006 | 2006-18/53 |
| | 28953 | R315-2 | 5YR | 08/24/2006 | 2006-18/53 |
| | 28954 | R315-3 | 5YR | 08/24/2006 | 2006-18/54 |
| | 28955 | R315-4 | 5YR | 08/24/2006 | 2006-18/55 |
| | 28956 | R315-5 | 5YR | 08/24/2006 | 2006-18/55 |
| | 28957 | R315-6 | 5YR | 08/24/2006 | 2006-18/56 |
| | 28958 | R315-7 | 5YR | 08/24/2006 | 2006-18/56 |
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| | 28949 | R315-50 | 5YR | 08/24/2006 | 2006-18/60 |
| | 28951 | R315-101 | 5YR | 08/24/2006 | 2006-18/60 |
| | 28346 | R315-102 | AMD | 01/20/2006 | 2005-23/38 |
| **health care providers**<br>Insurance, Administration | 28800 | R590-237 | NEW | 09/07/2006 | 2006-13/26 |
| **health facilities**<br>Health, Health Systems Improvement, Licensing | 28679 | R432-6 | AMD | 07/20/2006 | 2006-10/30 |
| | 28500 | R432-31 | AMD | 04/13/2006 | 2006-5/35 |
| | 28312 | R432-100-24 | AMD | 01/05/2006 | 2005-22/34 |
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| | 28311 | R432-100-38 | AMD | 01/05/2006 | 2005-22/38 |
| | 28301 | R432-106 | AMD | 01/05/2006 | 2005-22/39 |
| | 28449 | R432-106 | 5YR | 01/06/2006 | 2006-3/38 |
| **hearing aids**<br>Commerce, Occupational and Professional Licensing | 28732 | R156-46a | AMD | 07/11/2006 | 2006-11/32 |
| **hearing impaired**<br>Public Service Commission, Administration | 28894 | R746-510-4 | NSC | 07/25/2006 | Not Printed |
| **hearing instrument intern**<br>Commerce, Occupational and Professional Licensing | 28732 | R156-46a | AMD | 07/11/2006 | 2006-11/32 |
| **hearing instrument specialist**<br>Commerce, Occupational and Professional Licensing | 28732 | R156-46a | AMD | 07/11/2006 | 2006-11/32 |
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| Labor Commission, Adjudication | 28547 | R602-2-1 | AMD | 05/05/2006 | 2006-7/14 |
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| **higher education**<br>Regents (Board Of), Administration | 28878 | R765-608 | 5YR | 07/13/2006 | 2006-15/32 |
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| **highly qualified**<br>Education, Administration | 28466 | R277-510 | NEW | 03/06/2006 | 2006-3/15 |
| | 28592 | R277-510 | NSC | 04/12/2006 | Not Printed |
| **highways**<br>Transportation, Program Development | 28775 | R926-2 | R&R | 07/28/2006 | 2006-12/47 |

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| Transportation, Preconstruction | 28677 | R930-3 | AMD | 06/22/2006 | 2006-10/80 |
| **hiring practices** | | | | | |
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| | 28780 | R477-4-9 | NSC | 07/01/2006 | Not Printed |
| **historic preservation** | | | | | |
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| | 28408 | R212-8 | NSC | 01/01/2006 | Not Printed |
| Community and Culture, History | 28896 | R212-8 | 5YR | 07/27/2006 | 2006-16/35 |
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| **historical society** | | | | | |
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| Community and Culture, History | 28898 | R212-3 | 5YR | 07/27/2006 | 2006-16/34 |
| **holidays** | | | | | |
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| | 28570 | R477-7 | AMD | 07/01/2006 | 2006-8/36 |
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| **horses** | | | | | |
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| **HOT Lanes** | | | | | |
| Transportation Commission, Administration | 28675 | R940-1 | NEW | 06/22/2006 | 2006-10/80 |
| **housing** | | | | | |
| Community and Economic Development, Community Development, History | 28410 | R212-11 | NSC | 01/01/2006 | Not Printed |
| **housing development** | | | | | |
| Community and Culture, Olene Walker Housing Trust Fund | 28492 | R235-1 | NSC | 03/01/2006 | Not Printed |
| | 28402 | R235-1 | NEW | 03/01/2006 | 2006-1/9 |
| **hunter education** | | | | | |
| Natural Resources, Wildlife Resources | 28377 | R657-23 | AMD | 01/18/2006 | 2005-24/19 |
| **hunting** | | | | | |
| Natural Resources, Wildlife Resources | 28371 | R657-38 | AMD | 01/18/2006 | 2005-24/22 |

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| **hunting and fishing licenses**<br>Natural Resources, Wildlife Resources | 28382 | R657-17 | AMD | 01/18/2006 | 2005-24/17 |
| **hydropneumatic systems**<br>Environmental Quality, Drinking Water | 28420 | R309-540-6 | AMD | 03/08/2006 | 2006-1/18 |
| **impacted area programs**<br>Community and Economic Development, Community Development | 28349 | R199-10 | NSC | 01/01/2006 | Not Printed |
| **impairment ratings**<br>Labor Commission, Industrial Accidents | 28728 | R612-7-3 | AMD | 07/11/2006 | 2006-11/77 |
| **incidental extraction**<br>Natural Resources, Oil, Gas and Mining; Coal | 28742 | R645-106 | 5YR | 05/17/2006 | 2006-12/87 |
| **incidents**<br>Administrative Services, Fleet Operations | 28469 | R27-7 | 5YR | 01/20/2006 | 2006-4/34 |
| **income**<br>Health, Health Care Financing, Coverage and Reimbursement Policy | 28698 | R414-303-7 | AMD | 07/01/2006 | 2006-10/23 |
| | 28680 | R414-304-11 | AMD | 07/01/2006 | 2006-10/24 |
| **income eligibility**<br>Community and Economic Development, Community Development, Community Services | 28386 | R202-203 | NSC | 01/01/2006 | Not Printed |
| **independent foster care adolescent**<br>Health, Health Care Financing, Coverage and Reimbursement Policy | 28698 | R414-303-7 | AMD | 07/01/2006 | 2006-10/23 |
| **Indian affairs**<br>Community and Economic Development, Indian Affairs | 28441 | R230-1 | NSC | 01/01/2006 | Not Printed |
| | 28479 | R230-1 | 5YR | 01/31/2006 | 2006-4/37 |
| **individual home booster pumps**<br>Environmental Quality, Drinking Water | 28420 | R309-540-6 | AMD | 03/08/2006 | 2006-1/18 |
| **informal procedures**<br>Community and Economic Development, Community Development, Library | 28343 | R223-1 | NSC | 01/01/2006 | Not Printed |
| **information technology**<br>Administrative Services, Information Technology Services | 28828 | R29-1 | NSC | 06/22/2006 | Not Printed |
| | 28788 | R29-1 | 5YR | 06/08/2006 | 2006-13/61 |
| **information technology resources**<br>Governor, Planning and Budget, Chief Information Officer | 28704 | R365-7 | NSC | 06/22/2006 | Not Printed |
| **injury**<br>Health, Epidemiology and Laboratory Services, Epidemiology | 28874 | R386-703 | 5YR | 07/10/2006 | 2006-15/32 |
| **inmates**<br>Corrections, Administration | 28705 | R251-702 | 5YR | 05/03/2006 | 2006-11/93 |

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| **inspection** | | | | | |
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| **inspections** | | | | | |
| Agriculture and Food, Plant Industry | 28554 | R68-7 | 5YR | 03/16/2006 | 2006-8/70 |
| | 28769 | R68-7 | AMD | 07/25/2006 | 2006-12/6 |
| | 28452 | R68-8 | 5YR | 01/09/2006 | 2006-3/38 |
| Agriculture and Food, Regulatory Services | 28976 | R70-920 | 5YR | 08/29/2006 | 2006-18/47 |
| | 28977 | R70-920-2 | NSC | 09/22/2006 | Not Printed |
| | 28974 | R70-930 | 5YR | 08/29/2006 | 2006-18/47 |
| | 28973 | R70-930-2 | NSC | 09/22/2006 | Not Printed |
| | 28978 | R70-940 | 5YR | 08/29/2006 | 2006-18/48 |
| Environmental Quality, Radiation Control | 28869 | R313-12 | 5YR | 07/10/2006 | 2006-15/29 |
| | 28871 | R313-16 | 5YR | 07/10/2006 | 2006-15/30 |
| | 28873 | R313-18 | 5YR | 07/10/2006 | 2006-15/31 |
| **installations** | | | | | |
| Environmental Quality, Radiation Control | 28871 | R313-16 | 5YR | 07/10/2006 | 2006-15/30 |
| **insurance** | | | | | |
| Human Resource Management, Administration | 28688 | R477-6 | AMD | 07/01/2006 | 2006-10/43 |
| | 28843 | R590-102 | AMD | 08/29/2006 | 2006-14/21 |
| | 28551 | R590-144 | 5YR | 03/14/2006 | 2006-7/34 |
| | 28269 | R590-166-4 | AMD | 01/24/2006 | 2005-20/40 |
| | 28588 | R590-177 | NSC | 04/12/2006 | Not Printed |
| | 28587 | R590-177 | 5YR | 03/31/2006 | 2006-8/73 |
| | 28799 | R590-230 | AMD | 08/29/2006 | 2006-13/23 |
| **insurance certificate of authority** | | | | | |
| Insurance, Administration | 28726 | R590-208 | 5YR | 05/12/2006 | 2006-11/95 |
| **insurance law** | | | | | |
| Insurance, Administration | 28117 | R590-85 | AMD | 01/31/2006 | 2005-16/18 |
| | 28117 | R590-85 | CPR | 01/31/2006 | 2005-20/61 |
| | 28117 | R590-85 | CPR | 01/31/2006 | 2005-24/44 |
| | 28267 | R590-98 | CPR | 01/31/2006 | 2005-24/46 |
| | 28267 | R590-98 | AMD | 01/31/2006 | 2005-20/39 |
| | 28528 | R590-99 | NSC | 03/06/2006 | Not Printed |
| | 28495 | R590-131-4 | NSC | 02/24/2006 | Not Printed |
| | 28846 | R590-136 | 5YR | 06/27/2006 | 2006-14/56 |
| | 28887 | R590-164 | AMD | 09/25/2006 | 2006-15/7 |
| | 28696 | R590-178 | CPR | 09/19/2006 | 2006-15/21 |
| | 28696 | R590-178 | AMD | 09/19/2006 | 2006-10/69 |
| | 28914 | R590-178 | 5YR | 08/07/2006 | 2006-17/67 |
| | 28589 | R590-200 | 5YR | 03/31/2006 | 2006-8/73 |
| | 28847 | R590-206 | 5YR | 06/27/2006 | 2006-14/56 |
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| **Internet access** | | | | | |
| Community and Economic Development, Community Development, Library | 28344 | R223-2 | NSC | 01/01/2006 | Not Printed |
| **Internet ratings** | | | | | |
| Commerce, Consumer Protection | 28777 | R152-1a | NEW | 09/18/2006 | 2006-13/4 |
| **interpreters** | | | | | |
| Public Service Commission, Administration | 28894 | R746-510-4 | NSC | 07/25/2006 | Not Printed |
| **intoxilyzer** | | | | | |
| Public Safety, Highway Patrol | 28342 | R714-500 | AMD | 01/05/2006 | 2005-23/59 |
| **investigation** | | | | | |
| Human Services, Child Protection Ombudsman (Office of) | 28401 | R515-1 | NEW | 02/01/2006 | 2006-1/26 |
| **IT bid committee** | | | | | |
| Governor, Planning and Budget, Chief Information Officer | 28793 | R365-10 | NSC | 06/22/2006 | Not Printed |
| | 28795 | R365-101 | NSC | 06/22/2006 | Not Printed |
| Technology Services, Administration | 28744 | R895-5 | NEW | 07/25/2006 | 2006-12/45 |
| **IT planning** | | | | | |
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| **IT standards** | | | | | |
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| **IT standards council** | | | | | |
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| **judicial conduct commission** | | | | | |
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| **juvenile corrections** | | | | | |
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| **juvenile courts** | | | | | |
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| **juvenile detention** | | | | | |
| Human Services, Juvenile Justice Services | 28378 | R547-13 | AMD | 01/18/2006 | 2005-24/8 |
| **labor** | | | | | |
| Labor Commission, Safety | 28838 | R616-1 | NSC | 06/30/2006 | Not Printed |
| **land exchanges** | | | | | |
| Natural Resources, Forestry, Fire and State Lands | 28854 | R652-80 | 5YR | 06/28/2006 | 2006-14/59 |
| **land managers** | | | | | |
| Environmental Quality, Air Quality | 28459 | R307-204 | NSC | 04/07/2006 | Not Printed |

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| **land sale** | | | | | |
| School and Institutional Trust Lands, Administration | 29015 | R850-140 | 5YR | 09/14/2006 | 2006-19/130 |
| **landscape architects** | | | | | |
| Commerce, Occupational and Professional Licensing | 28781 | R156-53-501 | AMD | 08/15/2006 | 2006-13/9 |
| **law** | | | | | |
| Human Services, Aging and Adult Services | 28778 | R510-1 | 5YR | 06/02/2006 | 2006-13/61 |
| Public Safety, Fire Marshal | 28292 | R710-9 | AMD | 01/10/2006 | 2005-21/38 |
| | 28461 | R710-9 | AMD | 03/06/2006 | 2006-3/27 |
| **learner permit** | | | | | |
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| **lease operations** | | | | | |
| School and Institutional Trust Lands, Administration | 28484 | R850-24-300 | AMD | 03/20/2006 | 2006-4/16 |
| **lease provisions** | | | | | |
| School and Institutional Trust Lands, Administration | 28482 | R850-21-900 | AMD | 03/20/2006 | 2006-4/14 |
| | 28483 | R850-22-900 | AMD | 03/20/2006 | 2006-4/15 |
| **leave benefits** | | | | | |
| Human Resource Management, Administration | 28443 | R477-7 | EMR | 01/01/2006 | 2006-2/40 |
| | 28690 | R477-7 | AMD | 07/01/2006 | 2006-10/47 |
| | 28571 | R477-7 | EMR | 04/01/2006 | 2006-8/64 |
| | 28570 | R477-7 | AMD | 07/01/2006 | 2006-8/36 |
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| Health, Center for Health Data, Vital Records and Statistics | 28966 | R436-5 | 5YR | 08/28/2006 | 2006-18/61 |
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| **license plates** | | | | | |
| Tax Commission, Motor Vehicle | 28806 | R873-22M-34 | AMD | 08/07/2006 | 2006-13/51 |
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| | 28604 | R156-3a | 5YR | 04/10/2006 | 2006-9/39 |
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| | 28671 | R156-3a-501 | NSC | 05/10/2006 | Not Printed |
| | 28830 | R156-9a | 5YR | 06/22/2006 | 2006-14/37 |
| | 28620 | R156-17b | NSC | 05/15/2006 | Not Printed |

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| | 28310 | R156-37 | AMD | 02/16/2006 | 2005-22/8 |
| | 28310 | R156-37 | CPR | 02/16/2006 | 2006-2/35 |
| | 28674 | R156-40 | AMD | 06/22/2006 | 2006-10/11 |
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| | 29059 | R156-40 | 5YR | 09/19/2006 | Not Printed |
| | 28876 | R156-40-302c | AMD | 09/14/2006 | 2006-15/4 |
| | 28352 | R156-44a | AMD | 01/05/2006 | 2005-23/4 |
| | 28732 | R156-46a | AMD | 07/11/2006 | 2006-11/32 |
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| | 28478 | R156-47b | 5YR | 01/31/2006 | 2006-4/35 |
| | 28550 | R156-50 | 5YR | 03/13/2006 | 2006-7/33 |
| | 28781 | R156-53-501 | AMD | 08/15/2006 | 2006-13/9 |
| | 28749 | R156-54 | AMD | 07/31/2006 | 2006-12/11 |
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| | 28286 | R156-56 | AMD | 01/01/2006 | 2005-21/6 |
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| | 28805 | R156-56-707 | NSC | 06/29/2006 | Not Printed |
| | 28427 | R156-56-711 | NSC | 02/23/2006 | Not Printed |
| | 28672 | R156-60b | AMD | 06/19/2006 | 2006-10/13 |
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| | 28605 | R156-60d | 5YR | 04/10/2006 | 2006-9/39 |
| | 28345 | R156-63-503 | AMD | 01/10/2006 | 2005-23/5 |
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| | 28824 | R156-73 | 5YR | 06/19/2006 | 2006-14/39 |
| | 28428 | R156-74 | AMD | 02/16/2006 | 2006-2/24 |
| | 28294 | R156-77 | NEW | 09/14/2006 | 2005-22/14 |
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| Commerce, Real Estate | 28665 | R162-102-3 | AMD | 06/28/2006 | 2006-10/19 |
| Environmental Quality, Radiation Control | 28873 | R313-18 | 5YR | 07/10/2006 | 2006-15/31 |
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| Governor, Planning and Budget, Chief Information Officer | 28789 | R365-3 | NSC | 06/22/2006 | Not Printed |
| Public Safety, Driver License | 28565 | R708-18 | 5YR | 03/20/2006 | 2006-8/75 |
| **life insurance** | | | | | |
| Insurance, Administration | 28527 | R590-93-6 | NSC | 03/06/2006 | Not Printed |
| **life insurance filings** | | | | | |
| Insurance, Administration | 28488 | R590-226 | CPR | 09/07/2006 | 2006-8/54 |
| | 28488 | R590-226 | AMD | 09/07/2006 | 2006-4/5 |

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| **limitation on judgments** | | | | | |
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| **liquefied petroleum gas** | | | | | |
| Public Safety, Fire Marshal | 28584 | R710-6 | 5YR | 03/30/2006 | 2006-8/77 |
| | 28888 | R710-6-6 | AMD | 09/07/2006 | 2006-15/12 |
| **livestock** | | | | | |
| Agriculture and Food, Marketing and Development | 28558 | R65-8 | 5YR | 03/16/2006 | 2006-8/70 |
| Natural Resources, Wildlife Resources | 28796 | R657-24 | AMD | 08/08/2006 | 2006-13/29 |
| | 28455 | R657-24 | AMD | 03/06/2006 | 2006-3/24 |
| **local governments** | | | | | |
| Transportation, Program Development | 28531 | R926-8-3 | AMD | 06/22/2006 | 2006-6/16 |
| **machines** | | | | | |
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| **management** | | | | | |
| Community and Economic Development, Community Development, History | 28403 | R212-7 | NSC | 01/01/2006 | Not Printed |
| Natural Resources, Forestry, Fire and State Lands | 28853 | R652-41 | 5YR | 06/28/2006 | 2006-14/58 |
| **marriage and family therapist** | | | | | |
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| **massage therapy** | | | | | |
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| **material permits** | | | | | |
| School and Institutional Trust Lands, Administration | 28484 | R850-24-300 | AMD | 03/20/2006 | 2006-4/16 |
| **mathematics** | | | | | |
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| **Medicaid** | | | | | |
| Health, Health Care Financing, Coverage and Reimbursement Policy | 28575 | R414-1-5 | AMD | 05/16/2006 | 2006-8/29 |
| | 28258 | R414-2A | R&R | 03/03/2006 | 2005-20/11 |
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| | 28535 | R414-3A-6 | AMD | 07/25/2006 | 2006-6/12 |
| | 28535 | R414-3A-6 | CPR | 07/25/2006 | 2006-12/84 |
| | 28734 | R414-11 | R&R | 07/14/2006 | 2006-11/45 |
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| | 28699 | R414-504 | AMD | 07/01/2006 | 2006-10/25 |
| Human Services, Recovery Services | 28752 | R527-800 | 5YR | 05/24/2006 | 2006-12/86 |
| | 28739 | R527-936 | 5YR | 05/16/2006 | 2006-12/87 |
| **medical practitioner** | | | | | |
| Labor Commission, Industrial Accidents | 28729 | R612-2-5 | AMD | 07/11/2006 | 2006-11/74 |
| | 28730 | R612-2-22 | AMD | 07/11/2006 | 2006-11/75 |
| **medically underserved** | | | | | |
| Health, Health Systems Improvement, Primary Care and Rural Health | 28644 | R434-30 | 5YR | 04/18/2006 | 2006-10/88 |
| **mental health** | | | | | |
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| Human Services, Substance Abuse and Mental Health, State Hospital | 28738 | R525-8 | 5YR | 05/16/2006 | 2006-12/86 |
| **methadone programs** | | | | | |
| Human Services, Substance Abuse and Mental Health | 28599 | R523-21 | 5YR | 04/06/2006 | 2006-9/41 |
| **midwife** | | | | | |
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| | 28294 | R156-77 | CPR | 09/14/2006 | 2006-15/19 |
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| **midwifery** | | | | | |
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| **migratory birds** | | | | | |
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| **mineral resources** | | | | | |
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| **minerals reclamation** | | | | | |
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| | 28338 | R647-2 | AMD | 02/23/2006 | 2005-23/48 |
| | 28339 | R647-3 | AMD | 02/23/2006 | 2005-23/51 |
| | 28340 | R647-4 | AMD | 02/23/2006 | 2005-23/55 |
| | 28341 | R647-5-101 | AMD | 02/23/2006 | 2005-23/58 |
| **minimum sizing** | | | | | |
| Environmental Quality, Drinking Water | 28419 | R309-510-9 | AMD | 03/08/2006 | 2006-1/16 |
| **minimum standards** | | | | | |
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| | 28866 | R277-717 | 5YR | 07/03/2006 | 2006-15/29 |
| **modeling** | | | | | |
| Environmental Quality, Air Quality | 28323 | R307-410 | CPR | 06/16/2006 | 2006-7/30 |
| | 28323 | R307-410 | AMD | 06/16/2006 | 2005-23/31 |
| **monitoring** | | | | | |
| Environmental Quality, Air Quality | 28226 | R307-170 | AMD | 01/05/2006 | 2005-19/6 |
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| **motor vehicle safety** | | | | | |
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| **motor vehicles** | | | | | |
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| | 28995 | R151-14 | 5YR | 09/06/2006 | 2006-19/129 |
| Public Safety, Driver License | 28567 | R708-20 | 5YR | 03/21/2006 | 2006-8/76 |
| Tax Commission, Motor Vehicle | 28806 | R873-22M-34 | AMD | 08/07/2006 | 2006-13/51 |
| Tax Commission, Motor Vehicle Enforcement | 28885 | R877-23V-5 | AMD | 09/15/2006 | 2006-15/16 |
| Transportation Commission, Administration | 28675 | R940-1 | NEW | 06/22/2006 | 2006-10/80 |
| **motorboat noise** | | | | | |
| Natural Resources, Parks and Recreation | 28511 | R651-222 | 5YR | 02/13/2006 | 2006-5/49 |
| **motorcycles** | | | | | |
| Commerce, Administration | 28543 | R151-35 | AMD | 05/02/2006 | 2006-7/3 |
| **municipal waste incinerator** | | | | | |
| Environmental Quality, Air Quality | 28821 | R307-223 | 5YR | 06/16/2006 | 2006-14/41 |
| **national register** | | | | | |
| Community and Economic Development, Community Development, History | 28405 | R212-6 | NSC | 01/01/2006 | Not Printed |
| Community and Culture, History | 28906 | R212-6 | 5YR | 08/01/2006 | 2006-16/35 |
| **Native American remains** | | | | | |
| Community and Economic Development, Indian Affairs | 28441 | R230-1 | NSC | 01/01/2006 | Not Printed |
| | 28479 | R230-1 | 5YR | 01/31/2006 | 2006-4/37 |
| **natural resources** | | | | | |
| Governor, Planning and Budget | 28295 | R361-1 | REP | 01/03/2006 | 2005-22/36 |
| Natural Resources, Forestry, Fire and State Lands | 28853 | R652-41 | 5YR | 06/28/2006 | 2006-14/58 |
| **new source review** | | | | | |
| Environmental Quality, Air Quality | 28820 | R307-210 | 5YR | 06/16/2006 | 2006-14/41 |
| | 28601 | R307-210-1 | AMD | 06/15/2006 | 2006-9/19 |

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| **non-traditional** | | | | | |
| Health, Health Care Financing, Coverage and Reimbursement Policy | 28879 | R414-200-3 | EMR | 07/13/2006 | 2006-15/25 |
| **nonpublic schools** | | | | | |
| Education, Administration | 28463 | R277-410 | AMD | 03/06/2006 | 2006-3/7 |
| | 28808 | R277-410-4 | AMD | 08/08/2006 | 2006-13/11 |
| **notice of commencement** | | | | | |
| Commerce, Occupational and Professional Licensing | 28848 | R156-38b | AMD | 08/22/2006 | 2006-14/2 |
| **notice of completion** | | | | | |
| Commerce, Occupational and Professional Licensing | 28848 | R156-38b | AMD | 08/22/2006 | 2006-14/2 |
| **nuclear medicine** | | | | | |
| Environmental Quality, Radiation Control | 28541 | R313-32 | AMD | 05/10/2006 | 2006-7/13 |
| **nurses** | | | | | |
| Commerce, Occupational and Professional Licensing | 28365 | R156-31b | AMD | 01/23/2006 | 2005-24/3 |
| **occupational licensing** | | | | | |
| Commerce, Occupational and Professional Licensing | 28621 | R156-1 | AMD | 06/19/2006 | 2006-10/8 |
| | 28673 | R156-46b | 5YR | 04/25/2006 | 2006-10/86 |
| | 28611 | R156-55b | AMD | 06/01/2006 | 2006-9/15 |
| | 28772 | R156-55b | NSC | 06/12/2006 | Not Printed |
| Environmental Quality, Water Quality | 28855 | R317-11 | 5YR | 06/29/2006 | 2006-14/52 |
| **off road vehicles** | | | | | |
| Commerce, Administration | 28543 | R151-35 | AMD | 05/02/2006 | 2006-7/3 |
| **off-highway vehicles** | | | | | |
| Natural Resources, Parks and Recreation | 28642 | R651-401 | 5YR | 04/18/2006 | 2006-10/98 |
| | 28641 | R651-405 | 5YR | 04/18/2006 | 2006-10/98 |
| | 28658 | R651-405 | NSC | 05/10/2006 | Not Printed |
| | 28659 | R651-406 | NSC | 05/10/2006 | Not Printed |
| | 28669 | R651-406 | AMD | 08/18/2006 | 2006-10/74 |
| | 28643 | R651-406 | 5YR | 04/18/2006 | 2006-10/99 |
| | 28827 | R651-601-12 | AMD | 08/22/2006 | 2006-14/25 |
| **off-premise** | | | | | |
| Human Services, Substance Abuse and Mental Health | 28842 | R523-24 | NEW | 08/22/2006 | 2006-14/15 |
| | 28841 | R523-24 | EMR | 07/01/2006 | 2006-14/33 |
| **oil and gas law** | | | | | |
| Natural Resources, Oil, Gas and Mining; Oil and Gas | 28724 | R649-10 | 5YR | 05/11/2006 | 2006-11/96 |
| **oil gas and hydrocarbons** | | | | | |
| School and Institutional Trust Lands, Administration | 28482 | R850-21-900 | AMD | 03/20/2006 | 2006-4/14 |
| **oil shale** | | | | | |
| School and Institutional Trust Lands, Administration | 28483 | R850-22-900 | AMD | 03/20/2006 | 2006-4/15 |

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| **Older Americans Act** | | | | | |
| Human Services, Aging and Adult Services | 28778 | R510-1 | 5YR | 06/02/2006 | 2006-13/61 |
| **Olene Walker Housing Loan Fund** | | | | | |
| Community and Culture, Olene Walker Housing Trust Fund | 28492 | R235-1 | NSC | 03/01/2006 | Not Printed |
| | 28402 | R235-1 | NEW | 03/01/2006 | 2006-1/9 |
| **ombudsman** | | | | | |
| Human Services, Child Protection Ombudsman (Office of) | 28401 | R515-1 | NEW | 02/01/2006 | 2006-1/26 |
| **onsite wastewater systems** | | | | | |
| Environmental Quality, Water Quality | 28596 | R317-4 | AMD | 05/19/2006 | 2006-8/14 |
| **opening and closing dates** | | | | | |
| Community and Economic Development, Community Development, Community Services | 28385 | R202-202 | NSC | 01/01/2006 | Not Printed |
| **operating permit** | | | | | |
| Environmental Quality, Air Quality | 28814 | R307-415-4 | AMD | 09/07/2006 | 2006-13/19 |
| | 28549 | R307-415-7d | NSC | 03/28/2006 | Not Printed |
| **operations** | | | | | |
| School and Institutional Trust Lands, Administration | 28482 | R850-21-900 | AMD | 03/20/2006 | 2006-4/14 |
| **operator certification** | | | | | |
| Public Safety, Highway Patrol | 28342 | R714-500 | AMD | 01/05/2006 | 2005-23/59 |
| **optometry** | | | | | |
| Health, Health Care Financing, Coverage and Reimbursement Policy | 28582 | R414-52 | AMD | 07/01/2006 | 2006-8/31 |
| **orders** | | | | | |
| Environmental Quality, Radiation Control | 28872 | R313-17 | 5YR | 07/10/2006 | 2006-15/31 |
| **overflow and drains** | | | | | |
| Environmental Quality, Drinking Water | 28421 | R309-545-7 | AMD | 03/08/2006 | 2006-1/19 |
| **overpayments** | | | | | |
| Workforce Services, Unemployment Insurance | 28764 | R994-406 | AMD | 07/26/2006 | 2006-12/80 |
| | 28480 | R994-406-302 | NSC | 02/22/2006 | Not Printed |
| | 28877 | R994-406-401 | NSC | 07/27/2006 | Not Printed |
| **overtime** | | | | | |
| Human Resource Management, Administration | 28682 | R477-8 | AMD | 07/01/2006 | 2006-10/52 |
| **ozone** | | | | | |
| Environmental Quality, Air Quality | 28822 | R307-110 | 5YR | 06/16/2006 | 2006-14/40 |
| | 28320 | R307-110-9 | AMD | 06/16/2006 | 2005-23/12 |
| | 28320 | R307-110-9 | CPR | 06/16/2006 | 2006-7/24 |
| | 28544 | R307-325 | AMD | 06/16/2006 | 2006-7/8 |
| **parks** | | | | | |
| Natural Resources, Parks and Recreation | 28827 | R651-601-12 | AMD | 08/22/2006 | 2006-14/25 |

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| | 28513 | R651-611 | 5YR | 02/13/2006 | 2006-5/50 |
| | 28169 | R651-611 | AMD | 01/01/2006 | 2005-18/46 |
| | 28856 | R651-633-2 | AMD | 08/21/2006 | 2006-14/27 |
| **partnering** | | | | | |
| Transportation, Program Development | 28531 | R926-8-3 | AMD | 06/22/2006 | 2006-6/16 |
| **payment determination** | | | | | |
| Community and Economic Development, Community Development, Community Services | 28386 | R202-203 | NSC | 01/01/2006 | Not Printed |
| **penalties** | | | | | |
| Environmental Quality, Drinking Water | 28418 | R309-405-4 | AMD | 03/08/2006 | 2006-1/14 |
| Environmental Quality, Radiation Control | 28870 | R313-14 | 5YR | 07/10/2006 | 2006-15/30 |
| **people with disabilities** | | | | | |
| Human Services, Services for People with Disabilities | 28719 | R539-2-4 | AMD | 07/11/2006 | 2006-11/72 |
| **per diem allowance** | | | | | |
| Administrative Services, Finance | 28384 | R25-5 | AMD | 01/25/2006 | 2005-24/2 |
| **per diem allowances** | | | | | |
| Administrative Services, Finance | 28702 | R25-7 | AMD | 07/01/2006 | 2006-10/2 |
| **performing arts** | | | | | |
| Community and Economic Development, Community Development, Fine Arts | 28361 | R207-1 | NSC | 01/01/2006 | Not Printed |
| **permits** | | | | | |
| Environmental Quality, Air Quality | 28325 | R307-401 | R&R | 06/16/2006 | 2005-23/14 |
| | 28325 | R307-401 | CPR | 06/16/2006 | 2006-7/25 |
| | 28819 | R307-401 | 5YR | 06/16/2006 | 2006-14/42 |
| | 28546 | R307-413 | REP | 06/16/2006 | 2006-7/9 |
| Natural Resources, Wildlife Resources | 28376 | R657-42 | AMD | 01/18/2006 | 2005-24/27 |
| Transportation, Motor Carrier, Ports of Entry | 28703 | R912-8 | NEW | 06/22/2006 | 2006-10/78 |
| | 28415 | R912-11 | AMD | 02/08/2006 | 2006-1/28 |
| **permitted vehicles** | | | | | |
| Transportation, Motor Carrier, Ports of Entry | 28616 | R912-9 | AMD | 06/01/2006 | 2006-9/31 |
| **personal property** | | | | | |
| Tax Commission, Property Tax | 28432 | R884-24P-19 | AMD | 03/06/2006 | 2006-2/31 |
| | 28908 | R884-24P-33 | AMD | 09/21/2006 | 2006-16/16 |
| **personnel management** | | | | | |
| Human Resource Management, Administration | 28692 | R477-1 | AMD | 07/01/2006 | 2006-10/32 |
| | 28681 | R477-5 | AMD | 07/01/2006 | 2006-10/42 |
| | 28688 | R477-6 | AMD | 07/01/2006 | 2006-10/43 |
| | 28687 | R477-9 | AMD | 07/01/2006 | 2006-10/55 |
| | 28686 | R477-14 | AMD | 07/01/2006 | 2006-10/63 |

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| **petroleum** | | | | | |
| Environmental Quality, Environmental Response and Remediation | 28516 | R311-200 | AMD | 05/15/2006 | 2006-5/26 |
| | 28517 | R311-205-2 | AMD | 05/15/2006 | 2006-5/28 |
| | 28880 | R311-206 | AMD | 09/15/2006 | 2006-15/5 |
| | 28518 | R311-207-5 | AMD | 05/15/2006 | 2006-5/31 |
| | 28519 | R311-211 | AMD | 05/15/2006 | 2006-5/32 |
| **pharmacies** | | | | | |
| Commerce, Occupational and Professional Licensing | 28620 | R156-17b | NSC | 05/15/2006 | Not Printed |
| | 28530 | R156-17b | AMD | 04/17/2006 | 2006-6/2 |
| **pharmacists** | | | | | |
| Commerce, Occupational and Professional Licensing | 28620 | R156-17b | NSC | 05/15/2006 | Not Printed |
| | 28530 | R156-17b | AMD | 04/17/2006 | 2006-6/2 |
| **physicians** | | | | | |
| Commerce, Occupational and Professional Licensing | 28837 | R156-67 | 5YR | 06/26/2006 | 2006-14/38 |
| Health, Health Systems Improvement, Primary Care and Rural Health | 28331 | R434-100-6 | NSC | 01/01/2006 | Not Printed |
| **pilot/escort vehicles** | | | | | |
| Transportation, Motor Carrier, Ports of Entry | 28616 | R912-9 | AMD | 06/01/2006 | 2006-9/31 |
| **pipelines** | | | | | |
| Public Service Commission, Administration | 28893 | R746-409-5 | NSC | 07/25/2006 | Not Printed |
| **plant disease** | | | | | |
| Agriculture and Food, Plant Industry | 28505 | R68-18 | 5YR | 02/10/2006 | 2006-5/48 |
| **plots** | | | | | |
| Community and Economic Development, Community Development, History | 28411 | R212-12 | NSC | 01/01/2006 | Not Printed |
| **PM10** | | | | | |
| Environmental Quality, Air Quality | 28822 | R307-110 | 5YR | 06/16/2006 | 2006-14/40 |
| | 28320 | R307-110-9 | AMD | 06/16/2006 | 2005-23/12 |
| | 28320 | R307-110-9 | CPR | 06/16/2006 | 2006-7/24 |
| **PM2.5** | | | | | |
| Environmental Quality, Air Quality | 28822 | R307-110 | 5YR | 06/16/2006 | 2006-14/40 |
| | 28320 | R307-110-9 | AMD | 06/16/2006 | 2005-23/12 |
| | 28320 | R307-110-9 | CPR | 06/16/2006 | 2006-7/24 |
| **powersport vehicles** | | | | | |
| Commerce, Administration | 28543 | R151-35 | AMD | 05/02/2006 | 2006-7/3 |
| **preliminary notice** | | | | | |
| Commerce, Occupational and Professional Licensing | 28848 | R156-38b | AMD | 08/22/2006 | 2006-14/2 |
| **prescription drug plans** | | | | | |
| Insurance, Administration | 28585 | R590-235 | NEW | 06/07/2006 | 2006-8/40 |

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| **prescriptions** | | | | | |
| Health, Health Care Financing, Coverage and Reimbursement Policy | 28356 | R414-63 | REP | 01/04/2006 | 2005-23/44 |
| **preservation** | | | | | |
| Community and Economic Development, Community Development, History | 28410 | R212-11 | NSC | 01/01/2006 | Not Printed |
| **press** | | | | | |
| Corrections, Administration | 29052 | R251-106 | 5YR | 09/19/2006 | Not Printed |
| **primary health care** | | | | | |
| Health, Health Systems Improvement, Primary Care and Rural Health | 28644 | R434-30 | 5YR | 04/18/2006 | 2006-10/88 |
| **primary term** | | | | | |
| Natural Resources, Forestry, Fire and State Lands | 28536 | R652-20-1000 | AMD | 07/13/2006 | 2006-6/14 |
| **prisons** | | | | | |
| Corrections, Administration | 29052 | R251-106 | 5YR | 09/19/2006 | Not Printed |
| | 29053 | R251-107 | 5YR | 09/19/2006 | Not Printed |
| | 28705 | R251-702 | 5YR | 05/03/2006 | 2006-11/93 |
| | 29050 | R251-703 | 5YR | 09/19/2006 | Not Printed |
| | 29055 | R251-705 | 5YR | 09/19/2006 | Not Printed |
| | 29057 | R251-706 | 5YR | 09/19/2006 | Not Printed |
| | 28706 | R251-708 | 5YR | 05/03/2006 | 2006-11/94 |
| | 28707 | R251-711 | 5YR | 05/03/2006 | 2006-11/94 |
| | 28577 | R251-712 | 5YR | 03/28/2006 | 2006-8/72 |
| **privacy** | | | | | |
| Governor, Planning and Budget, Chief Information Officer | 28791 | R365-5 | NSC | 06/22/2006 | Not Printed |
| **private probation provider** | | | | | |
| Commerce, Occupational and Professional Licensing | 28550 | R156-50 | 5YR | 03/13/2006 | 2006-7/33 |
| **private security officers** | | | | | |
| Commerce, Occupational and Professional Licensing | 28345 | R156-63-503 | AMD | 01/10/2006 | 2005-23/5 |
| | 28779 | R156-63-503 | AMD | 08/15/2006 | 2006-13/10 |
| **probation** | | | | | |
| Commerce, Occupational and Professional Licensing | 28550 | R156-50 | 5YR | 03/13/2006 | 2006-7/33 |
| **procurement** | | | | | |
| Administrative Services, Facilities Construction and Management | 28608 | R23-1 | AMD | 06/01/2006 | 2006-9/10 |
| | 28609 | R23-1 | AMD | 06/01/2006 | 2006-9/3 |
| | 28607 | R23-2 | AMD | 06/01/2006 | 2006-9/12 |
| Capitol Preservation Board (State), Administration | 28727 | R131-4 | 5YR | 05/12/2006 | 2006-11/92 |
| **professional competency** | | | | | |
| Education, Administration | 28737 | R277-506 | AMD | 07/11/2006 | 2006-11/35 |
| | 28700 | R277-513 | 5YR | 05/01/2006 | 2006-10/87 |
| | 28606 | R628-10 | 5YR | 04/11/2006 | 2006-9/42 |

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| | 28723 | R628-10 | NSC | 05/30/2006 | Not Printed |
| **professional counselors** | | | | | |
| Commerce, Occupational and Professional Licensing | 28603 | R156-60c-502 | AMD | 06/01/2006 | 2006-9/17 |
| **professional engineers** | | | | | |
| Commerce, Occupational and Professional Licensing | 28444 | R156-22 | AMD | 04/03/2006 | 2006-2/17 |
| | 28444 | R156-22 | CPR | 04/03/2006 | 2006-5/45 |
| | 28807 | R156-22-302c | AMD | 08/15/2006 | 2006-13/6 |
| | 28773 | R156-22-302d | AMD | 07/25/2006 | 2006-12/7 |
| **professional land surveyors** | | | | | |
| Commerce, Occupational and Professional Licensing | 28444 | R156-22 | AMD | 04/03/2006 | 2006-2/17 |
| | 28444 | R156-22 | CPR | 04/03/2006 | 2006-5/45 |
| | 28807 | R156-22-302c | AMD | 08/15/2006 | 2006-13/6 |
| | 28773 | R156-22-302d | AMD | 07/25/2006 | 2006-12/7 |
| **property casualty insurance filing** | | | | | |
| Insurance, Administration | 28678 | R590-225 | AMD | 06/29/2006 | 2006-10/72 |
| **property tax** | | | | | |
| Tax Commission, Property Tax | 28432 | R884-24P-19 | AMD | 03/06/2006 | 2006-2/31 |
| | 28908 | R884-24P-33 | AMD | 09/21/2006 | 2006-16/16 |
| **provider conduct** | | | | | |
| Human Services, Administration | 28941 | R495-876 | 5YR | 08/22/2006 | 2006-18/61 |
| **PSD** | | | | | |
| Environmental Quality, Air Quality | 28816 | R307-405 | 5YR | 06/16/2006 | 2006-14/45 |
| | 28322 | R307-405 | CPR | 06/16/2006 | 2006-7/28 |
| | 28322 | R307-405 | R&R | 06/16/2006 | 2005-23/22 |
| | 28818 | R307-410 | 5YR | 06/16/2006 | 2006-14/51 |
| **public assistance** | | | | | |
| Workforce Services, Employment Development | 28761 | R986-900 | AMD | 08/01/2006 | 2006-12/77 |
| **public body** | | | | | |
| Commerce, Administration | 28664 | R151-1-2 | AMD | 06/15/2006 | 2006-10/7 |
| **public buildings** | | | | | |
| Administrative Services, Facilities Construction and Management | 28608 | R23-1 | AMD | 06/01/2006 | 2006-9/10 |
| | 28609 | R23-1 | AMD | 06/01/2006 | 2006-9/3 |
| Capitol Preservation Board (State), Administration | 28727 | R131-4 | 5YR | 05/12/2006 | 2006-11/92 |
| Community and Economic Development, Community Development, Energy Services | 28433 | R203-4 | NSC | 01/01/2006 | Not Printed |
| | 28434 | R203-5 | NSC | 01/01/2006 | Not Printed |
| Public Safety, Fire Marshal | 28579 | R710-4 | AMD | 05/16/2006 | 2006-8/45 |
| **public comment** | | | | | |
| Environmental Quality, Radiation Control | 28872 | R313-17 | 5YR | 07/10/2006 | 2006-15/31 |

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| Commerce, Consumer Protection | 28574 | R152-1 | AMD | 05/16/2006 | 2006-8/7 |
| **public health** | | | | | |
| Health, Epidemiology and Laboratory Services, Environmental Services | 28741 | R392-101 | AMD | 07/25/2006 | 2006-12/16 |
| **public hearings** | | | | | |
| Environmental Quality, Radiation Control | 28872 | R313-17 | 5YR | 07/10/2006 | 2006-15/31 |
| **public information** | | | | | |
| Human Resource Management, Administration | 28689 | R477-2 | AMD | 07/01/2006 | 2006-10/38 |
| | 28747 | R895-1 | NEW | 07/25/2006 | 2006-12/43 |
| **public investments** | | | | | |
| Money Management Council, Administration | 28606 | R628-10 | 5YR | 04/11/2006 | 2006-9/42 |
| | 28723 | R628-10 | NSC | 05/30/2006 | Not Printed |
| | 28600 | R628-12 | NSC | 05/10/2006 | Not Printed |
| | 28534 | R628-16 | NSC | 03/07/2006 | Not Printed |
| **public library** | | | | | |
| Community and Economic Development, Community Development, Library | 28344 | R223-2 | NSC | 01/01/2006 | Not Printed |
| **public meetings** | | | | | |
| Natural Resources, Wildlife Resources | 28453 | R657-39 | 5YR | 01/09/2006 | 2006-3/39 |
| **public records** | | | | | |
| Agriculture and Food, Administration | 28552 | R51-3 | 5YR | 03/16/2006 | 2006-8/69 |
| | 28442 | R182-1 | NSC | 01/01/2006 | Not Printed |
| **public schools** | | | | | |
| Education, Administration | 28463 | R277-410 | AMD | 03/06/2006 | 2006-3/7 |
| | 28808 | R277-410-4 | AMD | 08/08/2006 | 2006-13/11 |
| **public treasurers** | | | | | |
| Money Management Council, Administration | 28533 | R628-4-2 | NSC | 03/07/2006 | Not Printed |
| **public utilities** | | | | | |
| Public Service Commission, Administration | 28892 | R746-110 | NSC | 07/25/2006 | Not Printed |
| | 28765 | R746-200 | AMD | 07/25/2006 | 2006-12/36 |
| | 28803 | R746-345 | AMD | 08/29/2006 | 2006-13/48 |
| | 28139 | R746-345 | AMD | 02/08/2006 | 2005-17/31 |
| | 28139 | R746-345 | CPR | 02/08/2006 | 2005-24/47 |
| | 28771 | R746-360-4 | AMD | 08/01/2006 | 2006-12/42 |
| **pumps** | | | | | |
| Environmental Quality, Drinking Water | 28420 | R309-540-6 | AMD | 03/08/2006 | 2006-1/18 |
| **quality control** | | | | | |
| Agriculture and Food, Regulatory Services | 28503 | R70-101 | AMD | 04/03/2006 | 2006-5/3 |
| **quarantines** | | | | | |
| Agriculture and Food, Animal Industry | 28925 | R58-2 | 5YR | 08/15/2006 | 2006-17/65 |

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| **rabbits** | | | | | |
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| **RACT** | | | | | |
| Environmental Quality, Air Quality | 28544 | R307-325 | AMD | 06/16/2006 | 2006-7/8 |
| **radiation safety** | | | | | |
| Environmental Quality, Radiation Control | 28873 | R313-18 | 5YR | 07/10/2006 | 2006-15/31 |
| | 28936 | R313-18-1 | NSC | 09/22/2006 | Not Printed |
| **radioactive material** | | | | | |
| Environmental Quality, Radiation Control | 28936 | R313-18-1 | NSC | 09/22/2006 | Not Printed |
| **radioactive materials** | | | | | |
| Environmental Quality, Radiation Control | 28873 | R313-18 | 5YR | 07/10/2006 | 2006-15/31 |
| | 28541 | R313-32 | AMD | 05/10/2006 | 2006-7/13 |
| **radiology practical technicians** | | | | | |
| Commerce, Occupational and Professional Licensing | 28749 | R156-54 | AMD | 07/31/2006 | 2006-12/11 |
| **radiology technologists** | | | | | |
| Commerce, Occupational and Professional Licensing | 28749 | R156-54 | AMD | 07/31/2006 | 2006-12/11 |
| **radiopharmaceutical** | | | | | |
| Environmental Quality, Radiation Control | 28541 | R313-32 | AMD | 05/10/2006 | 2006-7/13 |
| **railroads** | | | | | |
| Transportation, Preconstruction | 28489 | R930-5 | R&R | 04/25/2006 | 2006-4/18 |
| **rates** | | | | | |
| Administrative Services, Finance | 28384 | R25-5 | AMD | 01/25/2006 | 2005-24/2 |
| Labor Commission, Industrial Accidents | 28458 | R612-4 | 5YR | 01/12/2006 | 2006-3/39 |
| | 28298 | R612-4-2 | AMD | 01/01/2006 | 2005-22/41 |
| School and Institutional Trust Lands, Administration | 28562 | R850-4-300 | AMD | 05/16/2006 | 2006-8/48 |
| **ratings** | | | | | |
| Transportation, Motor Carrier, Ports of Entry | 28703 | R912-8 | NEW | 06/22/2006 | 2006-10/78 |
| **real estate** | | | | | |
| School and Institutional Trust Lands, Administration | 29015 | R850-140 | 5YR | 09/14/2006 | 2006-19/130 |
| **real estate appraisals** | | | | | |
| Commerce, Real Estate | 28665 | R162-102-3 | AMD | 06/28/2006 | 2006-10/19 |
| | 28666 | R162-105-1 | AMD | 06/28/2006 | 2006-10/20 |
| **real estate business** | | | | | |
| Commerce, Real Estate | 28520 | R162-2-2 | AMD | 06/21/2006 | 2006-5/4 |
| | 28520 | R162-2-2 | CPR | 06/21/2006 | 2006-9/36 |
| | 28597 | R162-8-8 | AMD | 06/21/2006 | 2006-9/18 |
| | 28668 | R162-10 | AMD | 06/21/2006 | 2006-10/16 |
| | 28494 | R162-10-1 | AMD | 04/19/2006 | 2006-5/7 |

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| **reciprocity** | | | | | |
| Environmental Quality, Radiation Control | 28802 | R313-19-34 | AMD | 08/11/2006 | 2006-13/20 |
| **reclamation** | | | | | |
| Natural Resources, Oil, Gas and Mining; Coal | 28742 | R645-106 | 5YR | 05/17/2006 | 2006-12/87 |
| **records appeal hearings** | | | | | |
| Administrative Services, Records Committee | 28462 | R35-1 | AMD | 03/14/2006 | 2006-3/3 |
| | 28776 | R35-1 | AMD | 08/09/2006 | 2006-13/4 |
| **recreation** | | | | | |
| Natural Resources, Wildlife Resources | 28371 | R657-38 | AMD | 01/18/2006 | 2005-24/22 |
| **recreation therapy** | | | | | |
| Commerce, Occupational and Professional Licensing | 28831 | R156-40 | NSC | 07/11/2006 | Not Printed |
| | 29059 | R156-40 | 5YR | 09/19/2006 | Not Printed |
| | 28876 | R156-40-302c | AMD | 09/14/2006 | 2006-15/4 |
| **recreational therapy** | | | | | |
| Commerce, Occupational and Professional Licensing | 29059 | R156-40 | 5YR | 09/19/2006 | Not Printed |
| | 28674 | R156-40 | AMD | 06/22/2006 | 2006-10/11 |
| | 28831 | R156-40 | NSC | 07/11/2006 | Not Printed |
| | 28876 | R156-40-302c | AMD | 09/14/2006 | 2006-15/4 |
| **recreational vehicles** | | | | | |
| Commerce, Administration | 28542 | R151-14 | AMD | 05/02/2006 | 2006-7/2 |
| | 28995 | R151-14 | 5YR | 09/06/2006 | 2006-19/129 |
| **refugee resettlement program** | | | | | |
| Workforce Services, Employment Development | 28757 | R986-300 | AMD | 08/01/2006 | 2006-12/62 |
| | 28425 | R986-300-305 | AMD | 03/01/2006 | 2006-1/31 |
| **regional advisory councils** | | | | | |
| Natural Resources, Wildlife Resources | 28453 | R657-39 | 5YR | 01/09/2006 | 2006-3/39 |
| **registration** | | | | | |
| Workforce Services, Unemployment Insurance | 28861 | R994-403-202 | AMD | 08/22/2006 | 2006-14/31 |
| **rehabilitation** | | | | | |
| Community and Economic Development, Community Development, History | 28410 | R212-11 | NSC | 01/01/2006 | Not Printed |
| Natural Resources, Wildlife Resources | 28456 | R657-40 | 5YR | 01/10/2006 | 2006-3/40 |
| **reimbursement** | | | | | |
| Corrections, Administration | 28982 | R251-113 | 5YR | 08/30/2006 | 2006-18/52 |
| **religious activities** | | | | | |
| Tax Commission, Auditing | 28863 | R865-19S-78 | AMD | 09/15/2006 | 2006-14/28 |
| | 28886 | R865-19S-98 | AMD | 09/15/2006 | 2006-15/15 |
| | 28862 | R865-19S-113 | AMD | 09/15/2006 | 2006-14/29 |

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| **reporting** | | | | | |
| Health, Health Systems Improvement, Emergency Medical Services | 28725 | R426-5-8 | AMD | 08/30/2006 | 2006-11/52 |
| **repository** | | | | | |
| Governor, Planning and Budget, Chief Information Officer | 28793 | R365-10 | NSC | 06/22/2006 | Not Printed |
| | 28795 | R365-101 | NSC | 06/22/2006 | Not Printed |
| **reservoirs** | | | | | |
| Natural Resources, Water Rights | 28710 | R655-10 | 5YR | 05/03/2006 | 2006-11/96 |
| | 28711 | R655-11 | 5YR | 05/03/2006 | 2006-11/97 |
| | 28712 | R655-12 | 5YR | 05/03/2006 | 2006-11/97 |
| **residency requirements** | | | | | |
| Community and Economic Development, Community Development, Community Services | 28385 | R202-202 | NSC | 01/01/2006 | Not Printed |
| **residential mortgage loan origination** | | | | | |
| Commerce, Real Estate | 28499 | R162-202-10 | AMD | 04/05/2006 | 2006-5/7 |
| | 28450 | R162-203 | AMD | 03/09/2006 | 2006-3/4 |
| | 28497 | R162-204 | AMD | 04/05/2006 | 2006-5/8 |
| | 28498 | R162-205 | AMD | 04/05/2006 | 2006-5/9 |
| | 28451 | R162-207-3 | AMD | 03/09/2006 | 2006-3/5 |
| | 28849 | R162-209 | AMD | 08/29/2006 | 2006-14/6 |
| | 28476 | R162-209 | 5YR | 01/30/2006 | 2006-4/36 |
| **Resource Development Coordinating Committee (RDCC)** | | | | | |
| Governor, Planning and Budget | 28295 | R361-1 | REP | 01/03/2006 | 2005-22/36 |
| **respite** | | | | | |
| Human Services, Aging and Adult Services | 28190 | R510-401 | AMD | 02/23/2006 | 2005-18/37 |
| | 28190 | R510-401 | CPR | 02/23/2006 | 2005-22/46 |
| **retirement** | | | | | |
| Human Resource Management, Administration | 28685 | R477-12 | AMD | 07/01/2006 | 2006-10/61 |
| **right of petition** | | | | | |
| Corrections, Administration | 28576 | R251-104 | 5YR | 03/28/2006 | 2006-8/72 |
| Natural Resources, Forestry, Fire and State Lands | 28850 | R652-9 | 5YR | 06/28/2006 | 2006-14/58 |
| **risk management** | | | | | |
| Administrative Services, Risk Management | 28413 | R37-1 | AMD | 03/31/2006 | 2006-1/4 |
| | 28667 | R37-4 | R&R | 07/01/2006 | 2006-10/5 |
| **roads** | | | | | |
| Transportation, Administration | 28358 | R907-68 | NEW | 01/04/2006 | 2005-23/61 |
| | 28532 | R907-68 | AMD | 06/01/2006 | 2006-6/15 |
| | 28617 | R907-68 | AMD | 06/01/2006 | 2006-9/30 |
| **ropeways** | | | | | |
| Transportation, Operations, Traffic and Safety | 28905 | R920-50 | AMD | 09/21/2006 | 2006-16/23 |

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| **royalties** | | | | | |
| Natural Resources, Forestry, Fire and State Lands | 28536 | R652-20-1000 | AMD | 07/13/2006 | 2006-6/14 |
| **rules and procedures** | | | | | |
| Fair Corporation (Utah State), Administration | 28832 | R325-1 | 5YR | 06/22/2006 | 2006-14/53 |
| | 28833 | R325-2 | 5YR | 06/22/2006 | 2006-14/54 |
| | 28834 | R325-3 | 5YR | 06/22/2006 | 2006-14/54 |
| | 28835 | R325-4 | 5YR | 06/22/2006 | 2006-14/55 |
| | 28836 | R325-5 | 5YR | 06/22/2006 | 2006-14/55 |
| Health, Epidemiology and Laboratory Services, Epidemiology | 28874 | R386-703 | 5YR | 07/10/2006 | 2006-15/32 |
| Human Resource Management, Administration | 28692 | R477-1 | AMD | 07/01/2006 | 2006-10/32 |
| Natural Resources, Forestry, Fire and State Lands | 28851 | R652-2 | 5YR | 06/28/2006 | 2006-14/57 |
| Public Service Commission, Administration | 28892 | R746-110 | NSC | 07/25/2006 | Not Printed |
| | 28139 | R746-345 | AMD | 02/08/2006 | 2005-17/31 |
| | 28139 | R746-345 | CPR | 02/08/2006 | 2005-24/47 |
| | 28803 | R746-345 | AMD | 08/29/2006 | 2006-13/48 |
| | 28893 | R746-409-5 | NSC | 07/25/2006 | Not Printed |
| **safety** | | | | | |
| Labor Commission, Occupational Safety and Health | 28548 | R614-1-4 | AMD | 05/02/2006 | 2006-7/18 |
| | 28514 | R614-1-5 | NSC | 02/27/2006 | Not Printed |
| Labor Commission, Safety | 28515 | R616-2 | NSC | 02/27/2006 | Not Printed |
| | 28839 | R616-2 | NSC | 06/30/2006 | Not Printed |
| | 28257 | R616-2-3 | AMD | 01/01/2006 | 2005-20/43 |
| | 28564 | R616-2-3 | AMD | 05/17/2006 | 2006-8/42 |
| | 28840 | R616-3 | NSC | 06/30/2006 | Not Printed |
| | 28256 | R616-3-3 | AMD | 02/08/2006 | 2005-20/44 |
| Public Service Commission, Administration | 28893 | R746-409-5 | NSC | 07/25/2006 | Not Printed |
| Transportation, Preconstruction | 28489 | R930-5 | R&R | 04/25/2006 | 2006-4/18 |
| **safety regulations** | | | | | |
| Transportation, Motor Carrier | 29080 | R909-19 | 5YR | 09/25/2006 | Not Printed |
| Transportation, Motor Carrier, Ports of Entry | 28415 | R912-11 | AMD | 02/08/2006 | 2006-1/28 |
| **salaries** | | | | | |
| Human Resource Management, Administration | 28688 | R477-6 | AMD | 07/01/2006 | 2006-10/43 |
| **sales tax** | | | | | |
| Tax Commission, Auditing | 28863 | R865-19S-78 | AMD | 09/15/2006 | 2006-14/28 |
| | 28886 | R865-19S-98 | AMD | 09/15/2006 | 2006-15/15 |
| | 28862 | R865-19S-113 | AMD | 09/15/2006 | 2006-14/29 |
| **salt** | | | | | |
| Natural Resources, Forestry, Fire and State Lands | 28536 | R652-20-1000 | AMD | 07/13/2006 | 2006-6/14 |

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| **scholarships** | | | | | |
| Education, Administration | 28446 | R277-602 | AMD | 02/15/2006 | 2006-2/25 |
| | 28736 | R277-602 | AMD | 07/11/2006 | 2006-11/38 |
| **school district services** | | | | | |
| Education, Administration | 28865 | R277-479 | 5YR | 07/03/2006 | 2006-15/28 |
| **school personnel** | | | | | |
| Education, Administration | 28700 | R277-513 | 5YR | 05/01/2006 | 2006-10/87 |
| **schools** | | | | | |
| Education, Administration | 28811 | R277-474 | AMD | 08/08/2006 | 2006-13/13 |
| | 28464 | R277-477 | AMD | 03/06/2006 | 2006-3/8 |
| Environmental Quality, Air Quality | 28502 | R307-801 | AMD | 06/16/2006 | 2006-5/22 |
| | 28817 | R307-801 | 5YR | 06/16/2006 | 2006-14/52 |
| | 28468 | R307-801-5 | NSC | 02/22/2006 | Not Printed |
| **science** | | | | | |
| Education, Administration | 28523 | R277-717 | AMD | 04/03/2006 | 2006-5/13 |
| | 28866 | R277-717 | 5YR | 07/03/2006 | 2006-15/29 |
| **securities regulation** | | | | | |
| Money Management Council, Administration | 28534 | R628-16 | NSC | 03/07/2006 | Not Printed |
| **security guards** | | | | | |
| Commerce, Occupational and Professional Licensing | 28345 | R156-63-503 | AMD | 01/10/2006 | 2005-23/5 |
| | 28779 | R156-63-503 | AMD | 08/15/2006 | 2006-13/10 |
| **security measures** | | | | | |
| Corrections, Administration | 28714 | R251-111 | AMD | 08/01/2006 | 2006-11/34 |
| | 28713 | R251-111 | 5YR | 05/04/2006 | 2006-11/93 |
| | 29054 | R251-704 | 5YR | 09/19/2006 | Not Printed |
| | 28706 | R251-708 | 5YR | 05/03/2006 | 2006-11/94 |
| **seizure of property** | | | | | |
| Tax Commission, Collections | 28539 | R867-2B | 5YR | 03/07/2006 | 2006-7/35 |
| **self insurance plans** | | | | | |
| Public Safety, Driver License | 28572 | R708-19 | 5YR | 03/23/2006 | 2006-8/75 |
| **self-employment income** | | | | | |
| Community and Economic Development, Community Development, Community Services | 28386 | R202-203 | NSC | 01/01/2006 | Not Printed |
| **seminars** | | | | | |
| Human Services, Substance Abuse and Mental Health | 28841 | R523-24 | EMR | 07/01/2006 | 2006-14/33 |
| | 28842 | R523-24 | NEW | 08/22/2006 | 2006-14/15 |
| **septic tanks** | | | | | |
| Environmental Quality, Water Quality | 28596 | R317-4 | AMD | 05/19/2006 | 2006-8/14 |

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| **services** | | | | | |
| Human Services, Services for People with Disabilities | 28719 | R539-2-4 | AMD | 07/11/2006 | 2006-11/72 |
| **settlements** | | | | | |
| Labor Commission, Adjudication | 28547 | R602-2-1 | AMD | 05/05/2006 | 2006-7/14 |
| **sex education** | | | | | |
| Education, Administration | 28811 | R277-474 | AMD | 08/08/2006 | 2006-13/13 |
| **shorthand reporter** | | | | | |
| Commerce, Occupational and Professional Licensing | 28428 | R156-74 | AMD | 02/16/2006 | 2006-2/24 |
| **signs** | | | | | |
| Transportation, Preconstruction, Right-of-Way Acquisition | 28490 | R933-2-3 | AMD | 03/31/2006 | 2006-4/29 |
| **single risk limitation** | | | | | |
| Insurance, Administration | 28486 | R590-234 | NEW | 03/22/2006 | 2006-4/12 |
| **smoke** | | | | | |
| Environmental Quality, Air Quality | 28459 | R307-204 | NSC | 04/07/2006 | Not Printed |
| | 28602 | R307-204 | 5YR | 04/07/2006 | 2006-9/40 |
| | 28501 | R307-204 | AMD | 04/07/2006 | 2006-5/18 |
| **social services** | | | | | |
| Human Services, Administration | 28598 | R495-862 | 5YR | 04/04/2006 | 2006-9/41 |
| | 28941 | R495-876 | 5YR | 08/22/2006 | 2006-18/61 |
| Human Services, Child and Family Services | 28920 | R512-300-4 | NSC | 08/29/2006 | Not Printed |
| | 28614 | R512-300-4 | AMD | 06/01/2006 | 2006-9/26 |
| | 28662 | R512-305 | AMD | 06/19/2006 | 2006-10/65 |
| **solicitations** | | | | | |
| Commerce, Consumer Protection | 28573 | R152-22-3 | AMD | 05/16/2006 | 2006-8/9 |
| **sovereign land management** | | | | | |
| Natural Resources, Forestry, Fire and State Lands | 28851 | R652-2 | 5YR | 06/28/2006 | 2006-14/57 |
| **special needs students** | | | | | |
| Education, Administration | 28446 | R277-602 | AMD | 02/15/2006 | 2006-2/25 |
| | 28736 | R277-602 | AMD | 07/11/2006 | 2006-11/38 |
| **species** | | | | | |
| Natural Resources, Wildlife Resources | 28751 | R657-48 | 5YR | 05/24/2006 | 2006-12/88 |
| **species of concern** | | | | | |
| Natural Resources, Wildlife Resources | 28797 | R657-48 | AMD | 08/08/2006 | 2006-13/37 |
| **speech impaired** | | | | | |
| Public Service Commission, Administration | 28894 | R746-510-4 | NSC | 07/25/2006 | Not Printed |
| **stack height** | | | | | |
| Environmental Quality, Air Quality | 28323 | R307-410 | AMD | 06/16/2006 | 2005-23/31 |
| | 28323 | R307-410 | CPR | 06/16/2006 | 2006-7/30 |

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| **standards** | | | | | |
| Natural Resources, Wildlife Resources | 28456 | R657-40 | 5YR | 01/10/2006 | 2006-3/40 |
| **state and local affairs** | | | | | |
| Money Management Council, Administration | 28533 | R628-4-2 | NSC | 03/07/2006 | Not Printed |
| **state employees** | | | | | |
| Administrative Services, Finance | 28384 | R25-5 | AMD | 01/25/2006 | 2005-24/2 |
| | 28702 | R25-7 | AMD | 07/01/2006 | 2006-10/2 |
| Human Resource Management, Administration | 28681 | R477-5 | AMD | 07/01/2006 | 2006-10/42 |
| **state HEAT office records** | | | | | |
| Community and Economic Development, Community Development, Community Services | 28390 | R202-207 | NSC | 01/01/2006 | Not Printed |
| **state lands** | | | | | |
| Community and Economic Development, Indian Affairs | 28441 | R230-1 | NSC | 01/01/2006 | Not Printed |
| | 28479 | R230-1 | 5YR | 01/31/2006 | 2006-4/37 |
| **state property** | | | | | |
| Administrative Services, Fleet Operations, Surplus Property | 28766 | R28-1 | AMD | 08/02/2006 | 2006-12/3 |
| **state records committee** | | | | | |
| Administrative Services, Records Committee | 28776 | R35-1 | AMD | 08/09/2006 | 2006-13/4 |
| | 28462 | R35-1 | AMD | 03/14/2006 | 2006-3/3 |
| **state register** | | | | | |
| Community and Culture, History | 28906 | R212-6 | 5YR | 08/01/2006 | 2006-16/35 |
| Community and Economic Development, Community Development, History | 28405 | R212-6 | NSC | 01/01/2006 | Not Printed |
| **state vehicle use** | | | | | |
| Administrative Services, Fleet Operations | 28477 | R27-3 | 5YR | 01/30/2006 | 2006-4/34 |
| | 28280 | R27-3 | NSC | 01/30/2006 | Not Printed |
| **stationary sources** | | | | | |
| Environmental Quality, Air Quality | 28820 | R307-210 | 5YR | 06/16/2006 | 2006-14/41 |
| | 28601 | R307-210-1 | AMD | 06/15/2006 | 2006-9/19 |
| **stipend** | | | | | |
| Education, Administration | 28735 | R277-603 | NEW | 07/11/2006 | 2006-11/42 |
| **stipends** | | | | | |
| Education, Administration | 28875 | R277-603-3 | NSC | 07/27/2006 | Not Printed |
| **stock brokers** | | | | | |
| Money Management Council, Administration | 28534 | R628-16 | NSC | 03/07/2006 | Not Printed |
| **storage tanks** | | | | | |
| Environmental Quality, Drinking Water | 28421 | R309-545-7 | AMD | 03/08/2006 | 2006-1/19 |

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| **student eligibility** | | | | | |
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| **student loans** | | | | | |
| Regents (Board Of), Administration | 28878 | R765-608 | 5YR | 07/13/2006 | 2006-15/32 |
| | 28676 | R765-649 | 5YR | 04/25/2006 | 2006-10/100 |
| **students** | | | | | |
| Education, Administration | 28591 | R277-709 | AMD | 05/16/2006 | 2006-8/12 |
| **substance abuse counselors** | | | | | |
| Commerce, Occupational and Professional Licensing | 28605 | R156-60d | 5YR | 04/10/2006 | 2006-9/39 |
| **supplies** | | | | | |
| Education, Administration | 28812 | R277-459 | AMD | 08/08/2006 | 2006-13/12 |
| **supported employment** | | | | | |
| Human Services, Services for People with Disabilities | 28844 | R539-9 | NEW | 08/22/2006 | 2006-14/19 |
| **surveyors** | | | | | |
| Commerce, Occupational and Professional Licensing | 28444 | R156-22 | AMD | 04/03/2006 | 2006-2/17 |
| | 28444 | R156-22 | CPR | 04/03/2006 | 2006-5/45 |
| | 28807 | R156-22-302c | AMD | 08/15/2006 | 2006-13/6 |
| | 28773 | R156-22-302d | AMD | 07/25/2006 | 2006-12/7 |
| **suspensions** | | | | | |
| Natural Resources, Wildlife Resources | 28939 | R657-26 | 5YR | 08/21/2006 | 2006-18/63 |
| **systems** | | | | | |
| Public Safety, Fire Marshal | 28884 | R710-7-8 | AMD | 09/07/2006 | 2006-15/13 |
| **tax credit** | | | | | |
| Community and Economic Development, Community Development, History | 28410 | R212-11 | NSC | 01/01/2006 | Not Printed |
| **tax exemptions** | | | | | |
| Tax Commission, Auditing | 28863 | R865-19S-78 | AMD | 09/15/2006 | 2006-14/28 |
| | 28886 | R865-19S-98 | AMD | 09/15/2006 | 2006-15/15 |
| | 28862 | R865-19S-113 | AMD | 09/15/2006 | 2006-14/29 |
| **taxation** | | | | | |
| Tax Commission, Administration | 28804 | R861-1A-20 | AMD | 08/07/2006 | 2006-13/50 |
| | 28430 | R861-1A-37 | AMD | 03/06/2006 | 2006-2/29 |
| | 28731 | R861-1A-39 | AMD | 09/01/2006 | 2006-11/81 |
| | 28883 | R861-1A-40 | AMD | 09/15/2006 | 2006-15/14 |
| Tax Commission, Auditing | 28540 | R865-21U | 5YR | 03/07/2006 | 2006-7/34 |
| Tax Commission, Collections | 28539 | R867-2B | 5YR | 03/07/2006 | 2006-7/35 |
| Tax Commission, Motor Vehicle | 28806 | R873-22M-34 | AMD | 08/07/2006 | 2006-13/51 |
| Tax Commission, Motor Vehicle Enforcement | 28885 | R877-23V-5 | AMD | 09/15/2006 | 2006-15/16 |
| Tax Commission, Property Tax | 28432 | R884-24P-19 | AMD | 03/06/2006 | 2006-2/31 |
| | 28908 | R884-24P-33 | AMD | 09/21/2006 | 2006-16/16 |

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| **teacher certification** | | | | | |
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| | 28700 | R277-513 | 5YR | 05/01/2006 | 2006-10/87 |
| | 28701 | R277-517 | 5YR | 05/01/2006 | 2006-10/87 |
| Public Safety, Driver License | 28783 | R708-27 | AMD | 08/08/2006 | 2006-13/41 |
| **teachers** | | | | | |
| Education, Administration | 28812 | R277-459 | AMD | 08/08/2006 | 2006-13/12 |
| | 28590 | R277-503 | AMD | 05/16/2006 | 2006-8/10 |
| **technology best practices** | | | | | |
| Governor, Planning and Budget, Chief Information Officer | 28793 | R365-10 | NSC | 06/22/2006 | Not Printed |
| | 28795 | R365-101 | NSC | 06/22/2006 | Not Printed |
| Technology Services, Administration | 28744 | R895-5 | NEW | 07/25/2006 | 2006-12/45 |
| **technology purchases** | | | | | |
| Technology Services, Administration | 28744 | R895-5 | NEW | 07/25/2006 | 2006-12/45 |
| **telecommunications** | | | | | |
| Administrative Services, Information Technology Services | 28794 | R29-2 | NSC | 06/22/2006 | Not Printed |
| Public Service Commission, Administration | 28139 | R746-345 | AMD | 02/08/2006 | 2005-17/31 |
| | 28803 | R746-345 | AMD | 08/29/2006 | 2006-13/48 |
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| | 28771 | R746-360-4 | AMD | 08/01/2006 | 2006-12/42 |
| **telecommuting** | | | | | |
| Human Resource Management, Administration | 28682 | R477-8 | AMD | 07/01/2006 | 2006-10/52 |
| **telephone utility regulation** | | | | | |
| Public Service Commission, Administration | 28139 | R746-345 | AMD | 02/08/2006 | 2005-17/31 |
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| | 28803 | R746-345 | AMD | 08/29/2006 | 2006-13/48 |
| **terms of office** | | | | | |
| Natural Resources, Wildlife Resources | 28453 | R657-39 | 5YR | 01/09/2006 | 2006-3/39 |
| **therapists** | | | | | |
| Commerce, Occupational and Professional Licensing | 28672 | R156-60b | AMD | 06/19/2006 | 2006-10/13 |
| **tickets** | | | | | |
| Administrative Services, Fleet Operations | 28469 | R27-7 | 5YR | 01/20/2006 | 2006-4/34 |
| **title escrow charges** | | | | | |
| Insurance, Title and Escrow Commission | 28507 | R592-4 | CPR | 07/19/2006 | 2006-11/86 |
| | 28507 | R592-4 | NEW | 07/19/2006 | 2006-5/38 |
| **title escrow filings** | | | | | |
| Insurance, Title and Escrow Commission | 28508 | R592-3 | NEW | 07/19/2006 | 2006-5/36 |
| | 28508 | R592-3 | CPR | 07/19/2006 | 2006-11/84 |

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| Insurance, Title and Escrow Commission | 28529 | R592-2-5 | NSC | 03/06/2006 | Not Printed |
| **tolls** | | | | | |
| Transportation, Program Development | 28538 | R926-9 | NEW | 04/20/2006 | 2006-6/17 |
| Transportation Commission, Administration | 28675 | R940-1 | NEW | 06/22/2006 | 2006-10/80 |
| **towing** | | | | | |
| Transportation, Motor Carrier | 29080 | R909-19 | 5YR | 09/25/2006 | Not Printed |
| **traffic noise abatement** | | | | | |
| Transportation, Preconstruction | 28677 | R930-3 | AMD | 06/22/2006 | 2006-10/80 |
| **traffic regulations** | | | | | |
| Public Safety, Driver License | 28568 | R708-16 | 5YR | 03/23/2006 | 2006-8/74 |
| **training** | | | | | |
| Human Services, Substance Abuse and Mental Health | 28841 | R523-24 | EMR | 07/01/2006 | 2006-14/33 |
| | 28842 | R523-24 | NEW | 08/22/2006 | 2006-14/15 |
| Public Service Commission, Administration | 28894 | R746-510-4 | NSC | 07/25/2006 | Not Printed |
| **training programs** | | | | | |
| Human Resource Management, Administration | 28684 | R477-10 | AMD | 07/01/2006 | 2006-10/56 |
| **tramway permits** | | | | | |
| Transportation, Operations, Traffic and Safety | 28905 | R920-50 | AMD | 09/21/2006 | 2006-16/23 |
| | 28524 | R920-50-1 | AMD | 04/04/2006 | 2006-5/40 |
| **tramways** | | | | | |
| Transportation, Operations, Traffic and Safety | 28905 | R920-50 | AMD | 09/21/2006 | 2006-16/23 |
| | 28524 | R920-50-1 | AMD | 04/04/2006 | 2006-5/40 |
| **transfer** | | | | | |
| Governor, Planning and Budget, Chief Information Officer | 28789 | R365-3 | NSC | 06/22/2006 | Not Printed |
| **transition to adult living** | | | | | |
| Human Services, Child and Family Services | 28662 | R512-305 | AMD | 06/19/2006 | 2006-10/65 |
| | 28663 | R512-306 | AMD | 06/19/2006 | 2006-10/67 |
| **transmission and distribution pipelines** | | | | | |
| Environmental Quality, Drinking Water | 28422 | R309-550-5 | AMD | 03/08/2006 | 2006-1/20 |
| **transportation** | | | | | |
| Administrative Services, Finance | 28702 | R25-7 | AMD | 07/01/2006 | 2006-10/2 |
| Environmental Quality, Radiation Control | 28802 | R313-19-34 | AMD | 08/11/2006 | 2006-13/20 |
| Transportation, Administration | 28358 | R907-68 | NEW | 01/04/2006 | 2005-23/61 |
| | 28532 | R907-68 | AMD | 06/01/2006 | 2006-6/15 |
| | 28617 | R907-68 | AMD | 06/01/2006 | 2006-9/30 |
| Transportation, Motor Carrier, Ports of Entry | 28703 | R912-8 | NEW | 06/22/2006 | 2006-10/78 |
| Transportation, Program Development | 28775 | R926-2 | R&R | 07/28/2006 | 2006-12/47 |

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| | 28538 | R926-9 | NEW | 04/20/2006 | 2006-6/17 |
| Transportation, Preconstruction | 28677 | R930-3 | AMD | 06/22/2006 | 2006-10/80 |
| | 28489 | R930-5 | R&R | 04/25/2006 | 2006-4/18 |
| Transportation Commission, Administration | 28675 | R940-1 | NEW | 06/22/2006 | 2006-10/80 |
| **transportation commission** | | | | | |
| Transportation, Administration | 28358 | R907-68 | NEW | 01/04/2006 | 2005-23/61 |
| | 28532 | R907-68 | AMD | 06/01/2006 | 2006-6/15 |
| | 28617 | R907-68 | AMD | 06/01/2006 | 2006-9/30 |
| **transportation planning** | | | | | |
| Transportation, Program Development | 28775 | R926-2 | R&R | 07/28/2006 | 2006-12/47 |
| **transportation safety** | | | | | |
| Transportation, Operations, Traffic and Safety | 28905 | R920-50 | AMD | 09/21/2006 | 2006-16/23 |
| | 28524 | R920-50-1 | AMD | 04/04/2006 | 2006-5/40 |
| **trauma** | | | | | |
| Health, Health Systems Improvement, Emergency Medical Services | 28725 | R426-5-8 | AMD | 08/30/2006 | 2006-11/52 |
| **truancy** | | | | | |
| Education, Administration | 28810 | R277-609 | AMD | 08/08/2006 | 2006-13/15 |
| **trucks** | | | | | |
| Transportation, Motor Carrier | 29080 | R909-19 | 5YR | 09/25/2006 | Not Printed |
| Transportation, Motor Carrier, Ports of Entry | 28616 | R912-9 | AMD | 06/01/2006 | 2006-9/31 |
| | 28415 | R912-11 | AMD | 02/08/2006 | 2006-1/28 |
| **trust lands funds** | | | | | |
| Education, Administration | 28464 | R277-477 | AMD | 03/06/2006 | 2006-3/8 |
| **underground injection control** | | | | | |
| Environmental Quality, Water Quality | 28891 | R317-7 | 5YR | 07/18/2006 | 2006-16/36 |
| | 28859 | R317-7 | AMD | 08/25/2006 | 2006-14/9 |
| **underground storage tanks** | | | | | |
| Environmental Quality, Environmental Response and Remediation | 28516 | R311-200 | AMD | 05/15/2006 | 2006-5/26 |
| | 28517 | R311-205-2 | AMD | 05/15/2006 | 2006-5/28 |
| | 28880 | R311-206 | AMD | 09/15/2006 | 2006-15/5 |
| | 28518 | R311-207-5 | AMD | 05/15/2006 | 2006-5/31 |
| | 28519 | R311-211 | AMD | 05/15/2006 | 2006-5/32 |
| **underserved** | | | | | |
| Health, Health Systems Improvement, Primary Care and Rural Health | 28331 | R434-100-6 | NSC | 01/01/2006 | Not Printed |
| **unemployment compensation** | | | | | |
| Workforce Services, Unemployment Insurance | 28721 | R994-302 | 5YR | 05/09/2006 | 2006-11/98 |
| | 28722 | R994-308 | 5YR | 05/09/2006 | 2006-11/98 |
| | 28763 | R994-401-203 | AMD | 07/26/2006 | 2006-12/79 |

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| | 28480 | R994-406-302 | NSC | 02/22/2006 | Not Printed |
| | 28877 | R994-406-401 | NSC | 07/27/2006 | Not Printed |
| **uninsured motorist database**<br>Public Safety, Driver License | 28787 | R708-32-4 | AMD | 08/08/2006 | 2006-13/43 |
| **units**<br>Environmental Quality, Radiation Control | 28869 | R313-12 | 5YR | 07/10/2006 | 2006-15/29 |
| **universal service**<br>Public Service Commission, Administration | 28771 | R746-360-4 | AMD | 08/01/2006 | 2006-12/42 |
| **user tax**<br>Tax Commission, Auditing | 28540 | R865-21U | 5YR | 03/07/2006 | 2006-7/34 |
| **utah.gov**<br>Governor, Planning and Budget, Chief Information Officer | 28790 | R365-4 | NSC | 06/22/2006 | Not Printed |
| **utilities**<br>Transportation, Preconstruction | 28774 | R930-6 | AMD | 07/28/2006 | 2006-12/50 |
| **utilities access**<br>Transportation, Preconstruction | 28774 | R930-6 | AMD | 07/28/2006 | 2006-12/50 |
| **utility rules**<br>Transportation, Preconstruction | 28360 | R930-6 | AMD | 01/27/2006 | 2005-24/31 |
| **utility service shutoff**<br>Public Service Commission, Administration | 28765 | R746-200 | AMD | 07/25/2006 | 2006-12/36 |
| **vacations**<br>Human Resource Management, Administration | 28443 | R477-7 | EMR | 01/01/2006 | 2006-2/40 |
| | 28690 | R477-7 | AMD | 07/01/2006 | 2006-10/47 |
| | 28571 | R477-7 | EMR | 04/01/2006 | 2006-8/64 |
| | 28570 | R477-7 | AMD | 07/01/2006 | 2006-8/36 |
| **victim compensation**<br>Crime Victim Reparations, Administration | 28355 | R270-1 | AMD | 01/04/2006 | 2005-23/6 |
| | 28867 | R270-1 | 5YR | 07/03/2006 | 2006-15/27 |
| | 28473 | R270-1-4 | NSC | 02/22/2006 | Not Printed |
| | 28868 | R270-2 | 5YR | 07/03/2006 | 2006-15/27 |
| **victims of crime**<br>Crime Victim Reparations, Administration | 28867 | R270-1 | 5YR | 07/03/2006 | 2006-15/27 |
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| | 28473 | R270-1-4 | NSC | 02/22/2006 | Not Printed |
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| **violations**<br>Environmental Quality, Radiation Control | 28870 | R313-14 | 5YR | 07/10/2006 | 2006-15/30 |
| Natural Resources, Wildlife Resources | 28939 | R657-26 | 5YR | 08/21/2006 | 2006-18/63 |

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| **waiver** | | | | | |
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| **waste oil** | | | | | |
| Environmental Quality, Air Quality | 28546 | R307-413 | REP | 06/16/2006 | 2006-7/9 |
| **waste to energy plant** | | | | | |
| Environmental Quality, Air Quality | 28821 | R307-223 | 5YR | 06/16/2006 | 2006-14/41 |
| **waste water** | | | | | |
| Environmental Quality, Water Quality | 28596 | R317-4 | AMD | 05/19/2006 | 2006-8/14 |
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| **water conservation** | | | | | |
| Environmental Quality, Drinking Water | 28419 | R309-510-9 | AMD | 03/08/2006 | 2006-1/16 |
| **water hauling** | | | | | |
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| **water safety rules** | | | | | |
| Natural Resources, Parks and Recreation | 28645 | R651-801 | 5YR | 04/18/2006 | 2006-10/99 |
| | 28660 | R651-801 | NSC | 05/10/2006 | Not Printed |
| | 28661 | R651-802 | NSC | 05/10/2006 | Not Printed |
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| **water skiing** | | | | | |
| Natural Resources, Parks and Recreation | 28826 | R651-224 | AMD | 08/22/2006 | 2006-14/24 |
| | 28512 | R651-224 | 5YR | 02/13/2006 | 2006-5/50 |
| **water system rating** | | | | | |
| Environmental Quality, Drinking Water | 28417 | R309-150-6 | AMD | 03/08/2006 | 2006-1/12 |
| **waterfowl** | | | | | |
| Natural Resources, Wildlife Resources | 28938 | R657-9 | 5YR | 08/21/2006 | 2006-18/62 |
| **watershed management** | | | | | |
| Environmental Quality, Drinking Water | 28416 | R309-105-9 | AMD | 03/08/2006 | 2006-1/11 |
| **website** | | | | | |
| Governor, Planning and Budget, Chief Information Officer | 28791 | R365-5 | NSC | 06/22/2006 | Not Printed |
| **weight** | | | | | |
| Transportation, Motor Carrier, Ports of Entry | 28703 | R912-8 | NEW | 06/22/2006 | 2006-10/78 |
| **welfare fraud** | | | | | |
| Human Services, Recovery Services | 28752 | R527-800 | 5YR | 05/24/2006 | 2006-12/86 |
| **wildland fire** | | | | | |
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| Natural Resources, Forestry, Fire and State Lands | 28525 | R652-122 | NSC | 03/07/2006 | Not Printed |
| **wildlife** | | | | | |
| Natural Resources, Wildlife Resources | 28718 | R657-5 | AMD | 07/11/2006 | 2006-11/78 |
| | 28379 | R657-5 | AMD | 01/18/2006 | 2005-24/11 |
| | 28881 | R657-5-37B | NSC | 07/27/2006 | Not Printed |
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| | 28303 | R657-13 | AMD | 01/18/2006 | 2005-22/41 |
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| | 28454 | R657-19 | AMD | 03/06/2006 | 2006-3/22 |
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| | 28939 | R657-26 | 5YR | 08/21/2006 | 2006-18/63 |
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| | 28456 | R657-40 | 5YR | 01/10/2006 | 2006-3/40 |
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| | 28376 | R657-42 | AMD | 01/18/2006 | 2005-24/27 |
| **wildlife conservation** | | | | | |
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| **wildlife law** | | | | | |
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| **wildlife permits** | | | | | |
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| **workers' compensation** | | | | | |
| Labor Commission, Adjudication | 28547 | R602-2-1 | AMD | 05/05/2006 | 2006-7/14 |
| Labor Commission, Industrial Accidents | 28729 | R612-2-5 | AMD | 07/11/2006 | 2006-11/74 |
| | 28730 | R612-2-22 | AMD | 07/11/2006 | 2006-11/75 |
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| | 28298 | R612-4-2 | AMD | 01/01/2006 | 2005-22/41 |
| | 28728 | R612-7-3 | AMD | 07/11/2006 | 2006-11/77 |
| **Workforce Investment Act** | | | | | |
| Workforce Services, Employment Development | 28760 | R986-600 | AMD | 08/09/2006 | 2006-12/65 |
| | 28400 | R986-600-604 | NSC | 01/01/2006 | Not Printed |
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| **working toward employment** | | | | | |
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