

UTAH STATE BULLETIN

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

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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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SPECIAL NOTICES

Governor's Executive Order 2006-0011: Declaring an Agricultural Disaster from Drought Conditions in Daggett County

EXECUTIVE ORDER

Declaring an Agricultural Disaster from Drought Conditions in Daggett County

WHEREAS, precipitation totals for the past several months have been minimal and created severe drought conditions in Daggett County;

WHEREAS, low precipitation levels have harmed the condition of the range, which may result in an inability to sustain further use;

WHEREAS, extreme drought conditions have resulted in the need to graze hay fields to allow the livestock to obtain adequate feed;

WHEREAS, this early grazing of hay fields has resulted in decreased forage production to harvest for winter feeding; and,

WHEREAS, these drought conditions have affected numerous farm and ranching operations and will impact the overall production and grazing yields for the 2007 season;

NOW, THEREFORE, I, Jon M. Huntsman, Jr., Governor of the State of Utah, by virtue of the power vested in me by the Constitution and the laws of the State of Utah do hereby declare an "Agricultural Disaster" for Daggett County due to the aforesaid drought conditions in the State of Utah.

IN TESTIMONY, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah, this 27th day of November, 2006.

(State Seal)

Jon M. Huntsman, Jr.
Governor

ATTEST:
Gary R. Herbert
Lieutenant Governor

2006/0011

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 November 16, 2006, 12:00 a.m., and December 1, 2006, 11:59 p.m. are included in this, the December 15, 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 January 15, 2007. 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 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 April 14, 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 seven calendar days after the close of the public comment period 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 Section 63-46a-4; and Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page.

Commerce, Consumer Protection
R152-23
 Utah Health Spa Services

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE NO.: 29238
 FILED: 11/17/2006, 08:28

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to reflect changes the Division believes are necessary to enforce the Health Spa Services Protection Act, Title 13, Chapter 23.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment to Subsection R152-23-4(E) provides the required language in the contract regarding the right to rescission set out in Subsection 13-23-3(6). The proposed amendment to Subsection R152-23-4(F) states that a consumer may not be charged for exercising the right to rescission set out in Subsection 13-23-3(6). The proposed amendment to Subsection R152-23-4(J) establishes the requirements for the notice required by Subsection 13-23-5(7).

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 63-46a-3, 13-2-5, and 13-23-1 et seq.

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. These amendments have no impact on the cost to administer the rule.

❖ LOCAL GOVERNMENTS: The proposed amendments do not apply to local governments; therefore, no costs or savings are anticipated.

❖ OTHER PERSONS: Health spa owners will incur minimal printing costs associated with bringing their contracts into compliance with the proposed rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Health spa owners will incur minimal printing costs associated with bringing their contracts into compliance with the proposed rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact to businesses is anticipated as a result of this rule filing beyond those indicated in the rule summary. Francine A. Giani, Executive Director

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

COMMERCE
 CONSUMER PROTECTION
 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:

Thomas Copeland at the above address, by phone at 801-530-6601, by FAX at 801-530-6001, or by Internet E-mail at tcopeland@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 01/15/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/22/2007

AUTHORIZED BY: Kevin V Olsen, Director

R152. Commerce, Consumer Protection.

R152-23. Utah Health Spa Services.

R152-23-4. Registration Requirements and Contracts for Health Spa Services.

A. Prior to selling or attempting to sell a Membership Contract, a health spa facility must file the following documentation with the Division:

1. A completed application on the form prescribed and furnished by the Division which shall include:

a. Name, addresses, and telephone numbers of owner(s) of the Health Spa Facility and the facility address, telephone number, and name of contact person at the facility.

b. A check or money order for a \$100 non-refundable application fee.

c. A current pricing structure for membership services.

d. A copy of the contract(s) utilized by the facility containing the language required by the Act.

e. The original or certified copy of the surety bond, letter of credit, or certificate of deposit in the required amount or, if applicable, the information set out in the application as the basis for a claim of exemption from registration.

f. The number of membership contracts that relate to each facility.

2. Notice of intent to sell memberships.

B. Each Membership Contract shall contain a provision, printed in all capital letters which reads substantially as follows: "IN THE EVENT THE HEALTH SPA FACILITY CLOSES AND ANOTHER HEALTH SPA FACILITY OPERATED BY THE SELLER, OR ASSIGNS OF THE SELLER, OF THIS CONTRACT IS NOT AVAILABLE WITHIN [~~A~~]FIVE (5) MILES [~~RADIUS~~] OF THE LOCATION THE MEMBER INTENDS TO PATRONIZE, SELLER WILL REFUND TO MEMBER A PRORATA SHARE OF THE MEMBERSHIP COST, BASED UPON THE UNUSED MEMBERSHIP TIME REMAINING ACCORDING TO THE CONTRACT."

C. All Membership Contracts shall specify what items of equipment or services provided by the health spa facility on the date of the execution of the membership contract are subject to deletion or change at the discretion of the facility.

D. All Membership Contracts sold prior to opening of the health spa facility shall allow the buyer a three (3) day right of rescission in accordance with Section 13-23-4 of the Act, or Section 13-11-4(m) of the Utah Consumer Sales Practices Act.

E. The right of rescission set out in Section 13-23-3(6) shall:

1. be a conspicuous statement written in dark bold with at least 12 point type on the first page of the contract; and

2. read as follows: "YOU, THE CONSUMER, MAY CANCEL THIS CONTRACT AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE ON WHICH THE CONTRACT IS EXECUTED."

F. No fee may be charged if a consumer exercises the consumer's right to rescind the contract pursuant to Section 13-23-3(6).

[E-]G. The dollar value of a Membership Contract shall be clearly stated on the face of the contract.

[F-]H. In any event, no Membership Contract shall be sold which provides a membership term of longer than thirty-six (36) months.

[G-]I. The purchaser of a Health Spa Facility shall replace the Seller as a party to any unexpired Membership Contract and shall honor all Membership Contracts of the purchased facility in effect at the time of purchase, pursuant to Section 13-23-5(2) of the Act. In the event a Health Spa Facility shall be sold under circumstances which will result in its closure and the purchaser shall not operate a Health Spa Facility within 5 miles thereof, purchaser must notify Members of such closure in writing within 10 days of the date of sale. Members may cancel their outstanding Membership Contracts or may choose to continue their Membership Contract in force. Notice of such election shall be in writing mailed to the purchaser within 30 days of the receipt of notice of closure of the acquired Health Spa Facility.

J. The notice required in Section 13-23-5(7) shall be in writing and shall include the following:

1. The date on which the health spa will cease operations or relocate and fail to offer an alternative location within five miles;

2. Information concerning the members of the health spa, including:

a. the total number of members;

b. the name and address of each member;

c. the total cost of each membership; and

d. the effective dates of each membership;

3. Proof of the bond, letter of credit, or certificate of deposit required under Section 13-23-5(2)(a) and proof that the bond, letter of credit, or certificate of deposit will remain in force for one year after the health spa notifies the division that it has ceased all activities regulated by Title 13, Chapter 23 of the Utah code;

4. A description of what action the health spa plans to take with regard to its members, including:

a. the amount of each member's refund;

b. any reason refunds are not to be made;

c. an explanation of how refunds are to be calculated; and

d. copies of the refund checks that the health spa has issued; and

5. Any complaints that the health spa has received from the members and how the complaints were resolved.

[H-]K. A separate registration shall be required for each separate location maintained by a health spa business.

R152-23-5. Rescission.

A. In the event a Health Spa Facility shall, for any reason, close, discontinue normal operations or otherwise cease to do business while having outstanding obligations to provide membership services to members holding valid membership contracts, the Health Spa Facility must offer, in writing, to rescind all such membership contracts and to refund the unused portion of all Member's membership fees. Such written offer of rescission shall establish the procedure and time limit for acceptance of the rescission offer and obtaining the desired refund.

B. An offer of rescission shall be made to each purchaser whose Membership Contract is valid on the last day the Health Spa Facility is open for business. The Health Spa Facility shall provide the Division

with a list of Membership Contracts valid on the date of closure ~~within~~ [10 business days before~~of~~] such closure.

C. Money to be refunded to members upon closure of a Health Spa Facility under these Rules shall be placed in escrow with a bank or other financial institution previously approved by the Division. Such funds shall come from a Bond, Letter of Credit, or Certificate of Deposit payable to the Division.

D. Refunds shall be made to Members who submit claims within a time period to be prescribed by the Division. Such refunds shall be made under the supervision of the Division and shall, if insufficient funds are available for full refund, be made on a prorata basis based upon the full amount due a claimant. The amount due shall be determined by multiplying the number of months remaining on claimant's membership term as of the date of closure by the monthly cost of such membership to the member at the time of purchase. Periods of less than a full month shall be compensated by determining a daily cost of membership and multiplying such daily cost by the number of unused membership days in such period.

E. Refunds shall be made to claimants within 90 days following the final date for submission of claims in accordance with the procedures specified above.

F. The Division may recover from the funds deposited in escrow pursuant to this Rule, its costs, including investigative costs, processing costs, attorneys fees and other expenses related to administration of rescissions made under these rules.

G. In the event there shall be funds remaining after full refund to all claimants and payment of costs of the Division, such excess shall be returned to Owners of the Health Spa Facility.

KEY: consumer protection, health spas

Date of Enactment or Last Substantive Amendment: [~~October 18, 2005~~]2007

Notice of Continuation: October 30, 2002

Authorizing, and Implemented or Interpreted Law: 63-46a-3; 13-2-5; 13-23-1

Commerce, Real Estate **R162-202** Initial Application

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29237

FILED: 11/16/2006, 16:27

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: It is necessary to update the rule to conform with statutory changes made by S.B. 178 (2004 General Session) and S.B. 172 (2005 General Session), which replaced the concept of an unlicensed "Control Person" for a licensed mortgage entity with a licensed "Principal Lending Manager" effective 05/01/2006. Outdated references to deadlines that have already passed are no longer needed and are therefore deleted. Finally, the rule is also changed so that an applicant for licensure by reciprocity no longer has to supply a copy of the applicant's home jurisdiction's licensing law and rules to

demonstrate that the home state's laws are "substantially equivalent" to Utah's. Instead, the applicant will be required to submit proof of successful completion of pre-licensing education and a pre-licensing examination. (DAR NOTES: S.B. 178 (2004) is found at Chapter 297, Laws of Utah 2004, and was effective 05/03/2004. S.B. 172 (2005) is found at Chapter 199, Laws of Utah 2005, and was effective 05/02/2005.)

SUMMARY OF THE RULE OR CHANGE: The rule is changed to delete references to "Control Person" and to substitute "Principal Lending Manager" where applicable and to substitute directors, executive officers, managers, managing partners, etc. where applicable. Outdated references to deadlines that have already passed are deleted. The subsection on Reciprocal Licenses is also changed to require an applicant to submit proof of successful completion of pre-licensing education and proof of having passed a pre-licensing examination.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2c-103(3)(a)(i)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** Any cost or savings to the state budget because of the change from "Control Person" to "Principal Lending Manager" are attributable to S.B. 174 (2004) and S.B. 172 (2005) and not to these rule changes updating the rules to conform to those statutory changes. It is anticipated that the change to the subsection on reciprocal licensing will save the State budget because it will no longer be necessary for Division of Real Estate staff to analyze another state's laws and rules when someone from that state applies for a license by reciprocity. However, since the number of reciprocal license applicants cannot be anticipated, the amount of possible savings cannot be calculated.

❖ **LOCAL GOVERNMENTS:** Any cost or savings to local governments because of the change from "Control Person" to "Principal Lending Manager" are attributable to S.B. 174 (2004) and S.B. 172 (2005) and not to these rule changes updating the rules to conform to those statutory changes. With respect to the change to the subsection on reciprocal licensing, local governments do not obtain licenses from the Division of Real Estate to engage in the business of residential mortgage loans, and therefore, the rule change regarding obtaining reciprocal licenses will neither cost nor save local governments any money.

❖ **OTHER PERSONS:** Any cost or savings to other persons because of the change from "Control Person" to "Principal Lending Manager" are attributable to S.B. 174 (2004) and S.B. 172 (2005) and not to these rule changes updating the rules to conform to those statutory changes. With respect to the rule change regarding reciprocal licenses, the only other persons affected would be applicants for reciprocal licenses and the licensing agencies in their home states. The applicants will be required to submit only proof of prelicensing education and examination instead of copies of the statutes and rules from their home states. This should be less costly for the applicants and for their home state licensing agencies.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only persons who are affected by the change from "Control Person" to "Principal Lending Manager" are licensed mortgage entities, those persons who were formerly "control persons," and those persons who are "Principal Lending Managers." However, any costs incurred by these parties in complying with the rule changes are attributable to S.B. 174 (2004) and S.B. 172 (2005) and not to these rule changes updating the rules to conform to those statutory changes. With respect to the change to the subsection involving reciprocal license applications, it is not anticipated that the rule change will cost them any money. If anything, it should save applicants for reciprocal licenses since it decreases the amount of information that must be obtained from the home state and submitted to the Division of Real Estate.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This filing updates the rule to meet recent statutory amendments. It also simplifies the requirements for reciprocal license applicants. No fiscal impact to businesses is anticipated. Francine A. Giani, Executive Director

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

COMMERCE
REAL ESTATE
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:

Shelley Wismer at the above address, by phone at 801-530-6761, by FAX at 801-530-6749, or by Internet E-mail at swismer@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 01/15/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/23/2007

AUTHORIZED BY: Derek Miller, Director

R162. Commerce, Real Estate.

R162-202. Initial Application.

R162-202-1. Licensing Examination.

202.1 Except as provided in Subsection 202-8, ~~effective January 1, 2004,~~ an individual applying for an initial license is required to have passed the licensing examination approved by the commission before making application to the division for a license.

202.1.1 All examination results are valid for 90 days after the date of the examination. If the applicant does not submit an application for licensure within 90 days after successful completion of the examination, the examination results shall lapse and the applicant shall be required to retake and successfully pass the examination again in order to apply for a license.

R162-202-2. Form of Application.

202.2 All applications must be made in the form required by the division and shall include the following information:

202.2.1 Any name under which the individual will transact business in this state;

202.2.2 The address of the principal business location of the applicant;

202.2.3 The home street address and home telephone number of any individual applicant~~[-or control person of an entity applicant];~~

202.2.4 A mailing address for the applicant;

202.2.5 The date of birth and social security number of any individual applicant~~[-or control person of an entity applicant];~~

202.2.6 Answers to a "Licensing Questionnaire" supplying information about present or past mortgage licensure in other jurisdictions, past license sanctions or surrenders, pending disciplinary actions, pending investigations, past criminal convictions or pleas, and/or civil judgments based on fraud, misrepresentation, or deceit;

202.2.7 A "Letter of Waiver" authorizing the division to obtain the fingerprints of the applicant~~[-or control person]~~, review past and present employment and education records, and to conduct a criminal history background check;

202.2.8 If an individual applicant or a ~~[control person]~~director, executive officer, manager, or a managing partner of an entity applicant, or anyone who occupies a position or performs functions similar to a director, executive officer, manager or managing partner of an entity that has applied for a license, has been convicted of any felonies or misdemeanors involving moral turpitude within the ten years preceding application, the charging document, the judgment and sentencing document, and the case docket on each such conviction must be provided with the application; and

202.2.9 If an individual or entity applicant or a ~~[control person]~~director, executive officer, manager, or a managing partner of an entity applicant, or anyone who occupies a position or performs functions similar to a director, executive officer, manager or managing partner of an entity that has applied for a license, has had a license or registration suspended, revoked, surrendered, canceled or denied in the five years preceding application based on misconduct in a professional capacity that relates to good moral character or the competency to transact the business of residential mortgage loans, the documents stating the sanction taken against the license or registration and the reasons therefore must be provided with the application.

202.2.10 ~~[On or after January 1, 2005, a]~~ Applicants for a mortgage officer license shall submit proof in the form required by the Division of successful completion of the 20 hours of approved prelicensing education required by Section 61-2c-202(4)(a)(i)(C) taken within one year prior to application; or

202.2.11 ~~[On or after September 1, 2005,]~~Except as provided in Section 61-2c-206(2)(b), applicants for a principal ~~[lender]~~lending manager license shall submit proof in the form required by the Division of successful completion of the 40 hours of approved prelicensing education required by Section 61-2c-206(1)(c) taken within one year prior to application.

R162-202-5. Determining Fitness for Licensure.

202.5.1 Good Moral Character. The Commission and the Division will consider information necessary to determine whether an applicant for a license or ~~[the control person]~~a director, executive officer, manager, or a managing partner of an entity that has applied for a license, or anyone who occupies a position or performs functions similar to a director, executive officer, manager or managing partner of an entity that has applied for a license, meets the requirement of good

moral character, which may include the following in addition to whether the individual has been convicted of a felony or misdemeanor involving moral turpitude in the ten years preceding the application:

(a) The circumstances that led to any criminal convictions considered by the Commission and the Division;

(b) The amount of time that has passed since the individual's last criminal conviction;

(c) Any character testimony presented at the hearing and any character references submitted by the individual;

(d) Past acts related to honesty or moral character involving the business of residential mortgage loans;

(e) Whether the individual has been guilty of dishonest conduct in the five years preceding the application that would have been grounds under Utah law for revocation or suspension of a registration or license had the individual then been registered or licensed;

(f) Whether a civil judgment based on fraud, misrepresentation, or deceit has been entered against the individual, or whether a finding of fraud, misrepresentation or deceit by the individual has been made in a civil suit, regardless of whether related to the residential mortgage loan business, and whether any money judgment has been fully satisfied;

(g) Whether fines and restitution ordered by a court in a criminal proceeding have been fully satisfied, and whether the individual has complied with court orders in the criminal proceeding;

(h) Whether a probation agreement, plea in abeyance, or diversion agreement entered into in a criminal proceeding in the ten years preceding the application has been successfully completed;

(i) Whether any tax and child support arrearages have been paid; and

(j) Whether there has been good conduct on the part of the individual subsequent to the individual's offenses.

202.5.2 Competency to Transact the Business of Residential Mortgage Loans. The Commission and the Division will consider information necessary to determine whether an applicant for a license or ~~[the control person]~~director, executive officer, manager, or a managing partner of an entity that has applied for a license, or anyone who occupies a position or performs functions similar to a director, executive officer, manager or managing partner of an entity that has applied for a license, meets the requirement of competency to transact the business of residential mortgage loans, which shall include the following:

(a) Past acts related to competency to transact the business of residential mortgage loans;

(b) Whether a civil judgment involving the business of mortgage loans has been entered against the individual, and whether the judgment has been fully satisfied, unless the judgment has been discharged in bankruptcy;

(c) The failure of any previous mortgage loan business in which the individual engaged, and the reasons for any failure;

(d) The individual's management and employment practices in any previous mortgage loan business, including whether or not employees were paid the amounts owed to them;

(e) The individual's training and education in mortgage lending, if any was available to the applicant;

(f) The individual's training, education, and experience in the mortgage loan business or in management of a mortgage loan business, if any was available to the individual;

(g) A lack of knowledge of the Utah Residential Mortgage Practices Act on the part of the individual;

(h) A history of disregard for licensing laws;

(i) A prior history of drug or alcohol dependency within the last five years, and any subsequent period of sobriety; and

(j) Whether the individual has demonstrated competency in business subsequent to any past incompetence by the individual in the mortgage loan business.

202.5.3 Age. All applicants shall be at least 18 years old.

R162-202-6. Conversion of Existing Registrations.

~~202.6 In order to comply with Section 61-2c-201(1), the division shall convert all existing registrations to licenses on January 1, 2004. The licenses issued to individuals under the authority of this rule shall be issued subject to Section 61-2c-202(4)(a)(ii).~~

R162-202-7[6]. Registration of Assumed Business Name.

202.[7]6.1 An individual or entity licensed to engage in the business of residential mortgage loans who intends to conduct business under an assumed business name instead of the individual's own name shall register the assumed business name with the Division.

202.[7]6.2 To register an assumed business name, the applicant shall pay the applicable non-refundable fee and submit proof in the form required by the Division of a current filing of that assumed business name with the Division of Corporations and Commercial Code.

202.[7]6.3 Misleading or deceptive business names. The Division shall not register an assumed business name if there is a substantial likelihood that the public will be misled by the name into thinking that they are not dealing with an individual or entity engaged in the residential mortgage loan business.

R162-202-8[7]. Reciprocal Licenses.

202.[8]7.1 An applicant who is a legal resident of a state with which the Division has entered into a written reciprocity agreement and who applies for a Utah license shall submit to the Division:

(a) An application for a reciprocal license on the form required by the Division;

(b) All applicable licensing fees and the Residential Mortgage Loan Education, Research, and Recovery Fund fee;

(c) An official license history from the licensing agency in the applicant's state of legal residence containing the dates of the applicant's licensure and any complaint or disciplinary history; and

(d) The information required by Subsections 202.2.1 through 202.2.9.

202.[8]7.2 An applicant who is a legal resident of a state with which the Division has not entered into a written reciprocity agreement and who applies for a Utah license shall submit to the Division:

(a) An application for a reciprocal license on the form required by the Division;

(b) All applicable licensing fees and the Residential Mortgage Loan Education, Research, and Recovery Fund fee;

(c) A signed, notarized affidavit attesting that the applicant has at least five years experience in the business of residential mortgage loans;

(d) An official license history from the licensing agency in the applicant's state of legal residence, and any other state(s) in which the experience referred to in Subsection 202.[8]7.2(c) was obtained, that includes the dates of the applicant's licensure and any complaint or disciplinary history; and

(e) ~~[A copy of the licensing statute or rules from any jurisdiction in which residential mortgage experience is claimed that demonstrate that the jurisdiction's licensing requirements are substantially equivalent to those of Utah]~~ Proof of having successfully completed state-required

pre-licensing education and having passed a state-required competency examination; and

(f) Those items required by Subsections 202.2.1 through 202.2.9.

R162-202-[9]8. Branch Office.

202.[9]8 A branch office shall be registered with the Division prior to operation. To register the branch office, the ~~[control person]~~ principal lending manager of the entity must submit to the Division, on the forms required by the Division, the location of the branch office and the names of all licensees assigned to the branch, along with the fee for registering the branch office.

R162-202-[40]9. Principal Lending Manager Experience Requirement.

202.[40]9 Equivalent Experience. Experience in originating loans or directly supervising individuals who originate loans shall be considered to be "equivalent experience" for the purposes of Section 61-2c-206(1)(e).

KEY: residential mortgage loan origination

Date of Enactment or Last Substantive Amendment: ~~April 5, 2006~~ 2007

Authorizing, and Implemented or Interpreted Law: 61-2c-103(3)



Education, Administration R277-511 Highly Qualified Teacher Grants

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 29305

FILED: 12/01/2006, 15:54

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this new rule is provide for a grant program to assist Utah teachers to become highly qualified in which school districts and charter schools may choose to participate and to establish a formula and time lines for distribution of funds to grant recipients.

SUMMARY OF THE RULE OR CHANGE: The rule provides for standards and procedures for distribution of grant funds, and responsibilities of grant recipients.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-6-112(7)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There are no anticipated costs or savings to the state budget. A grant program was established and funded by the Utah Legislature to minimize out-of-pocket expenses of licensed teachers to obtain National Board certification, or take tests to meet federal highly qualified teacher standards as defined in 20 U.S.C. Sec. 7801. Existing State Office of Education staff will coordinate the grant program.

❖ LOCAL GOVERNMENTS: There are no anticipated savings to school districts and charter schools. There will be costs to school districts and charter schools who participate in the grant program. Participating school districts and charter schools will agree to match all grant funds with equal school district or charter school funds. Participating school districts will match a minimum \$5,000 base amount depending upon funding and participation, and participating charter schools will match a minimum \$2,000 base amount depending upon funding and participation.

❖ OTHER PERSONS: There are no anticipated cost to other persons. School districts and charter schools participating in the grant program will reimburse teachers for out-of-pocket expenses. The grant provides \$500,000 and savings to individual teachers are speculative. Based on the grant amount of \$500,000, \$200,000 for content tests, and \$300,000 for National Board testing, 2,666 teachers could participate in content testing and be reimbursed \$75 per test and 240 teachers could participate in the National Board Certification Program and be reimbursed \$1,250.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are compliance costs for school districts and charter schools choosing to participate in the grant program because school districts will need to match a minimum \$5,000 base amount depending upon funding and participation and charter schools will need to match a minimum \$2,000 base amount depending upon funding and participation.

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 01/15/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/23/2007

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

R277. Education, Administration.

R277-511. Highly Qualified Teacher Grants.

R277-511-1. Definitions.

- A. "Board" means the Utah State Board of Education.
B. "National Board Certification" means a current certificate issued by the National Board for Professional Teaching Standards.
C. "Test" means those tests required under R277-510 or others specifically identified that satisfy the highly qualified teacher standards of the No Child Left Behind Act (NCLB), Title IX, Part A, 20 U.S.C. 7801, Section 9101(11).
D. "USOE" means the Utah State Office of Education.

R277-511-2. Authority and Purpose.

- A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board and Section 53A-6-112(7) which directs the Board to adopt rules to administer this program.
B. The purpose of this rule is to provide consistent definitions, to establish a grant program in which school districts and charter schools may choose to participate, and to establish a formula and timelines for distribution of funds to grant recipients.

R277-511-3. Responsibilities of Grant Recipients.

- A. A school district or charter school that applies to participate in the Highly Qualified Teacher Grant Program shall agree to match all grant funds with equal school district or charter school funds.
B. Funds received in this program may be used only consistent with the following:
(1) Reimbursement to teachers for the cost of taking tests to meet federal NCLB highly qualified teacher standards;
(2) Reimbursement to teachers for testing fees and travel expenses specific to taking tests; and
(3) Reimbursement to teachers for out-of-pocket expenses incurred in obtaining National Board Certification including:
(a) expenses for materials, required textbooks or consumables, computer programs or technology, travel, tuition costs, fees, special enrollment/program fees, and
(b) other expenses approved by the USOE and necessary to complete the National Board Certification process.
C. Test preparation courses and other similar planning or preparatory expenses are not reimbursable.

R277-511-4. Distribution of Funds.

- A. Funds shall be available to school districts and charter schools that complete an application and apply for funds based on the following formula:
(1) School districts shall be eligible for \$5000 base awards;
(2) Charter schools shall be eligible for \$2000 base awards;
(3) Funds remaining after school district/charter school base awards are allocated, shall be distributed to all approved applicants based on proportionate enrollment.
(4) All funds shall be expended no later than June 30, 2009.
B. Grant applications, provided by the USOE, shall be available to school districts and charter schools by December 1, 2006.
C. Completed grant applications shall be submitted to the USOE by January 15, 2007.

D. School districts and charter schools shall be notified of funding by February 15, 2007.

E. Grant recipients shall satisfy all requirements for funding under Section 53A-6-112 and R277-511-3.

F. Grant applications shall include an evaluation component which shall be provided to the USOE no later than September 1, 2009 or within 30 days of an earlier termination of the grant program.

G. Grant recipients shall report annually by August 1 for the previous school year the following:

(1) names of teacher participants;

(2) increased number of highly qualified teachers in the district or charter school; and

(3) increased number of teachers with National Board Certification.

KEY: highly qualified, teacher, grants

Date of Enactment or Last Substantive Amendment: 2007

Authorizing, and Implemented or Interpreted Law: Art X Sec 3: 53A-6-112(7)



Education, Administration **R277-512** Online Licensure

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 29306

FILED: 12/01/2006, 16:00

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this new rule is to provide an online educator licensing process. There will be a phased transition from the traditional paper application and renewal process to a web-based process. It is anticipated that this change will result in a streamlined process that reduces participant frustration and increases the overall efficiency of licensing.

SUMMARY OF THE RULE OR CHANGE: The rule provides definitions, procedures, a process for audits, license applicant and license holder responsibilities, license costs, and standards for licensing records.

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. Educator licensing fees are not increasing or decreasing as a result of this rule. The online process will allow for educator licensing transactions to be handled with greater ease and efficiency. There is the expectation of state savings long-term with online licensing.

❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. Educator licensing fees are not increasing or decreasing as a result of this rule. The online

process will allow for educator licensing transactions to be handled with greater ease and efficiency.

❖ OTHER PERSONS: There are no anticipated cost or savings to other persons. Educator licensing fees are not increasing or decreasing as a result of this rule. The online process will increase ease and efficiency of educator licensing transactions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Educator licensing fees are not increasing or decreasing as a result of this rule. The online process will increase ease and efficiency of educator licensing transactions.

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

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 01/15/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/23/2007

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

R277. Education, Administration.

R277-512. Online Licensure.

R277-512-1. Definitions.

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

B. "Computer Aided Credentials of Teachers in Utah System (CACTUS)" means the electronic file maintained on all licensed Utah educators. The file includes information 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.

C. "License" for purposes of this rule means an authorization issued by the Board which permits the holder to serve in a

professional capacity in the public schools consistent with Section 53A-6-103.

D. "License record" means the electronic record of license holder and license applicant personal information and credentials maintained on the CACTUS database at the USOE.

E. "License transaction" means the interactions between a license holder or applicant and the USOE or Board that result in issuance of a license, renewal of a license, or modification of a license or license record by or from the USOE.

F. "Online license transaction" means those license transactions that take place via the process maintained by the USOE contracted provider.

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

H. "Utah Professional Practices Advisory Commission" means a Commission established to assist and advise the Board in matters relating to the professional practices of educators, consistent with Sections 53A-6-301 through 53A-6-307.

R277-512-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests the general control and supervision of the public schools in the Board, by Section 53A-1-402(1)(a) which directs the Board to make rules regarding the certification of educators, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

The purpose of this rule is to provide procedures to ensure that consistency, quality, and fairness are maintained as license transactions change to online processes. Online licensure shall incorporate current and emerging electronic and information technologies to better meet the needs of applicants for new licenses, for current license holders, for recommending institutions, and for school districts and charter schools.

R277-512-3. Procedures.

A. All current Board rules, statutory and Board definitions, and requirements established by statute and Board rules shall apply to all license transactions, regardless of whether the transactions occur online or by other means.

B. Educators may receive electronic or paper verifications of licensure transactions, but these shall not constitute the educator license.

C. CACTUS shall be the final repository of educator information and credentials for school districts, charter schools, and other authorized CACTUS users.

D. Timelines, electronic processes and procedures, payment procedures, formats, and other elements of online licensure transactions shall meet standards of quality, ease of use, and accessibility consistent with those generally found in other wide-spread online processes.

E. No later than July 1, 2008, USOE licensing transactions shall take place electronically.

F. Approved Utah educator preparation institutions, school districts, charter schools, and other CACTUS users shall cooperate with the USOE by using the online tools and procedures provided by the USOE for transmission of information related to licensing.

R277-512-4. Audits.

A. The USOE shall establish an auditing program that provides for adequate review of online licensure transactions. The purpose of audits is to ensure the accuracy, reliability, and completeness of online licensure transactions.

B. All licensure transactions may be subject to audit within one year of the completion of the transaction or at any time for cause. Audits shall be conducted by USOE staff.

C. Individuals designated by school districts and charter schools and approved by the USOE shall have the opportunity to access and review licenses acquired or renewed online to verify licensure of employees.

D. Audits may include a review of license holder documentation to verify the statements made by the license holder as part of the online license transaction. The license holder may be required to submit transcripts, records of participation in professional development activities, supervisor letters or endorsements, and other documentation needed to determine that the assertions of the license holder made during the license transaction were accurate and verifiable.

E. If an audit finds that a license applicant or license holder intentionally provided false, misleading, or otherwise inaccurate information in a license transaction, the audit findings shall be forwarded to the Utah Professional Practices Advisory Commission.

F. A license transaction that was completed on the basis of inaccurate information may be voided at any time with reasonable notice to the license holder.

R277-512-5. License Applicant and License Holder Responsibilities.

A. License applicants and license holders shall supply accurate and complete information as requested in all license transactions.

B. License applicants and license holders shall maintain files and documentation of the information provided in all license transactions for a period of one year after the completion of the license transaction.

C. A license applicant or license holder that supplies inaccurate, misleading, false, or otherwise unreliable information in any license transaction shall be subject to the full range of disciplinary actions that may be applied by the Utah Professional Practices Advisory Commission.

R277-512-6. Licensing Costs.

A. The Utah legislative intent and the intent of the Board is that the licensing process should be automated and should be self-sustaining.

B. The USOE shall determine and assess licensing fees to license applicants that cover the actual and complete costs of licensing.

C. The USOE Licensing Section shall maintain accurate records and documentation of fees assessed and costs of online licensing and any USOE review responsibilities.

R277-512-7. Licensing Records.

A. Records of online licensure transactions shall be recorded in CACTUS.

B. License applicants shall be required to submit a social security number in order to be licensed. Social security numbers shall be carefully protected and only individuals specifically designated by school districts/charter schools and approved by the USOE shall have access to licensing files.

C. License applicants and license holders shall update personal CACTUS information in a timely manner.

D. CACTUS records may be used by the USOE for research and other valid educational purposes.

KEY: online, licensure**Date of Enactment or Last Substantive Amendment: 2007****Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-402(1)(a); 53A-1-401(3)**

◆ ————— ◆

Environmental Quality, Drinking Water

R309-100-4

General

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29304

FILED: 12/01/2006, 15:49

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Drinking Water Board desires that new public drinking water systems created to serve new residential subdivision be sponsored by a "Body Politic".

SUMMARY OF THE RULE OR CHANGE: The proposed amendment adds subsections (f)(i) and (f)(ii) under Subsection R309-100-4(1) requiring that any new public drinking water system categorized as a community water system or a public water system serving water to multiple property owners no matter how the system is categorized shall be under the sponsorship of a body politic as defined in Section R309-110-4; and that existing privately-owned public drinking water systems which propose to expand their service to new subdivisions shall comply with Subsection R309-100-4(f)(i) before the Division will approve any plans and specifications for expanded service facilities or pipelines.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-4-104

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** None--No additional cost or budget will be required for the Division to administered this proposed amendment.

❖ **LOCAL GOVERNMENTS:** Some--Local county commissions will be petitioned by developers of new public drinking water systems constructed to serve potable water to new residential community subdivisions and perhaps some existing privately-owned systems to form a "body politic" for such and there are costs to be considered which may alter the county's tax base somewhat.

❖ **OTHER PERSONS:** Developers of new subdivisions may be moved to seek service from existing public drinking water districts rather than go through the process of petitioning for a body politic, but this should be beneficial to all customers of an existing district by increasing the customer base and therefore, reducing the cost per customer to cover maintenance and service.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Existing privately-owned public water systems will see no impact if they

continue to serve only those lots (vacant or built-out) within their platted subdivision. It is only when they choose to extend outside those boundaries that they will be required to be sponsored by a body politic.

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 01/15/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/22/2007

AUTHORIZED BY: Kevin Brown, Director

—————

R309. Environmental Quality, Drinking Water.
R309-100. Administration: Drinking Water Program.
R309-100-4. General.

These rules shall apply to all public drinking water systems within the State of Utah.

(1) A public drinking water system is a system, either publicly or privately owned, providing water for human consumption and other domestic uses, which:

(a) Has at least 15 service connections, or

(b) Serves an average of at least 25 individuals daily at least 60 days out of the year.

(c) A ratio of 3.13 persons per connection shall be used to calculate the population served unless more accurate information is available. The ratio is based on the statewide average persons per residence in the 2000 census. Therefore, notwithstanding the above stated threshold for the number of service connections, a drinking water system consisting of at least 8 service connections shall be deemed to serve 25 people and consequently be classified as a public drinking water system. This ratio shall only be used to determine whether any particular water system is considered a public water system. Any person or entity may challenge this provision by submitting documentation to the Executive Secretary showing that the drinking water system, upon complete build out, falls below both thresholds listed in (a) and (b) above. All decisions made by the Executive Secretary may be appealed to the Drinking Water Board.

(d) Submetered Properties.

(i) Submetered Properties means a billing process by which a property owner (or association of property owners, in the case of co-ops or condominiums) bills tenants based on metered total water use; the property owner is then responsible for payment of a water bill from a public water system.

(ii) A property owner who installs submeters to track usage of water by tenants on his or her property shall not be subject to these rules solely as a result of taking the administrative act of submetering and billing.

(iii) Owners of submetered properties shall receive all their water from a regulated public water system to qualify under the terms of R309-105-5 for exemption from monitoring requirements, except as to the selling of water.

(iv) This is not intended to exempt systems where the property in question has a large distribution system (piping in excess of 500 feet in length and sized larger than the normal service lateral based on a fixture unit analysis) serves a large population or serves a mixed (commercial/residential) population (e.g. many military installations/facilities or large mobile home parks or P.U.D's) from regulation as a public drinking water system as pertains to notifying the Division of the persons indicated below in (3) or plan review of modifications or changes to their systems (refer to R309-500).

(e) The term public drinking water system includes collection, treatment, storage or distribution facilities under control of the operator and used primarily in connection with the system. Additionally, the term includes collection, pretreatment or storage facilities used primarily in connection with the system but not under such control (see 19-4-102 of the Utah Code Annotated). All public water systems are further categorized into three different types, community water (CWS), non-transient non-community water (NTNCWS), and transient non-community water (TNCWS).

(f) Management and Control of Community and Certain Non-Community Public Drinking Water Systems.

(i) Beginning January 1, 2007 any new public drinking water system categorized as a community water system or a public water system serving water to multiple property owners no matter how the system is categorized shall be under the sponsorship of a body politic as defined in R309-110-4.

(ii) Existing privately owned public drinking water systems which propose to expand their service to new subdivisions shall comply with R309-100-4(1)(f)(i) before the Division will approve any plans and specifications for expanded service facilities or pipelines.

(2) Categories of Public Drinking Water Systems

Public drinking water systems are divided into three categories, as follows:

(a) "Community water system" means a public drinking water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

(b) "Non-transient, non-community water system" means a public water system that is not a community water system and that regularly serves at least 25 of the same nonresident persons over six months per year. Examples of such systems are those serving the same individuals (industrial workers, school children, church members) by means of a separate system.

(c) "Transient non-community water system" (TNCWS) means a non-community public water system that does not serve 25 of the same nonresident persons per day for more than six months per year. Examples of such systems are those, RV park, diner or convenience store where the permanent nonresident staff number less than 25, but the number of people served exceeds 25.

(d) The distinctions between "Community", "Non-transient, non-community", and Transient Non-community water systems are important with respect to monitoring and water quality requirements.

(3) Responsibility

(a) All public drinking water systems must have a person or organization designated as the owner of the system. The name, address and phone number of this person or organization shall be supplied, in writing, to the Board.

(b) The name of the person to be contacted on issues concerning the operation and maintenance of the system shall also be provided, in writing, to the Board.

KEY: drinking water, environmental protection, administrative procedures

Date of Enactment or Last Substantive Amendment: ~~September 13, 2005~~ 2007

Notice of Continuation: May 16, 2005

Authorizing, and Implemented or Interpreted Law: 19-4-104; 63-46b-4



Environmental Quality, Drinking Water R309-110-4 Definitions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29307

FILED: 12/01/2006, 20:46

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to add the term "body politic" to the definitions.

SUMMARY OF THE RULE OR CHANGE: This amendment adds the term "body politic" to the definitions.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-4-104 and 63-46b-4

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** None--There are no costs or savings to the state budget as a result of adding "body politic" to the definitions found in Rule R309-110.

❖ **LOCAL GOVERNMENTS:** None--There are no costs or savings to local governments as a result of adding "body politic" to the definitions found in Rule R309-110.

❖ **OTHER PERSONS:** None--There are no costs or savings to other persons as a result of adding "body politic" to the definitions found in Rule R309-110.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--There are no costs or savings to affected persons as a result of adding "body politic" to the definitions found in Rule R309-110.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The department agrees that the proposed change to this rule will have no impact on existing 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 01/15/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/22/2007

AUTHORIZED BY: Kevin Brown, Director

R309. Environmental Quality, Drinking Water.

R309-110. Administration: Definitions.

R309-110-4. Definitions.

As used in R309:

"Action Level" means the concentration of lead or copper in drinking water tap samples (0.015 mg/l for lead and 1.3 mg/l for copper) which determines, in some cases, the corrosion treatment, public education and lead line replacement requirements that a water system is required to complete.

"AF" means acre foot and is the volume of water required to cover an acre to a depth of one foot (one AF is equivalent to 325,851 gallons).

"Air gap" The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, catch basin, plumbing fixture or other device and the flood level rim of the receptacle. This distance shall be two times the diameter of the effective opening for openings greater than one inch in diameter where walls or obstructions are spaced from the nearest inside edge of the pipe opening a distance greater than three times the diameter of the effective openings for a single wall, or a distance greater than four times the diameter of the effective opening for two intersecting walls. This distance shall be three times the diameter of the effective opening where walls or obstructions are closer than the distances indicated above.

"ANSI/NSF" refers to the American National Standards Institute and NSF International. NSF International has prepared at least two health effect standards dealing with treatment chemicals added to drinking water and system components that will come into contact with drinking water, these being Standard 60 and Standard 61. The American National Standards Institute acts as a certifying agency, and determines which laboratories may certify to these standards.

"Approval" unless indicated otherwise, shall be taken to mean a written statement of acceptance from the Executive Secretary.

"Approved" refers to a rating placed on a system by the Division and means that the public water system is operating in substantial compliance with all the Rules of R309.

"Average Yearly Demand" means the amount of water delivered to consumers by a public water system during a typical year, generally expressed in MG or AF.

"AWWA" refers to the American Water Works Association located at 6666 West Quincy Avenue, Denver, Colorado 80235. Reference within these rules is generally to a particular Standard prepared by AWWA and which has completed the ANSI approval process such as ANSI/AWWA Standard C651-92 (AWWA Standard for Disinfecting Water Mains).

"Backflow" means the undesirable reversal of flow of water or mixtures of water and other liquids, gases, or other substances into the distribution pipes of the potable water supply from any source. Also see backsiphonage, backpressure and cross-connection.

"Backpressure" means the phenomena that occurs when the customer's pressure is higher than the supply pressure. This could be caused by an unprotected cross connection between a drinking water supply and a pressurized irrigation system, a boiler, a pressurized industrial process, elevation differences, air or steam pressure, use of booster pumps or any other source of pressure. Also see backflow, backsiphonage and cross connection.

"Backsiphonage" means a form of backflow due to a reduction in system pressure which causes a subatmospheric or negative pressure to exist at a site or point in the water system. Also see backflow and cross-connection.

"Best Available Technology" (BAT) means the best technology, treatment techniques, or other means which the Executive Secretary finds, after examination under field conditions and not solely under laboratory conditions, are available (taking cost into consideration). For the purposes of setting MCLs for synthetic organic chemicals, any BAT must be at least as effective as granular activated carbon for all these chemicals except vinyl chloride. Central treatment using packed tower aeration is also identified as BAT for synthetic organic chemicals.

"Board" means the Drinking Water Board.

"Body Politic" means the State or its agencies or any political subdivision of the State to include a county, city, town, improvement district, taxing district or any other governmental subdivision or public corporation of the State.

"Breakpoint Chlorination" means addition of chlorine to water until the chlorine demand has been satisfied. At this point, further addition of chlorine will result in a free residual chlorine that is directly proportional to the amount of chlorine added beyond the breakpoint.

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KEY: drinking water, definitions

Date of Enactment or Last Substantive Amendment: ~~September 13, 2005~~ 2007

Notice of Continuation: May 16, 2005

Authorizing, and Implemented or Interpreted Law: 19-4-104; 63-46b-4



Environmental Quality, Water Quality R317-2 Standards of Quality for Waters of the State

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29295

FILED: 11/30/2006, 17:50

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendments are being made to bring Utah's Water Quality Standards into conformance with the Environmental Protection Agency (EPA) guidance, add clarifying language, and update stream classifications based on current information.

SUMMARY OF THE RULE OR CHANGE: The changes: 1) several tributaries to Escalante River, Saleratus Creek, and the State Canal are added to the stream classifications; 2) lakes and reservoirs greater than 10 acres and not listed specifically have a default listing equal to the classification of the stream with which they are associated (instead of 20 acres); 3) maximum E. coli numeric criteria is changed from a regulatory value to a pollution indicator; 4) the total dissolved solids (TDS) numeric criteria are revised to eliminate the irrigation and stockwatering descriptions, eliminate the stockwater value of 2,000 mg/l and retain the 1,200 mg/l as applicable to all Class 4 waters; 5) define laboratory procedures as those approved at required detection levels instead of by actual analytical instrument; 6) remove the adjustment of TDS limits if such adjustment does not impair the designated beneficial use of the receiving water; 7) add Antelope Creek, Indian Canyon Creek, Paria River, Soldier Creek, Coal Creek, Pinnacle Creek, Gordon Creek with site specific TDS criteria; 8) clarify that the total phosphorus indicator in streams and reservoirs is a pollution indicator; 9) clarify the need for quantification of possible human E. coli impact in National Wildlife Refuges and State Water Management Areas; 10) approves the measurement of E. coli using the Quanti-Tray/2000 procedure as a field method; 11) add Diazinon and Nonylphenol as water quality numeric criteria; and 12) clarify mathematical exponential calculations to a more common format.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-5-104

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** There is no anticipated cost or savings to state budget. The proposed amendments will be implemented using existing resources.
- ❖ **LOCAL GOVERNMENTS:** The Division does not anticipate that the proposed amendments will significantly alter how this rule will be applied to local governments. Therefore, no savings or costs to local government are projected.
- ❖ **OTHER PERSONS:** Removal of language allowing adjustment of TDS limits, if such adjustment does not impair the

designated beneficial use of the receiving water, has the potential to impact dischargers. Dischargers will be required to meet effluent limits based strictly upon the numeric water quality standard of the receiving water. In some cases, the discharger may be required to have a more stringent effluent limit than currently allowed. The actual amount of additional cost is a function of case-by-case conditions and cannot be exactly projected. However, increased costs associated with this change are not likely as the rule still allows for TDS standards to be set at background where it can be shown that natural or unalterable conditions prevent its attainment.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Removal of language allowing adjustment of TDS limits if such adjustment does not impair the designated beneficial use of the receiving water has the potential to impact dischargers. Dischargers will be required to meet effluent limits based strictly upon the numeric water quality standard of the receiving water. In some cases, the dischargers may be required to have a more stringent effluent limit than currently allowed. The actual amount of additional cost is a function of case-by-case conditions and cannot be exactly projected. However, increased costs associated with this change are not likely as the rule still allows for TDS standards to be set at background where it can be shown that natural or unalterable conditions prevent its attainment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The majority of the proposed amendments are editorial, provide clarifying language or update/add stream classifications based on current information. No fiscal impacts to businesses from these changes are anticipated. Removal of language allowing adjustment of TDS limits if such adjustment does not impair the designated beneficial use of the receiving water has the potential to impact dischargers. The actual amount of additional cost is a function of case-by-case conditions and cannot be exactly projected. However, increase costs associated with this change are not likely as the rule still allows for TDS standards to be set at background where it can be shown that natural or unalterable conditions prevent its attainment. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
WATER QUALITY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dave Wham at the above address, by phone at 801-538-6052, by FAX at 801-538-6016, or by Internet E-mail at dwham@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 01/31/2007

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 1/10/2007 at 1:00 PM, Southeastern Utah District Health Department, 28 S 100 E, Price, UT and 1/11/2007 at 2:00 PM, Cannon Health Building, 288 N 1460 W, Room 125, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 02/16/2007

AUTHORIZED BY: Walter Baker, Director

R317. Environmental Quality, Water Quality.
R317-2. Standards of Quality for Waters of the State.
R317-2-3. Antidegradation Policy.

3.1 Maintenance of Water Quality

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The ADR will cover the following requirements or determinations:

- 1. Will all Statutory and regulatory requirements be met?

The Executive Secretary will review to determine that there will be achieved all statutory and regulatory requirements for all new and existing point sources and all required cost-effective and reasonable best management practices for nonpoint source control in the area of the discharge. If point sources exist in the area that have not achieved all statutory and regulatory requirements, the Executive Secretary will consider whether schedules of compliance or other plans have been established when evaluating whether compliance has been assured. Generally, the "area of the discharge" will be determined based on the parameters of concern associated with the proposed activity and the portion of the receiving water that would be affected.

- 2. Are there any reasonable less-degrading alternatives?

There will be an evaluation of whether there are any reasonable non-degrading or less degrading alternatives for the proposed activity. This question will be addressed by the Division based on information provided by the project proponent. Control alternatives for a proposed activity will be evaluated in an effort to avoid or minimize degradation of the receiving water. Alternatives to be considered, evaluated, and implemented to the extent feasible, could include pollutant trading, water conservation, water recycling and reuse, land application, total containment, etc.

For proposed UPDES permitted discharges, the following list of alternatives should be considered, evaluated and implemented to the extent feasible:

- (a) innovative or alternative treatment options
- (b) more effective treatment options or higher treatment levels
- (c) connection to other wastewater treatment facilities
- (d) process changes or product or raw material substitution
- ~~(e) seasonal or controlled discharge options to minimize discharging during critical water quality periods~~
- ~~(f)(e) seasonal or controlled discharge options to minimize discharging during critical water quality periods~~
- (g)(f) pollutant trading
- (h)(g) water conservation
- (i)(h) water recycle and reuse
- (j)(i) alternative discharge locations or alternative receiving waters
- (k)(j) land application
- (l)(k) total containment

(~~m~~) improved operation and maintenance of existing treatment systems

(~~n~~) other appropriate alternatives

An option more costly than the cheapest alternative may have to be implemented if a substantial benefit to the stream can be realized. Alternatives would generally be considered feasible where costs are no more than 20% higher than the cost of the discharging alternative, and (for POTWs) where the projected per connection service fees are not greater than 1.4% of MAGHI (median adjusted gross household income), the current affordability criterion now being used by the Water Quality Board in the wastewater revolving loan program. Alternatives within these cost ranges should be carefully considered by the discharger. Where State financing is appropriate, a financial assistance package may be influenced by this evaluation, i.e., a less polluting alternative may receive a more favorable funding arrangement in order to make it a more financially attractive alternative.

It must also be recognized in relationship to evaluating options that would avoid or reduce discharges to the stream, that in some situations it may be more beneficial to leave the water in the stream for instream flow purposes than to remove the discharge to the stream.

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R317-2-4. Colorado River Salinity Standards.

In addition to quality protection afforded by these regulations to waters of the Colorado River and its tributaries, such waters shall be protected also by requirements of "Proposed Water Quality Standards for Salinity including Numeric Criteria and Plan of Implementation for Salinity Control, Colorado River System, June 1975" and a supplement dated August 26, 1975, entitled "Supplement, including Modifications to Proposed Water Quality Standards for Salinity including Numeric Criteria and Plan of Implementation for Salinity Control, Colorado River System, June 1975", as approved by the seven Colorado River Basin States and the U.S. Environmental Protection Agency, as updated by the 1978 Revision and the 1981, 1984, 1987, 1990, 1993, 1996, 1999, ~~and~~ 2002, and 2005 Reviews of the above documents.

R317-2-13. Classification of Waters of the State (see R317-2-6).

- 13.1 Upper Colorado River Basin
 - a. Colorado River Drainage

TABLE

Paria River and tributaries, from state line to headwaters	2B	3C	4
All tributaries to Lake Powell, except as listed below	2B	3B	4
Escalante River and tributaries, from Lake Powell to headwaters except as listed below			
Boulder Creek]	2B	3B	[3C] 4
Escalante River and tributaries, from confluence with Boulder Creek, including Boulder Creek, to headwaters	2B	3A	4]
<u>Boulder Creek and tributaries from confluence with Escalante River to headwaters</u>	<u>2B</u>	<u>3A</u>	<u>4</u>
<u>Calf Creek and tributaries from confluence with Escalante River to headwaters</u>	<u>2B</u>	<u>3A</u>	<u>4</u>
<u>Sand Creek and tributaries from confluence with Escalante River to headwaters</u>	<u>2B</u>	<u>3A</u>	<u>4</u>

<u>Death Hollow Creek and tributaries from confluence with Excalante River to headwaters</u>	2B 3A	4
<u>Pine Creek and tributaries from confluence with Excalante River to headwaters</u>	2B 3A	4
<u>North Creek and tributaries from confluence with Excalante River to headwaters</u>	2B 3A	4
<u>Birch Creek and tributaries from confluence with Excalante River to headwaters</u>	2B 3A	4
Dirty Devil River and tributaries, from Lake Powell to Fremont River	2B 3C	4
Deer Creek and tributaries, from confluence with Boulder Creek to headwaters	2B 3A	4
Fremont River and tributaries, from confluence with Muddy Creek to Capitol Reef National Park, except as listed below	1C 2B 3C	4
Pleasant Creek and tributaries, from confluence with Fremont Rive to East boundary of Capitol Reef National Park	2B 3C	4
Pleasant Creek and tributaries, from East boundary of Capitol Reef National Park to headwaters	1C 2B 3A	
Fremont River and tributaries, through Capitol Reef National Park to headwaters	1C 2B 3A	4
Muddy Creek and tributaries, from confluence with Fremont River to Highway U-10 crossing, except as listed below	2B 3C	4
Quitcupah Creek and Tributaries, from Highway U-10 crossing to headwaters	2B 3A	4
Ivie Creek and tributaries, from Highway U-10 to headwaters	2B 3A	4
Muddy Creek and tributaries, from Highway U-10 crossing to headwaters	1C 2B 3A	4
San Juan River and Tributaries, from Lake Powell to state line except As listed below:	1C 2B 3B	4
Johnson Creek and tributaries, from confluence with Recapture Creek to headwaters	1C 2B 3A	4
Verdure Creek and tributaries, from Highway US-191 crossing to headwaters	2B 3A	4
North Creek and tributaries, from confluence with Montezuma Creek to headwaters	1C 2B 3A	4
South Creek and tributaries, from confluence with Montezuma Creek to headwaters	1C 2B 3A	4
Spring Creek and tributaries, from confluence with Vega Creek to headwaters	2B 3A	4
Montezuma Creek and tributaries, from U.S. Highway 191 to headwaters	1C 2B 3A	4
Colorado River and tributaries, from Lake Powell to state line except as listed below	1C 2B 3B	4

Indian Creek and tributaries, through Newspaper Rock State Park to headwaters	1C 2B 3A	4
Kane Canyon Creek and tributaries, from confluence with Colorado River to headwaters	2B 3C	4
Mill Creek and tributaries, from confluence with Colorado River to headwaters	1C 2B 3A	4
Dolores River and tributaries, from confluence with Colorado River to state line	2B 3C	4
Roc Creek and tributaries, from confluence with Dolores River to headwaters	2B 3A	4
LaSal Creek and tributaries, from state line to headwaters	2B 3A	4
Lion Canyon Creek and tributaries, from state line to headwaters	2B 3A	4
Little Dolores River and tributaries, from confluence with Colorado River to state line	2B 3C	4
Bitter Creek and tributaries, from confluence with Colorado River to headwaters	2B 3C	4

b. Green River Drainage

TABLE

Green River and tributaries, from confluence with Colorado River to state line except as listed below:	1C 2B 3B	4
Thompson Creek and tributaries from Interstate Highway 70 to headwaters	2B 3C	4
San Rafael River and tributaries, from confluence with Green River to confluence with Ferron Creek	2B 3C	4
Ferron Creek and tributaries, from confluence with San Rafael River to Millsite Reservoir	2B 3C	4
Ferron Creek and tributaries, from Millsite Reservoir to headwaters	1C 2B 3A	4
Huntington Creek and tributaries, from confluence with Cottonwood Creek to Highway U-10 crossing	2B 3C	4
Huntington Creek and tributaries, from Highway U-10 crossing to headwaters	1C 2B 3A	4
Cottonwood Creek and tributaries, from confluence with Huntington Creek to Highway U-57 crossing	2B 3C	4
Cottonwood Creek and tributaries, from Highway U-57 crossing to headwaters	1C 2B 3A	4
Cottonwood Canal, Emery County	1C 2B 3E	4
Price River and tributaries, from confluence with Green River to Carbon Canal	2B 3C	4
Diversion at Price City Golf Course	2B 3C	4
Except as listed below		
Grassy Trail Creek and tributaries, from Grassy Trail Creek Reservoir to headwaters	1C 2B 3A	4
Price River and tributaries, from Carbon Canal Diversion at Price City Golf Course to Price City Water Treatment Plant intake.	2B 3A	4

Price River and tributaries, from Price City Water Treatment Plant intake to headwaters	1C	2B 3A	4	Jones Hole Creek and tributaries, from confluence with Green River to headwaters	2B 3A		
Range Creek and tributaries, from confluence with Green River to Range Creek Ranch		2B 3A	4	Diamond Gulch Creek and tributaries, from confluence with Green River to headwaters	2B 3A		4
Range Creek and tributaries, from Range Creek Ranch to headwaters	1C	2B 3A	4	Pot Creek and tributaries, from Crouse Reservoir to headwaters	2B 3A		4
Rock Creek and tributaries, from confluence with Green River to headwaters		2B 3A	4	Green River and tributaries, from Utah-Colorado state line to Flaming Gorge Dam except as listed below:	2B 3A		4
Nine Mile Creek and tributaries, from confluence with Green River to headwaters		2B 3A	4	Sears Creek and tributaries, Daggett County	2B 3A		
Pariette Draw and tributaries, from confluence with Green River to headwaters		2B 3B 3D	4	Tolivers Creek and tributaries, Daggett County	2B 3A		
Willow Creek and tributaries (Uintah County), from confluence with Green River to headwaters		2B 3A	4	Red Creek and tributaries, from confluence with Green River to state line	2B	3C	4
White River and tributaries, from confluence with Green River to state line, except as listed below		2B 3B	4	Jackson Creek and tributaries, Daggett County	2B 3A		
Bitter Creek and Tributaries from White River to Headwaters		2B 3A	4	Davenport Creek and tributaries, Daggett County	2B 3A		
Duchesne River and tributaries, from confluence with Green River to Myton Water Treatment Plant intake, except as listed below		2B 3B	4	Goslin Creek and tributaries, Daggett County	2B 3A		
Uinta River and tributaries, From confluence with Duchesne River to Highway US-40 crossing		2B 3B	4	Gorge Creek and tributaries, Daggett County	2B 3A		
Uinta River and tributaries, From Highway US-4- crossing to headwaters		2B 3A	4	Beaver Creek and tributaries, Daggett County	2B 3A		
Power House Canal from Confluence with Uinta River to headwaters		2B 3A	4	O-Wi-Yu-Kuts Creek and tributaries, County	2B 3A		
Whiterocks River and Canal, From Tridell Water Treatment Plant to Headwaters	1C	2B 3A	4	Tributaries to Flaming Gorge Reservoir, except as listed below	2B 3A		4
Duchesne River and tributaries, from Myton Water Treatment Plant intake to headwaters	1C	2B 3A	4	Birch Spring Draw and tributaries, from Flaming Gorge Reservoir to headwaters	2B	3C	4
Lake Fork River and tributaries, from confluence with Duchesne River to headwaters	1C	2B 3A	4	Spring Creek and tributaries, from Flaming Gorge Reservoir to headwaters	2B 3A		
Lake Fork Canal from Dry Gulch Canal Diversion to Moon Lake	1C	2B	3E 4	All Tributaries of Flaming Gorge Reservoir from Utah-Wyoming state line to headwaters	2B 3A		4
Dry Gulch Canal, from Myton Water Treatment Plant to Lake Fork Canal	1C	2B	3E 4				
Ashley Creek and tributaries, from confluence with Green River to Steinaker diversion		2B 3B	4				
Ashley Creek and tributaries, from Steinaker diversion to headwaters	1C	2B 3A	4				
Big Brush Creek and tributaries, from confluence with Green River to Tyzack (Red Fleet) Dam		2B 3B	4				
Big Brush Creek and tributaries, from Tyzack (Red Fleet) Dam to headwaters	1C	2B 3A	4				

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13.3 Bear River Basin

a. Bear River Drainage

TABLE

Bear River and tributaries, from Great Salt Lake to Utah-Idaho border, except as listed below:	2B	3B	3D	4
Perry Canyon Creek from U.S. Forest boundary to headwaters	2B 3A			4
Box Elder Creek from confluence with Black Slough to Brigham City Reservoir (the Mayor's Pond)	2B	3C		4
Box Elder Creek, from Brigham City Reservoir (the Mayor's Pond) to headwaters	2B 3A			4
Malad River and tributaries, from confluence with Bear River to state line	2B	3C		
Little Bear River and tributaries, from Cutler Reservoir to headwaters	2B 3A		3D	4
Logan River and tributaries, from Cutler Reservoir to headwaters	2B 3A		3D	4

Blacksmith Fork and tributaries, from confluence with Logan River to headwaters	2B 3A	4
Newton Creek and tributaries, from Cutler Reservoir to Newton Reservoir	2B 3A	4
Clarkston Creek and tributaries, from Newton Reservoir to headwaters	2B 3A	4
Birch Creek and tributaries, from confluence with Clarkston Creek to headwaters	2B 3A	4
Summit Creek and tributaries, from confluence with Bear River to headwaters	2B 3A	4
Cub River and tributaries, from confluence with Bear River to state line, except as listed below:	2B 3B	4
High Creek and tributaries, from confluence with Cub River to headwaters	2B 3A	4
All tributaries to Bear Lake from Bear Lake to headwaters, except as listed below	2B 3A	4
Swan Springs tributary to Swan Creek	1C 2B 3A	
Bear River and tributaries in Rich County, <u>except as listed Below</u>	2B 3A	4
<u>Saleratus Creek, from confluence With Bear River to Deseret Ranch High Ditch Diversion</u>	2B 3C 3D	4
<u>Saleratus Creek from Deseret Ranch High Ditch Diversion to Headwaters</u>	2B 3A	4
Bear River and tributaries, from Utah-Wyoming state line to headwaters (Summit County)	2B 3A	4
Mill Creek and tributaries, from state line to headwaters (Summit County)	2B 3A	4

Red Butte Creek and tributaries, from Red Butte Reservoir to headwaters	1C 2B 3A
Emigration Creek and tributaries, from Foothill Boulevard in Salt Lake City to headwaters	2B 3A
Parley's Creek and tributaries, from 1300 East in Salt Lake City to Mountain Dell Reservoir to headwaters	1C 2B 3A
Parley's Creek and tributaries, from Mountain Dell Reservoir to headwaters	1C 2B 3A
Mill Creek (Salt Lake County) from confluence with Jordan River to Interstate Highway 15	2B 3C 4
Mill Creek (Salt Lake County) and tributaries from Interstate Highway 15 to headwaters	2B 3A 4
Big Cottonwood Creek and tributaries, from confluence with Jordan River to Big Cottonwood Water Treatment Plant	2B 3A 4
Big Cottonwood Creek and tributaries, from Big Cottonwood Water Treatment Plant to headwaters	1C 2B 3A
Deaf Smith Canyon Creek and tributaries	1C 2B 3A 4
Little Cottonwood Creek and tributaries, from confluence with Jordan River to Metropolitan Water Treatment Plant	2B 3A 4
Little Cottonwood Creek and tributaries, from Metropolitan Water Treatment Plant to headwaters	1C 2B 3A
Bell Canyon Creek and tributaries, from lower Bell's Canyon reservoir to headwaters	1C 2B 3A
Little Willow Creek and tributaries, from Draper Irrigation Company diversion to headwaters	1C 2B 3A
Big Willow Creek and tributaries, from Draper Irrigation Company diversion to headwaters	1C 2B 3A
South Fork of Dry Creek and tributaries, from Draper Irrigation Company diversion to headwaters	1C 2B 3A
All permanent streams on east slope of Oquirrh Mountains (Coon, Barney's, Bingham, Butterfield, and Rose Creeks)	2B 3D 4
Kersey Creek from confluence of C-7 Ditch to headwaters	2B 3D

*1 Site specific criteria for dissolved oxygen. See Table 2.14.5.

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13.5 Utah Lake-Jordan River Basin
a. Jordan River Drainage

TABLE

Jordan River, from Farmington Bay to North Temple Street, Salt Lake City	2B 3B *(1) 3D	4
<u>State Canal, from Farmington Bay to confluence with the Jordan River</u>	2B 3B *(1) 3D	4
Jordan River, from North Temple Street in Salt Lake City to confluence with Little Cottonwood Creek	2B 3B *(1)	4
Surplus Canal from Great Salt Lake to the diversion from the Jordan River	2B 3B *(1) 3D	4
Jordan River from confluence with Little Cottonwood Creek to Narrows Diversion	2B 3A	4
Jordan River, from Narrows Diversion to Utah Lake	1C 2B 3B	4
City Creek, from Memory Park in Salt Lake City to City Creek Water Treatment Plant	2B 3A	
City Creek, from City Creek Water Treatment Plant to headwaters	1C 2B 3A	

13.12 Lakes and Reservoirs[~~(20 Acres or Larger)~~]. All lakes and any reservoirs greater than 10 acres not listed in 13.12 are assigned by default to the classification of the stream with which they are associated.

R317-2-14. Numeric Criteria.

TABLE 2.14.1
 NUMERIC CRITERIA FOR DOMESTIC,
 RECREATION, AND AGRICULTURAL USES

Parameter	Domestic Recreation and			Agri- culture 4
	Source 1C	Aesthetics 2A	2B	
BACTERIOLOGICAL (30-DAY GEOMETRIC MEAN) (NO.)/100 ML (7)				
E. coli	206	126	206	
E. coli	940	576	940	
PHYSICAL				
pH (RANGE)	6.5-9.0	6.5-9.0	6.5-9.0	6.5-9.0
Turbidity Increase (NTU)		10	10	
METALS (DISSOLVED, MAXIMUM MG/L) (2)				
Arsenic	0.01			0.1
Barium	1.0			
Beryllium	<0.004			
Cadmium	0.01			0.01
Chromium	0.05			0.10
Copper				0.2
Lead	0.015			0.1
Mercury	0.002			
Selenium	0.05			0.05
Silver	0.05			
INORGANICS (MAXIMUM MG/L)				
Bromate	0.01			
Boron				0.75
Chlorite	<1.0			
Fluoride (3)	1.4-2.4			
Nitrates as N	10			
Total Dissolved Solids (4)	[Irrigation] [Stock Watering]			1200 2000
RADIOLOGICAL (MAXIMUM pCi/L)				
Gross Alpha	15			15
Gross Beta	4 mrem/yr			
Radium 226, 228 (Combined)	5			
Strontium 90	8			
Tritium	20000			
Uranium	30			
ORGANICS (MAXIMUM UG/L)				
Chlorophenoxy Herbicides				
2,4-D	70			
2,4,5-TP	10			
Methoxychlor	40			
POLLUTION INDICATORS (5)				
BOD (MG/L)	5	5	5	
Nitrate as N (MG/L)	4	4		
Total Phosphorus as P (MG/L) (6)		0.05	0.05	
BACTERIOLOGICAL MAXIMUM (No./100 ml)				
E. coli	940	576	940	

FOOTNOTES:
 (1) Reserved
 (2) The dissolved metals method involves filtration of the sample in the field, acidification of the sample in the field, no digestion process in the laboratory, and analysis by [atomic absorption or inductively coupled plasma (ICP) spectrophotometry] approved laboratory methods for the required detection levels.
 (3) Maximum concentration varies according to the daily maximum mean air temperature.

TEMP (C) MG/L
 12.0 2.4
 12.1-14.6 2.2
 14.7-17.6 2.0
 17.7-21.4 1.8
 21.5-26.2 1.6
 26.3-32.5 1.4

(4) ~~Total dissolved solids (TDS) limits may be adjusted if such adjustment does not impair the designated beneficial use of the receiving water.~~ The total dissolved solids (TDS) standards shall be at background where it can be shown that natural or un-alterable conditions prevent its attainment. In such cases rulemaking will be undertaken to modify the standard accordingly. ~~[Site Specific Standards for Total Dissolved Solids (TDS)]~~
SITE SPECIFIC STANDARDS FOR TOTAL DISSOLVED SOLIDS (TDS)
Antelope Creek and tributaries from confluence with Duchesne River to headwaters: 2,655 mg/l;
 Castle Creek from confluence with the Colorado River to Seventh Day Adventist Diversion: 1,800 mg/l;
 Cottonwood Creek from the confluence with Huntington Creek to I-57: 3,500 mg/l;
 Ferron Creek from the confluence with San Rafael River to Highway 10: 3,500 mg/l;
~~Gordon Creek from the confluence with Price River to headwaters: 3,800 mg/l;~~
 Huntington Creek and tributaries from the confluence with Cottonwood Creek to U-10: 4,800 mg/l;
Indian Canyon Creek and tributaries from confluence with Duchesne River to headwaters: 2,180 mg/l;
 Ivie Creek and its tributaries from the confluence with Muddy Creek to U-10: 2,600 mg/l;
 Lost Creek from the confluence with Sevier River to U.S. Forest Service Boundary: 4,600 mg/l;
 Muddy Creek and tributaries from the confluence with ~~Quitcupah~~ Ivie Creek to U-10: 2,600 mg/l;
 Muddy Creek from confluence with Fremont River to confluence with ~~Quitcupah~~ Ivie Creek: 5,800 mg/l;
 North Creek from the confluence with Virgin River to headwaters: 2,035 mg/l;
 Onion Creek from the confluence with Colorado River to road crossing above Stinking Springs: 3000 mg/l;
 Brine Creek-Petersen Creek, from the confluence with the Sevier River to U-119 Crossing: 9,700 mg/l;
Paria River from the Utah/Arizona border to confluence of Cottonwood Wash: 1,500 mg/l;
Paria River from confluence of rock Springs Creek to headwaters: 2,500 mg/l;
~~Pinnacle Creek from the confluence with Price River to headwaters: 3,800 mg/l;~~
Price River and tributaries up to 7,500 feet in elevation from the confluence with Green River to confluence with Soldier Creek: 3,000 mg/l;
 Price River and tributaries up to 7,500 feet in elevation from the confluence with ~~Coal~~ Soldier Creek to Carbon Canal Diversion: 1,700 mg/l [+], with the following exceptions:
Soldier Creek and tributaries to 7,200 feet in elevation from confluence with Price River: 1,700 mg/l;
Coal Creek and tributaries to 7,200 feet in elevation from confluence with Price River: 1,700 mg/l;
Pinnacle Creek and tributaries to 7,500 feet in elevation from the confluence with Price River: 3,800 mg/l;
 Gordon Creek and tributaries to 7,500 feet in elevation from the confluence with Price River: 3,800 mg/l;
~~[Price River and tributaries from the confluence with Green River to confluence with Soldier Creek: 3,000 mg/l;]~~
 Quitcupah Creek from the confluence with Ivie Creek to U-10: 2,600 mg/l;
 Rock Canyon Creek from the confluence with Cottonwood Creek to headwaters: 3,500 mg/l;
 San Pitch River from below Gunnison Reservoir to the Sevier River: 2,400 mg/l;
 San Rafael River from the confluence with the Green River to Buckhorn Crossing: 4,100 mg/l;
 San Rafael River from the Buckhorn Crossing to the confluence with Huntington Creek and Cottonwood Creek: 3,500 mg/l;
 Sevier River between Gunnison Bend Reservoir and DMAD Reservoir: 1,725 mg/l;

Sevier River from Gunnison Bend Reservoir to Clear Lake: 3,370 mg/l;
 Virgin River from the Utah/Arizona border to Pah Tempe Springs:
 2,360 mg/l

(5) Investigations should be conducted to develop more information where these pollution indicator levels are exceeded.

(6) Total Phosphorus as P (mg/l) as a pollution indicator for lakes and reservoirs shall be 0.025.

(7) Where the criteria are exceeded and there is a reasonable basis for concluding that ~~the indicator bacteria~~ E. coli are primarily from natural sources (mammalian wildlife and birds), e.g., in National Wildlife Refuges and State Waterfowl Management Areas, the criteria may be considered attained provided the density attributable to human sources is less than the geometric mean criterion. Exceedences of ~~bacteriological~~ E. coli numeric criteria from nonhuman nonpoint sources will generally be addressed through appropriate Federal, State, and local nonpoint source programs. Measurement of E. coli using the Quanti-Tray/2000 procedure is approved as a field analysis. Other EPA approved methods may also be used.

TABLE 2.14.2
 NUMERIC CRITERIA FOR AQUATIC WILDLIFE

Parameter	Aquatic Wildlife			
	3A	3B	3C	3D
PHYSICAL				
Total Dissolved Gases	(1)	(1)		
Minimum Dissolved Oxygen (MG/L) (2)				
30 Day Average	6.5	5.5	5.0	5.0
7 Day Average	9.5/5.0	6.0/4.0		
1 Day Average	8.0/4.0	5.0/3.0	3.0	3.0
Max. Temperature(C) (3)	20	27	27	
Max. Temperature Change (C) (3)	2	4	4	
pH (Range)	6.5-9.0	6.5-9.0	6.5-9.0	6.5-9.0
Turbidity Increase (NTU)	10	10	15	15
METALS (4) (DISSOLVED, UG/L) (5)				
Aluminum				
4 Day Average (6)	87	87	87	87
1 Hour Average	750	750	750	750
Arsenic (Trivalent)				
4 Day Average	150	150	150	150
1 Hour Average	340	340	340	340
Cadmium (7)				
4 Day Average	0.25	0.25	0.25	0.25
1 Hour Average	2.0	2.0	2.0	2.0
Chromium (Hexavalent)				
4 Day Average	11	11	11	11
1 Hour Average	16	16	16	16
Chromium (Trivalent) (7)				
4 Day Average	74	74	74	74
1 Hour Average	570	570	570	570
Copper (7)				
4 Day Average	9	9	9	9
1 Hour Average	13	13	13	13
Cyanide (Free)				
4 Day Average	5.2	5.2	5.2	
1 Hour Average	22	22	22	22
Iron (Maximum)				
4 Day Average	1000	1000	1000	1000
Lead (7)				
4 Day Average	2.5	2.5	2.5	2.5
1 Hour Average	65	65	65	65
Mercury				
4 Day Average	0.012	0.012	0.012	0.012
1 Hour Average	2.4	2.4	2.4	2.4
Nickel (7)				
4 Day Average	52	52	52	52
1 Hour Average	468	468	468	468
Selenium				
4 Day Average	4.6	4.6	4.6	4.6
1 Hour Average	18.4	18.4	18.4	18.4

Silver				
1 Hour Average (7)	1.6	1.6	1.6	1.6
Zinc (7)				
4 Day Average	120	120	120	120
1 Hour Average	120	120	120	120
INORGANICS (MG/L) (4)				
Total Ammonia as N (9)				
30 Day Average	(9a)	(9a)		
1 Hour Average	(9b)	(9b)	(9b)	(9b)
Chlorine (Total Residual)				
4 Day Average	0.011	0.011	0.011	0.011
1 Hour Average	0.019	0.019	0.019	0.019
Hydrogen Sulfide (13) (Undissociated, Max. UG/L)				
Phenol (Maximum)	0.01	0.01	0.01	0.01
RADIOLOGICAL (MAXIMUM pCi/L)				
Gross Alpha (10)				
ORGANICS (UG/L) (4)	15	15	15	15
Aldrin				
1 Hour Average	1.5	1.5	1.5	1.5
Chlordane				
4 Day Average	0.0043	0.0043	0.0043	0.0043
1 Hour Average	1.2	1.2	1.2	1.2
4,4' -DDT				
4 Day Average	0.0010	0.0010	0.0010	0.0010
1 Hour Average	0.55	0.55	0.55	0.55
Diazinon				
4 Day Average	0.17	0.17	0.17	0.17
1 Hour Average	0.17	0.17	0.17	0.17
Dieldrin				
4 Day Average	0.056	0.056	0.056	0.056
1 Hour Average	0.24	0.24	0.24	0.24
Alpha-Endosulfan				
4 Day Average	0.056	0.056	0.056	0.056
1 Hour Average	0.11	0.11	0.11	0.11
beta-Endosulfan				
4 Day Average	0.056	0.056	0.056	0.056
1 Day Average	0.11	0.11	0.11	0.11
Endrin				
4 Day Average	0.036	0.036	0.036	0.036
1 Hour Average	0.086	0.086	0.086	0.086
Heptachlor				
4 Day Average	0.0038	0.0038	0.0038	0.0038
1 Hour Average	0.26	0.26	0.26	0.26
Heptachlor epoxide				
4 Day Average	0.0038	0.0038	0.0038	0.0038
1 Hour Average	0.26	0.26	0.26	0.26
Hexachlorocyclohexane (Lindane)				
4 Day Average	0.08	0.08	0.08	0.08
1 Hour Average	1.0	1.0	1.0	1.0
Methoxychlor (Maximum)				
Mirex (Maximum)	0.001	0.001	0.001	0.001
Nonylphenol				
4 Day Average	6.6	6.6	6.6	6.6
1 Hour Average	28.0	28.0	28.0	28.0
Parathion				
4 Day Average	0.013	0.013	0.013	0.013
1 Hour Average	0.066	0.066	0.066	0.066
PCB's				
4 Day Average	0.014	0.014	0.014	0.014
Pentachlorophenol (11)				
4 Day Average	15	15	15	15
1 Hour Average	19	19	19	19
Toxaphene				
4 Day Average	0.0002	0.0002	0.0002	0.0002
1 Hour Average	0.73	0.73	0.73	0.73
POLLUTION INDICATORS (11)				
Gross Beta (pCi/L)				
BOD (MG/L)	5	5	5	5
Nitrate as N (MG/L)	4	4	4	4

Total Phosphorus as P
(MG/L) (12) 0.05 0.05

FOOTNOTES:

- (1) Not to exceed 110% of saturation.
- (2) These limits are not applicable to lower water levels in deep impoundments. First number in column is for when early life stages are present, second number is for when all other life stages present.
- (3) The temperature standard shall be at background where it can be shown that natural or un-alterable conditions prevent its attainment. In such cases rulemaking will be undertaken to modify the standard accordingly.
Site Specific Standards for Temperature
Ken's Lake: From June 1st - September 20th, 27 degrees C.
- (4) Where criteria are listed as 4-day average and 1-hour average concentrations, these concentrations should not be exceeded more often than once every three years on the average.
- (5) The dissolved metals method involves filtration of the sample in the field, acidification of the sample in the field, no digestion process in the laboratory, and analysis by [atomic absorption spectrophotometry or inductively coupled plasma (ICP)] EPA approved laboratory methods for the required detection levels.
- (6) The criterion for aluminum will be implemented as follows: Where the pH is equal to or greater than 7.0 and the hardness is equal to or greater than 50 ppm as CaCO3 in the receiving water after mixing, the 87 ug/l chronic criterion (expressed as total recoverable) will not apply, and aluminum will be regulated based on compliance with the 750 ug/l acute aluminum criterion (expressed as total recoverable).
- (7) Hardness dependent criteria. 100 mg/l used. Conversion factors for ratio of total recoverable metals to dissolved metals must also be applied. In waters with a hardness greater than 400 mg/l as CaCO3, calculations will assume a hardness of 400 mg/l as CaCO3. See Table 2.14.3 for complete equations for hardness and conversion factors.
- (8) Reserved
- (9) The following equations are used to calculate Ammonia criteria concentrations:
(9a) The thirty-day average concentration of total ammonia nitrogen (in mg/l as N) does not exceed, more than once every three years on the average, the chronic criterion calculated using the following equations.
Fish Early Life Stages are Present:
mg/l as N (Chronic) = $((0.0577/1+10^{0.688-pH}) + (2.487/1+10^{pH-7.688})) * \text{MIN}(2.85, 1.45*10^{0.028*(25-1)})$
Fish Early Life Stages are Absent:
mg/l as N (Chronic) = $((0.0577/1+10^{0.688-pH}) + (2.487/1+10^{pH-7.688})) * 1.45*10^{0.028*(25-\text{MAX}(1,7))}$
(9b) The one-hour average concentration of total ammonia nitrogen (in mg/l as N) does not exceed, more than once every three years on the average the acute criterion calculated using the following equations.
Class 3A:
mg/l as N (Acute) = $(0.275/(1+10^{7.204-pH})) + (39.0/1+10^{pH-7.204})$
Class 3B, 3C, 3D:
mg/l as N (Acute) = $0.411/(1+10^{7.204-pH}) + (58.4/(1+10^{pH-7.204}))$
In addition, the highest four-day average within the 30-day period should not exceed 2.5 times the chronic criterion. The "Fish Early Life Stages are Present" 30-day average total ammonia criterion will be applied by default unless it is determined by the Division, on a site-specific basis, that it is appropriate to apply the "Fish Early Life Stages are Absent" 30-day average criterion for all or some portion of the year. At a minimum, the "Fish Early Life Stages are Present" criterion will apply from the beginning of spawning through the end of the early life stages. Early life stages include the pre-hatch embryonic stage, the post-hatch free embryo or yolk-sac fry stage, and the larval stage for the species of fish expected to occur at the site. The division will consult with the Division of Wildlife Resources in making such determinations. The Division will maintain information regarding the waterbodies and time periods where application of the "Early Life Stages are Absent" criterion is determined to be appropriate.
- (10) Investigation should be conducted to develop more

information where these levels are exceeded.

(11) pH dependent criteria. pH 7.8 used in table. See Table 2.14.4 for equation.

(12) Total Phosphorus as P (mg/l) as a pollution indicator for lakes and reservoirs shall be 0.025.

(13) Formula to convert dissolved sulfide to un-dissociated hydrogen sulfide is: $H_2S = \text{Dissolved Sulfide} * e^{(-1.92 + pH) + 12.05}$

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TABLE 2.14.3a
EQUATIONS TO CONVERT TOTAL RECOVERABLE METALS STANDARD WITH HARDNESS (1) DEPENDENCE TO DISSOLVED METALS STANDARD BY APPLICATION OF A CONVERSION FACTOR (CF).

Parameter	4-Day Average (Chronic) Concentration (UG/L)
CADMIUM	$CF * e^{(0.7409 * \ln(\text{hardness})) - 4.719}$ $CF = 1.101672 * (\ln(\text{hardness})) (0.041838)$
CHROMIUM III	$CF * e^{(0.8190 * \ln(\text{hardness})) + 0.6848}$ $CF = 0.860$
COPPER	$CF * e^{(0.8545 * \ln(\text{hardness})) - 1.702}$ $CF = 0.960$
LEAD	$CF * e^{(1.273 * \ln(\text{hardness})) - 4.705}$ $CF = 1.46203 * (\ln(\text{hardness})) (0.145712)$
NICKEL	$CF * e^{(0.8460 * \ln(\text{hardness})) + 0.0584}$ $CF = 0.997$
SILVER	N/A
ZINC	$CF * e^{(0.8473 * \ln(\text{hardness})) + 0.884}$ $CF = 0.986$
CADMIUM	$CF * \text{EXP}(0.7409 * \ln(\text{hardness}) - 4.719)$ $CF = 1.101672 - \ln(\text{hardness}) * 0.041838$
CHROMIUM III	$CF * \text{EXP}(0.8190 * \ln(\text{hardness}) + 0.6848)$ $CF = 0.860$
COPPER	$CF * \text{EXP}(0.8545 * \ln(\text{hardness}) - 1.702)$ $CF = 0.960$
LEAD	$CF * \text{EXP}(1.273 * \ln(\text{hardness}) - 4.705)$ $CF = 1.46203 - \ln(\text{hardness}) * 0.145712$
NICKEL	$CF * \text{EXP}(0.8460 * \ln(\text{hardness}) + 0.0584)$ $CF = 0.997$
SILVER	N/A
ZINC	$CF * \text{EXP}(0.8473 * \ln(\text{hardness}) + 0.884)$ $CF = 0.986$

TABLE 2.14.3b
EQUATIONS TO CONVERT TOTAL RECOVERABLE METALS STANDARD WITH HARDNESS (1) DEPENDENCE TO DISSOLVED METALS STANDARD BY APPLICATION OF A CONVERSION FACTOR (CF).

Parameter	1-Hour Average (Acute) Concentration (UG/L)
CADMIUM	$CF * e^{(1.0166 * \ln(\text{hardness})) - 3.924}$ $CF = 1.136672 * (\ln(\text{hardness})) (0.041838)$
CHROMIUM (III)	$CF * e^{(0.8190 * \ln(\text{hardness})) + 3.7256}$ $CF = 0.316$
COPPER	$CF * e^{(0.9422 * \ln(\text{hardness})) - 1.700}$ $CF = 0.960$
LEAD	$CF * e^{(1.273 * \ln(\text{hardness})) - 1.460}$ $CF = 1.46203 * (\ln(\text{hardness})) (0.145712)$
NICKEL	$CF * e^{(0.8460 * \ln(\text{hardness})) + 2.255}$ $CF = 0.998$
SILVER	$CF * e^{(1.72 * \ln(\text{hardness})) - 6.59}$ $CF = 0.85$
ZINC	$CF * e^{(0.8473 * \ln(\text{hardness})) + 0.884}$ $CF = 0.978$
CADMIUM	$CF * \text{EXP}(1.0166 * \ln(\text{hardness}) - 3.924)$ $CF = 1.136672 - (\ln(\text{hardness})) * 0.041838$
CHROMIUM (III)	$CF * \text{EXP}(0.8190 * \ln(\text{hardness}) + 3.7256)$ $CF = 0.316$
COPPER	$CF * \text{EXP}(0.9422 * \ln(\text{hardness}) - 1.700)$ $CF = 0.960$

<u>LEAD</u>	<u>CF * EXP(1.273 * ln(hardness) - 1.460)</u>
	<u>CF = 1.46203 - ln(hardness) * 0.145712</u>
<u>NICKEL</u>	<u>CF * EXP(0.8460 * ln(hardness) + 2.255)</u>
	<u>CF = 0.998</u>
<u>SILVER</u>	<u>CF * EXP(1.72 * ln(hardness) - 6.59)</u>
	<u>CF = 0.85</u>
<u>ZINC</u>	<u>CF * EXP(0.8473 * ln(hardness) + 0.884)</u>
	<u>CF = 0.978</u>

FOOTNOTE:

(1) Hardness as mg/l CaCO₃.

TABLE 2.14.4
EQUATIONS FOR PENTACHLOROPHENOL
(pH DEPENDENT)

4-Day Average (Chronic) Concentration (UG/L)	1-Hour Average (Acute) Concentration (UG/L)
$[e^{(1.005 * pH) - 5.134}]$	$[e^{(1.055 * pH) - 4.869}]$
<u>EXP((1.005 * pH) - 5.134)</u>	<u>EXP((1.055 * pH) - 4.869)</u>

TABLE 2.14.5
SITE SPECIFIC CRITERIA FOR
DISSOLVED OXYGEN FOR JORDAN RIVER,
[AND] SURPLUS CANAL [SEGMENTS], AND STATE CANAL
(SEE SECTION 2.13)

DISSOLVED OXYGEN:

May-July	
7-day average	5.5 mg/l
30-day average	5.5 mg/l
Instantaneous minimum	4.5 mg/l
August-April	
30-day average	5.5 mg/l
Instantaneous minimum	4.0 mg/l

TABLE 2.14.6
LIST OF HUMAN HEALTH CRITERIA (CONSUMPTION)

Chemical Parameter

	Water and Organism	Organism Only
	(ug/L) Class 1C	(ug/L) Class 3A,3B,3C,3D
Antimony	5.6	640
Arsenic	A	A
Beryllium	C	C
Cadmium	C	C
Chromium III	C	C
Chromium VI	C	C
Copper	1,300	
Lead	C	C
Mercury	A	A
Nickel	100 MCL	4,600
Selenium	A	4,200
Silver		
Thallium	0.24	0.47
Zinc	7,400	26,000
Cyanide	140	140
Asbestos	7 million Fibers/L	
2,3,7,8-TCDD Dioxin	5.0 E -9 B	5.1 E-9 B
Acrolein	190	290
Acrylonitrile	0.051 B	0.25 B
Alachlor	2.0	
Atrazine	3.0	
Benzene	2.2 B	51 B
Bromoform	4.3 B	140 B
Carbofuran	40	
Carbon Tetrachloride	0.23 B	1.6 B
Chlorobenzene	100 MCL	1,600
Chlorodibromomethane	0.40 B	13 B
Chloroethane		
2-Chloroethylvinyl Ether		

Chloroform	5.7 B	470 B
Dalapon	200	
Di (2ethylhexyl) adipate	400	
Dibromochloropropane	0.2	
Dichlorobromomethane	0.55 B	17 B
1,1-Dichloroethane		
1,2-Dichloroethane	0.38 B	37 B
1,1-Dichloroethylene	7 MCL	7,100
Dichloroethylene (cis-1,2)	70	
Dinoseb	7.0	
Diquat	20	
1,2-Dichloropropane	0.50 B	15 B
1,3-Dichloropropene	0.34	21
Endothall	100	
Ethylbenzene	530	2,100
Ethylene Dibromide	0.05	
Glyphosate	700	
Haloacetic acids	60 E	
Methyl Bromide	47	1,500
Methyl Chloride	F	F
Methylene Chloride	4.6 B	590 B
Ocaml (vidate)	200	
Picloram	500	
Simazine	4	
Styrene	100	
1,1,2,2-Tetrachloroethane	0.17 B	4.0 B
Tetrachloroethylene	0.69 B	3.3 B
Toluene	1,000	15,000
1,2 -Trans-Dichloroethylene	100 MCL	10,000
1,1,1-Trichloroethane	200 MCL	F
1,1,2-Trichloroethane	0.59 B	16 B
Trichloroethylene	2.5 B	30 B
Vinyl Chloride	0.025	2.4
Xylenes	10,000	
2-Chlorophenol	81	150
2,4-Dichlorophenol	77	290[2,4]
2,4-Dimethylphenol	380	850
2-Methyl-4,6-Dinitrophenol	13.0	280
2,4-Dinitrophenol	69	5,300
2-Nitrophenol		
4-Nitrophenol		
3-Methyl-4-Chlorophenol		
Penetachlorophenol	0.27 B	3.0 B
Phenol	21,000	1,700,000
2,4,6-Trichlorophenol	1.4 B	2.4 B
Acenaphthene	670	990
Acenaphthylene		
Anthracene	8,300	40,000
Benzidine	0.000086 B	0.00020 B
BenzoAnthracene	0.0038 B	0.018 B
BenzoaPyrene	0.0038 B	0.018 B
BenzobFluoranthene	0.0038 B	0.018 B
BenzoghiPerylene		
BenzokFluoranthene	0.0038 B	0.018 B
Bis2-ChloroethoxyMethane		
Bis2-ChloroethylEther	0.030 B	0.53 B
Bis2-ChloroisopropylEther	1,400	65,000
Bis2-EthylhexylPhthalate	1.2 B	2.2 B
4-Bromophenyl Phenyl Ether		
Butylbenzyl Phthalate	1,500	1,900
2-Chloronaphthalene	1,000	1,600
4-Chlorophenyl Phenyl Ether		
Chrysene	0.0038 B	0.018 B
Diazinon	0.017	0.017
Dibenzoa, hAnthracene	0.0038 B	0.018 B
1,2-Dichlorobenzene	420	1,300
1,3-Dichlorobenzene	320	960
1,4-Dichlorobenzene	63	190
3,3-Dichlorobenzidine	0.021 B	0.028 B
Diethyl Phthalate	17,000	44,000
Dimethyl Phthalate	270,000	1,100,000
Di-n-Butyl Phthalate	2,000	4,500
2,4-Dinitrotoluene	0.11 B	3.4 B
2,6-Dinitrotoluene		
Di-n-Octyl Phthalate		
1,2-Diphenylhydrazine	0.036 B	0.20 B
Fluoranthene	130	140

Fluorene	1,100	5,300
Hexachlorobenzene	0.00028 B	0.00029 B
Hexachlorobutenedine	0.44 B	18 B
Hexachloroethane	1.4 B	3.3 B
Hexachlorocyclopentadiene	40	1,100
Ideno 1,2,3-cdPyrene	0.0038 B	0.018 B
Isophorone	35 B	960 B
Naphthalene		
Nitrobenzene	17	690
N-Nitrosodimethylamine	0.00069 B	3.0 B
N-Nitrosodi-n-Propylamine	0.005 B	0.51 B
N-Nitrosodiphenylamine	3.3 B	6.0 B
Phenanthrene		
Pyrene	830	4,000
1,2,4-Trichlorobenzene	35	70
Aldrin	0.000049 B	0.000050 B
alpha-BHC	0.0026 B	0.0049 B
beta-BHC	0.0091 B	0.017 B
gamma-BHC (Lindane)	0.2 MCL	1.8
delta-BHC		
Chlordane	0.00080 B	0.00081 B
4,4-DDT	0.00022 B	0.00022 B
4,4-DDE	0.00022 B	0.00022 B
4,4-DDD	0.00031 B	0.00031 B
Dieldrin	0.000052 B	0.000054 B
alpha-Endosulfan	62	89
beta-Endosulfan	62	89
Endosulfan Sulfate	62	89
Endrin	0.059	0.060
Endrin Aldehyde	0.29	0.30
Heptachlor	0.000079 B	0.000079 B
Heptachlor Epoxide	0.000039 B	0.000039 B
Polychlorinated Biphenyls	0.000064 B,D	0.000064 B,D
PCB's		
Toxaphene	0.00028 B	0.00028 B

Footnotes:

- A. See Table 2.14.2
- B. Based on carcinogenicity of 10-6 risk.
- C. EPA has not calculated a human criterion for this contaminant. However, permit authorities should address this contaminant in NPDES permit actions using the State's existing narrative criteria for toxics
- D. This standard applies to total PCBs.

KEY: water pollution, water quality standards
Date of Enactment or Last Substantive Amendment: ~~June 1, 2005~~ 2007
Notice of Continuation: October 7, 2002
Authorizing, and Implemented or Interpreted Law: 19-5

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Environmental Quality, Water Quality **R317-6** Ground Water Quality Protection

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE NO.: 29294
 FILED: 11/30/2006, 17:49

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendments provide clarifying language pertaining to soil petroleum cleanup procedures and standards and authorize local city/county health districts to regulate transportation petroleum spills.

SUMMARY OF THE RULE OR CHANGE: The proposed changes: 1) define an Interim Action Report required for soil petroleum; 2) define "Local Health Department" consistent with Rule R317-3; 3) define "Non Sensitive Areas" that require less stringent soil cleanup; 4) expand the definition of pollutant to include petroleum hydrocarbons; 5) define "Sensitive Areas" that require more stringent soil cleanup standards; 6) replace the term "oil" with "petroleum hydrocarbons" to broaden the list of substances included in the rule; 7) require soil cleanup standards compliance for oil and diesel fuel spills over 25 gallons; 8) establish oil cleanup levels for total petroleum hydrocarbons for sensitive and nonsensitive areas and designate the local health department as the regulatory authority; 9) require confirmation soil samples to confirm adequate cleanup and designate the local health department as the regulatory authority; 10) designate the local health department as the regulatory authority for soil disposal locations; and 11) require submittal of an Interim Action Report to the local health department.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-5-104

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. The proposed amendments will be implemented using existing resources. The proposed rule formalizes procedures currently being implemented by the Division of Water Quality.

❖ LOCAL GOVERNMENTS: In general, the proposed amendments reflect current practices and operating conditions between the Division of Water Quality and the local health departments. The local health departments are usually the first responders to a transportation-related petroleum spill if one should occur within the health district. Local health departments may incur minimal costs associated with additional staff time to write close out correspondence to the responsible party when cleanup requirements have been achieved. However, established soil cleanup standards will help with consistency of petroleum cleanups throughout the state, making the local health department's oversight of spills easier and more efficient to administer resulting in a potential cost savings.

❖ OTHER PERSONS: No significant costs or savings to other persons. Currently, the responsible person has been required to clean up contaminated soil after a spill. Some variability in cleanup requirement exists across different local health department districts. The proposed amendments formalize a clear and consistent set of cleanup standards that are required to be met regardless of where the spill occurs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments require the responsible person to achieve soil petroleum cleanup standard following a spill; collect and analyze soil cleanup confirmation samples; properly dispose of contaminated soil; and prepare an Interim Action Report. However, similar actions are currently required in a number of different variations across different local health departments. Due to the variability of these requirements and the site specific nature of specific spill events, it is difficult to arrive at a net cost (or benefit) to affected persons. Overall, the

Division estimates that the proposed amendments no be cost-neutral to the regulated community.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed amendments are not anticipated to have a significant fiscal impact on businesses. The proposed changes formalize a clear and consistent set of state-wide cleanup standards and procedures for petroleum hydrocarbons. Similar requirements are currently being implemented in various forms by each local health department. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
WATER QUALITY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dave Wham at the above address, by phone at 801-538-6052, by FAX at 801-538-6016, or by Internet E-mail at dwham@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 01/15/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/22/2007

AUTHORIZED BY: Walter Baker, Director

R317. Environmental Quality, Water Quality.

R317-6. Ground Water Quality Protection.

R317-6-1. Definitions.

1.1 "Aquifer" means a geologic formation, group of geologic formations or part of a geologic formation that contains sufficiently saturated permeable material to yield usable quantities of water to wells and springs.

1.2 "Background Concentration" means the concentration of a pollutant in ground water upgradient or lateral hydraulically equivalent point from a facility, practice or activity which has not been affected by that facility, practice or activity.

1.3 "Best Available Technology" means the application of design, equipment, work practice, operation standard or combination thereof at a facility to effect the maximum reduction of a pollutant achievable by available processes and methods taking into account energy, public health, environmental and economic impacts and other costs.

1.4 "Best Available Technology Standard" means a performance standard or pollutant concentration achievable through the application of best available technology.

1.5 "Board" means the Utah Water Quality Board.

1.6 "Class TDS Limit" means the upper boundary of the TDS range for an applicable class as specified in Section R317-6-3.

1.7 "Community Drinking Water System" means a public drinking water system which serves at least fifteen service connections used by year-round residents or regularly serves at least twenty-five year-round residents.

1.8 "Comparable Quality (Source)" means a potential alternative source or sources of water supply which has the same general quality as the ground water source.

1.9 "Comparable Quantity (Source)" means a potential alternative source of water supply capable of reliably supplying water in quantities sufficient to meet the year-round needs of the users served by the ground water source.

1.10 "Compliance Monitoring Point" means a well, seep, spring, or other sampling point used to determine compliance with applicable permit limits.

1.11 "Contaminant" means any physical, chemical, biological or radiological substance or matter in water.

1.12 "Conventional Treatment" means normal and usual treatment of water for distribution in public drinking water supply systems including flocculation, sedimentation, filtration, disinfection and storage.

1.13 "Discharge" means the release of a pollutant directly or indirectly into subsurface waters of the state.

1.14 "Existing Facility" means a facility or activity that was in operation or under construction after August 14, 1989 and before February 10, 1990.

1.15 "Economically Infeasible" means, in the context of a public drinking water source, the cost to the typical water user for replacement water would exceed the community's ability to pay.

1.16 "Executive Secretary" means the Executive Secretary of the Utah Water Quality Board.

1.17 "Facility" means any building, structure, processing, handling, or storage facility, equipment or activity; or contiguous group of buildings, structures, or processing, handling or storage facilities, equipment, or activities or combination thereof.

1.18 "Gradient" means the change in total water pressure head per unit of distance.

1.19 "Ground Water" means subsurface water in the zone of saturation including perched ground water.

1.20 "Ground Water Quality Standards" means numerical contaminant concentration levels adopted by the Board in or under R317-6-2 for the protection of the subsurface waters of the State.

1.21 "Infiltration" means the movement of water from the land surface into the pores of rock, soil or sediment.

1.22 "Institutional Constraints" means legal or other restrictions that preclude replacement water delivery and which cannot be alleviated through administrative procedures or market transactions.

1.23 "Interim Action Reports For Petroleum Releases" means plans prepared specifically to document cleanup of petroleum releases resulting primarily from transportation spills not regulated by the Division of Solid and Hazardous Waste or Division of Environmental Response and Remediation that are submitted to the local health department and should include the following information: map of the location where the spill occurred, sketch of where confirmation samples were collected, quantity of fuel spilled, quantity of soil removed, soil disposal location, certified laboratory analysis report including total petroleum hydrocarbons (TPH) analyzed in the appropriate molecular weight range, and actions taken to control the source and protect public safety, public health, and water quality.

~~[4-23]~~1.24 "Lateral Hydraulically Equivalent Point" means a point located hydraulically equal to a facility and in the same ground water with similar geochemistry such that the ground water at that point has not been affected by the facility.

~~[4-24]~~1.25 "Limit of Detection" means the concentration of a chemical below which it can not be detected using currently accepted sampling and analytical techniques for drinking water as determined by the U.S. Environmental Protection Agency.

1.26 "Local Health Department" means a city-county or multi-county local health department established under Title 26A.

~~[4-25]~~1.27 "New Facility" means a facility for which construction or modification is initiated after February 9, 1990.

1.28 "Non Sensitive Area" means industrial and manufacturing areas previously contaminated and areas not likely to affect human health and exceed groundwater standards or background concentrations.

~~[4-26]~~1.29 "Permit Limit" means a ground water pollutant concentration limitation specified in a Ground Water Discharge Permit and may include protection levels, class TDS limits, ground water quality standards, alternate concentration limits, permit-specific ground water quality standards, or limits stipulated in the application and use of best available technology. For facilities permitted by rule under R317-6-6.2, a permit limit is a ground water pollutant concentration limitation specified in R317-6-6.2.B.

~~[4-27]~~1.30 "Person" means any individual, corporation, partnership, association, company or body politic, including any agency or instrumentality of the federal, state, or local government.

~~[4-28]~~1.31 "Point of Discharge" means the area within outermost location at which effluent or leachate has been stored, applied, disposed of, or discharged; for a diked facility, the outermost edge of the dikes.

~~[4-29]~~1.32 "Pollutant" means dredged spoil, solid waste, incinerator residue, sewage, sewage sludge, garbage, munitions, trash, chemical wastes, petroleum hydrocarbons, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into waters of the state.

~~[4-30]~~1.33 "Pollution" means such contamination, or other alteration of the physical, chemical, or biological properties of any waters of the State, or such discharge of any liquid, gaseous, or solid substance into any waters of the state as will create a nuisance or render such waters harmful or detrimental or injurious to public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

~~[4-31]~~1.34 "Professional Engineer" means any person qualified to practice engineering before the public in the state of Utah and professionally registered as required under the Professional Engineers and Professional Land Surveyors Licensing Act rules (UAC 156-22).

~~[4-32]~~1.35 "Professional Geologist" means any person qualified to practice geology before the public in the State of Utah and professionally registered as required under the Professional Geologist Licensing Act rules (UAC R156-76).

~~[4-33]~~1.36 "Protection Level" means the ground water pollutant concentration levels specified in R317-6-4.

1.37 "Sensitive Area" means those areas that are located near residences, waters of the state, wetlands, or any area where exposure to humans or significant environmental impact is likely to occur.

~~[4-34]~~1.38 "Substantial Treatment" means treatment of water utilizing specialized treatment methods including ion exchange,

reverse osmosis, electrodialysis and other methods needed to upgrade water quality to meet standards for public water systems.

~~[4-35]~~1.39 "Technology Performance Monitoring" means the evaluation of a permitted facility to determine compliance with best available technology standards.

~~[4-36]~~1.40 "Total Dissolved Solids (TDS)" means the quantity of dissolved material in a sample of water which is determined by weighing the solid residue obtained by evaporating a measured volume of a filtered sample to dryness; or for many waters that contain more than 1000 mg/l, the sum of the chemical constituents.

~~[4-37]~~1.41 "Radius of Influence" means the radial distance from the center of a well bore to the point where there is no lowering of the water table or potentiometric surface because of pumping of the well; the edge of the cone of depression.

~~[4-38]~~1.42 "Upgradient" means a point located hydraulically above a facility such that the ground water at that point has not been impacted by discharges from the facility.

~~[4-39]~~1.43 "Vadose Zone" means the zone of aeration including soil and capillary water. The zone is bound above by the land surface and below by the water table.

~~[4-40]~~1.44 "Waste" see "Pollutant."

~~[4-41]~~1.45 "Water Table" means the top of the saturated zone of a body of unconfined ground water at which the pressure is equal to that of the atmosphere.

~~[4-42]~~1.46 "Water Table Aquifer" means an aquifer extending downward from the water table to the first confining bed.

~~[4-43]~~1.47 "Waters of the State" means all streams, lakes, ponds, marshes, water courses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion thereof; except bodies of water confined to and retained within the limits of private property, and which do not develop into or constitute a nuisance or a public health hazard, or a menace to fish and wildlife, shall not be considered to be "waters of the state" under this definition.

~~[4-44]~~1.48 "Zone of Influence" means the area contained by the outer edge of the drawdown cone of a water well.

R317-6-6. Implementation.

6.1 DUTY TO APPLY FOR A GROUND WATER DISCHARGE PERMIT

A. No person may construct, install, or operate any new facility or modify an existing or new facility, not permitted by rule under R317-6-6.2, which discharges or would probably result in a discharge of pollutants that may move directly or indirectly into ground water, including, but not limited to land application of wastes; waste storage pits; waste storage piles; landfills and dumps; large feedlots; mining, milling and metallurgical operations, including heap leach facilities; and pits, ponds, and lagoons whether lined or not, without a ground water discharge permit from the Executive Secretary. A ground water discharge permit application should be submitted at least 180 days before the permit is needed.

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6.15 CORRECTIVE ACTION

It is the intent of the Board that the provisions of these regulations should be considered when making decisions under any state or federal superfund action; however, the protection levels are

not intended to be considered as applicable, relevant or appropriate clean-up standards under such other regulatory programs.

A. Application of R317-6-6.15

1. Generally - R317-6-6.15 shall apply to any person who discharges pollutants into ground water in violation of Section 19-5-107, or who places or causes to be placed any wastes in a location where there is probable cause to believe they will cause pollution of ground water in violation of Section 19-5-107.

2. Corrective Action shall include, except as otherwise provided in R317-6-6.15, preparation of a Contamination Investigation and preparation and implementation of a Corrective Action Plan.

3. The procedural provisions of R-317-6-6.15 shall not apply to any facility where a corrective or remedial action for ground water contamination, that the Executive Secretary determines meets the substantive standards of this rule, has been initiated under any other state or federal program. Corrective or remedial action undertaken under the programs specified in Table 2 are considered to meet the substantive standards of this rule unless otherwise determined by the Executive Secretary.

TABLE 2
PROGRAM

Leaking Underground Storage Tank, Sections 19-6-401, et seq.

Federal Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Sections 9601, et seq.

Hazardous Waste Mitigation Act, Sections 19-6-301 et seq.
Utah Solid and Hazardous Waste Act, Sections 19-6-101 et seq.

B. Notification and Interim Action

1. Notification - A person who spills or discharges any ~~oil~~ petroleum hydrocarbon or other substance which may cause pollution of ground waters in violation of Section 19-5-107 shall notify the Executive Secretary within 24 hours of the spill or discharge. A written notification shall be submitted to the Executive Secretary within five days after the spill or discharge.

2. Interim Actions - A person is encouraged to take immediate, interim action without following the steps outlined in R317-6-6.15 if such action is required to control a source of pollutants. Interim action is also encouraged if required to protect public safety, public health and welfare and the environment, or to prevent further contamination that would result in costlier clean-up. Such interim actions should include source abatement and control, neutralization, or other actions as appropriate. A person that has taken these actions shall remain subject to R317-6-6.15 after the interim actions are completed unless he demonstrates that:

a. no pollutants have been discharged into ground water in violation of 19-5-107; and

b. no wastes remain in a location where there is probable cause to believe they will cause pollution of ground water in violation of 19-5-107, unless, in the case of diesel fuel and oil releases over 25 gallons, the responsible person demonstrates that the pollutant will not affect ground water quality by complying with the following:

(1) remove contaminated soil to the extent possible, or to established background levels, or 500 mg/kg total petroleum hydrocarbons for sensitive areas, or 5000 mg/kg total petroleum hydrocarbons for non sensitive areas as defined by R317-6-1;

(2) collect soil samples at locations and depths sufficient to document that cleanup has been achieved or as directed by the local health department;

(3) treat or dispose contaminated soil at a location approved by the local health department;

(4) submit an interim action report as defined by R317-6-1.23 or as directed by the local health department.

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KEY: water quality, ground water, cleanup standards, petroleum hydrocarbons

Date of Enactment or Last Substantive Amendment: [2006]2007

Notice of Continuation: October 17, 2002

Authorizing, and Implemented or Interpreted Law: 19-5



Environmental Quality, Water Quality **R317-11** Certification Required to Design, Inspect and Maintain Underground Wastewater Disposal Systems, or Conduct Percolation and Soil Tests for Underground Wastewater Disposal Systems

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29296

FILED: 11/30/2006, 17:50

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendments are being made to clarify the guidelines and procedures used by staff of the Division of Water Quality as they implement the legislation of Section 19-5-121.

SUMMARY OF THE RULE OR CHANGE: The changes are: 1) correct several grammatical and typographic errors; 2) clarify the levels of certification - Level 1 is lowest, Level 3 is highest and that all higher levels require current certification at all lower levels; 3) clarify required attendance at training courses and passing the appropriate exam for each level of certification; 4) add language to more appropriately incorporate the requirements of the statute requiring recognition to be given to certain licensed professionals (environmental health scientists, professional engineers, and individual licensed contractors) by allowing them to waive attendance at certain certification classes and elect to take the corresponding test(s) in order to obtain certification. (No more "qualified by rule".); 5) for initial certification, applicant must take required course(s), except as described above, pass the corresponding exam(s), and submit application form with appropriate fee to the Executive Secretary; 6) the expiration date of initial certificates will be determined using the date the exam is passed. All certificates will expire on December 31 of the appropriate year; 7) certificates are issued for up to five years for Levels 1 and 2, or up to two years for Level 3; 8)

clarify that renewal is dependent upon continuous certification; 9) clarify time frame when refresher courses must be completed; and 10) add the option of annulment and other possible disciplinary actions with their processes.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 19-5-104 and 19-5-121

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. The proposed amendments will be implemented using existing resources.

❖ LOCAL GOVERNMENTS: In general, the proposed amendments are editorial in nature or made to provide clarifying language. No cost or savings no local government are anticipated.

❖ OTHER PERSONS: No significant costs to other persons. In general, the proposed amendments are editorial in nature or made to provide clarifying language. Some minimal additional cost (less than \$50 for all three exams) would be incurred since all individuals desiring new certification would be required to pass the respective exam(s) with the elimination of the "qualified by rule" option.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The requirement to test in order to become certified will have a small increased cost, depending on how many levels of certification are desired. However, this should help to raise the knowledge base of all certified individuals to a minimum level so that recertification will be a much more uniform process. Recertification costs will remain the same.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed amendments are largely editorial in nature or are made to provide clarifying language. No significant fiscal impacts to businesses are anticipated. Dianne R. Nielson, Executive Director

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

ENVIRONMENTAL QUALITY
WATER QUALITY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dave Wham at the above address, by phone at 801-538-6052, by FAX at 801-538-6016, or by Internet E-mail at dwham@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 01/15/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/22/2007

AUTHORIZED BY: Walter Baker, Director

R317. Environmental Quality, Water Quality.

R317-11. Certification Required to Design, Inspect and Maintain Underground Wastewater Disposal Systems, or Conduct Percolation and Soil Tests for Underground Wastewater Disposal Systems.

R317-11-1. Scope.

These certification rules apply to any person who designs, inspects, or maintains underground wastewater disposal systems, or who conducts percolation tests or soil evaluations for underground wastewater disposal systems. ~~A certification~~ Certification is required by any person who performs these activities as provided below.

R317-11-3. Classes of Certification.

3.1 There are three classes of onsite professional certification, Level 1 being the lowest and Level 3 being the highest:

A. Level 1, soil evaluation[s] and percolation testing;

B. Level 2, design, inspection and maintenance of conventional underground wastewater disposal systems; and

C. Level 3, design, inspection and maintenance of alternative underground wastewater disposal systems.

3.2. Certification at any level also requires current certification for all lower levels.

R317-11-4. Individuals Not Required to Obtain Certification.

4.1. An individual is not required to obtain certification to maintain an underground wastewater disposal system that serves a noncommercial, private residence owned by the individual or a member of the individual's family and in which the individual or a member of the ~~[individuals]~~ individual's family resides or an employee of the individual resides without payment of rent.

4.2. An uncertified individual may conduct percolation or soil tests for an underground wastewater disposal system that serves a noncommercial, private residence owned by the individual and in which the individual resides or intends to reside, or which is intended for use by an employee of the individual without payment of rent, if the individual:

A. Has the capability of properly conducting the tests, as determined by the local health department and

B. Is supervised by a certified individual when conducting the tests.

4.3. A person involved in the pumping of an underground wastewater disposal system does not have to be certified under this rule, although licensing by the local health department is required under R317-550.

4.4. Licensed plumbers and electricians, when maintaining electrical equipment or wastewater drainage lines leading to the underground wastewater disposal systems are not required to be certified under this rule.

4.5. Uncertified employees, subordinates or associates of a certified individual are not required to be certified under this rule when working on activities related to underground wastewater disposal systems under the supervision of a certified individual. Supervision means that a certified individual is personally responsible for the work, and reviews, corrects and approves work done by an uncertified employee, subordinate or associate. Such work must be signed by a certified individual.

R317-11-5. Qualifications for Certification.

5.1. Soil Evaluation and Percolation Testing. In order to ~~[be certified]~~ qualify for initial Level 1 certification, a person must:

A. Attend a training course provided by the Training Center specifically for the purpose[s] of certification[;] at Level 1, and

B. ~~[Successfully pass]~~Demonstrate knowledge of course subject matter by successfully passing an examination to be given at the conclusion of the Level 1 training course.

5.2. Design, Inspection and Maintenance of Conventional Systems. In order to ~~[be certified]~~qualify for initial Level 2 certification, a person must:

A. Attend a training course provided by the Training Center specifically for the purpose[s] of certification[;] at Level 2,

B. ~~[Successfully pass]~~Demonstrate knowledge of course subject matter by successfully passing an examination to be given at the conclusion of the Level 2 training course[-], and

C. Be certified for soil evaluation and percolation testing at Level 1.

5.3. Design, Inspection and Maintenance of Alternative Systems. In order to ~~[be certified]~~qualify for initial Level 3 certification, a person must:

A. Attend a training course[s] for both conventional and alternative systems, provided by the Training Center specifically for the purpose[s] of certification[-] at Level 3,

B. ~~[Successfully pass]~~Demonstrate knowledge of course subject matter by successfully passing an examination to be given at the conclusion of the Level 3 training course[-], and

C. Be certified for soil evaluation and percolation testing at Level 1, and certified for design, inspection and maintenance of conventional systems at Level 2.

5.4. An environmental health scientist licensed under Title 58, Chapter 20a, Environmental Health Scientist Act, ~~[who has at least one year of experience in soils evaluation and percolation testing, and/or] may waive attendance at the [design, inspection]respective training course and [maintenance of underground wastewater disposal systems, is qualified by rule and is not required]elect to be tested as required in this section to obtain [the training or be tested as required in this section. Evidence of experience appropriate to the class of certification must be provided to the Executive Secretary. After July 1, 2003, the required experience must be under the supervision of a person certified under this program]certification for Level 1, 2, or 3. In order to qualify for waiver of training, the Environmental Health Scientist must provide to the Executive Secretary evidence of current licensure in Utah and 2 years experience appropriate to the class of certification requested.~~

5.5. A professional engineer licensed under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act, ~~[who has received education or experience related to soils evaluation]may waive attendance at the respective training course and [percolation testing, and/or the design, inspection and maintenance of wastewater disposal systems, is qualified by rule and is not required]elect to be tested as required in this section to obtain [the training or be tested as required in this section. Evidence of education appropriate to the class of certification must be provided to the Executive Secretary]certification for Level 1, 2, or 3. In order to qualify for waiver of training the professional engineer must provide to the Executive Secretary evidence of current Utah licensure.~~

5.6. ~~[A licensed contractor, who has five or more years of experience installing underground wastewater disposal systems, including performing soils evaluations and percolation tests, and/or the design, inspection and maintenance of underground wastewater disposal systems, is qualified by rule and is not required to obtain the training or be tested as required in this section. Evidence of experience appropriate to the class of certification must be provided to the Executive Secretary.]A person who is a licensed contractor in Utah,~~

~~may waive attendance at the respective training course and elect to be tested as required in this section to obtain certification for Level 1 or 2. In order to qualify for waiver of training the licenced contractor must provide evidence of at least five years of experience in constructing onsite systems.~~

~~5.7. Evidence of current licensure and experience appropriate to the class of certification must be provided to the Executive Secretary prior to eligibility to test.~~

R317-11-6. Application for Certification.

6.1. In order to ~~[be]become~~ certified ~~[by training and examination]at any level~~, a person must ~~[register for a]~~:

~~A. Complete the relevant training course(s) with the Training Center[- Upon successful completion of the training] (See R317-11-5.4 - 5.6 above for alternate requirements for licensed environmental health scientists, engineers, and [testing, the person must submit]contractors);~~

~~B. Pass the corresponding test(s); and~~

~~C. Submit an application to the Executive Secretary on forms provided by the Division, along with payment of applicable fees.~~

~~6.2. In order to be certified when qualified by rule, a person must submit an application to the Executive Secretary, on forms provided]approved by the Division, along with payment of applicable fees.~~

R317-11-7. Training and Examinations.

Training will be provided by the Training Center. Examinations will be given at the conclusion of each training session. Training will be provided at least twice per year, but may be given more often ~~[depending on the need. Persons who have received training from the USU Training Center since January 1, 1999, will not be required to repeat such training. However, they still must take and pass the examination-]at the [times and places designated by]discretion of the Training Center.~~

R317-11-8. Certificates.

8.1. ~~[For those required to be trained and tested in order to be certified, certificates]Certificates will be issued by the Executive Secretary upon [receiving]receipt of the completed application[including], required fees, and evidence that the [person has received the required training and successfully passed the examination]requirements of R317-11-5 above have been met.~~

8.2. ~~[For those who are qualified by rule based on licensing, education, and/or experience, a certificate will be issued by the Executive Secretary upon receipt of the application and evidence that the requirements of R317-11-5 above have been met.]Date of issuance of an initial certificate will be determined by the date the exam is passed.~~

~~8.3. Certificates will expire on December 31 of the appropriate calendar year, in accordance with R317-11-9.~~

R317-11-9. Renewal of Certification.

9.1. For those certified at Level 1 for soil[s] evaluation and percolation testing, or Level 2 for design, inspection and maintenance of conventional underground wastewater disposal systems, certification will be valid for a period of up to five years from the date of issuance of a certificate under R317-11-8 above. For those certified at Level 3 for design, inspection and maintenance of alternative underground wastewater disposal systems, certification will be valid for a period of up to two years from the date of issuance of a certificate under R317-11-8 above. Certificate renewal ~~[will be]is required for all levels of~~

~~[those certified based on training/testing and those certified based on licensing, education and/or experience.]certification.~~

9.2. Eligibility for renewal of certificates is based on continuous certification.

9.3. Renewal of a certificate may be obtained by:

A. Making application to the Executive Secretary along with payment of applicable fees~~[-, and];~~

B. Showing evidence of successfully completing ~~[a-]the~~refresher course(s) as provided by the Training Center, or other training approved by the Executive Secretary~~[-], within twelve months prior to certificate expiration; and~~

C. Maintaining all lower level certifications.

R317-11-10. Suspension~~[-or], Revocation, or Annulment of Certification.~~

10.1. Grounds for suspending~~[-or],~~ revoking, or annulling a person's certificate may be, but are not limited to, any of the following:

A. Demonstrated disregard for the public health and safety;

B. Misrepresentation or falsification of information or reports submitted to the Division;

C. Cheating on a certification exam;

D. Falsely obtaining or altering a certificate; or

E. Incompetence, misconduct or gross negligence in the performance of work done pursuant to the certification.

~~[4]10.2. [Suspension or]Disciplinary action such as suspension, revocation, or annulment of certificate by the Executive Secretary may result where it is shown that the circumstances and events relative to the work done pursuant to the certification were under the individual's jurisdiction and control. Circumstances beyond the control of [an-]the individual shall not be grounds for [a-suspension-or revocation]disciplinary action.~~

10.3. Any certificate not issued through due process of this rule will be annulled.

10.4. Recommendations may be made to the Executive Secretary regarding the suspension, revocation, or annulment of a certificate. Prior to making any such recommendation, the individual shall be informed in writing of the reasons for such a recommendation. The individual shall be allowed an opportunity for an informal hearing before a review committee appointed by the Executive Secretary. Any request for an informal hearing shall be made within 30 days of the date the notification is mailed.

10.5. Following an informal hearing, or the expiration of the period for requesting a hearing, the Executive Secretary shall be notified of the final recommendation.

10.6. A challenge to the Executive Secretary's determination may be made as provided in R317-9-3.

R317-11-11. Certification Requirements and Effective Dates.

After January 1, 2002, no person shall design, inspect, maintain, or conduct percolation or soil tests for an underground wastewater disposal system ~~[without first obtaining]unless they hold current certification from the Executive Secretary, except as exempted in R317-11-4. [However, if a person has submitted an application to be certified, or has registered for training at the Training Center, prior to January 1, 2002, they are considered to be temporarily certified for purposes of this rule, and subject to R317-4 and any local health department requirements, until their application is acted upon or July 1, 2002, whichever is earlier. If a person has submitted an application to be certified, or has registered for training at the Training Center, after January 1, 2002, but before July 1, 2002, they are also considered to be temporarily certified for purposes of this rule, and subject to R317-4~~

~~and any local health department requirements, but only from the date of training registration or submittal of the application for certification until their application is acted upon or July 1, 2002, whichever is earlier. In no event shall any person be considered to be certified after July 1, 2002, unless they have successfully completed training and testing, if required, and received a certification from the Executive Secretary.]~~

R317-11-12. Noncompliance.

12.1. Noncompliance with these Certification rules is a violation of Section 19-5-121 Utah Code Annotated.

12.2. Cases of noncompliance with this rule shall be referred to the Executive Secretary.

KEY: waste water, occupational licensing

Date of Enactment or Last Substantive Amendment: ~~[January 30, 2003]2007~~

Notice of Continuation: June 29, 2006

Authorizing, and Implemented or Interpreted Law: 19-5-104

Human Services, Substance Abuse and Mental Health **R523-1-5** Fee for Service

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29245

FILED: 11/21/2006, 10:18

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: With the merger of the State Divisions of Substance Abuse and Mental Health, it is necessary to merge rules that are redundant. Currently, there are two separate rules in Utah Administrative Code that cover the collection of fees, one for substance abuse providers under Section R523-20-2, and one for mental health providers under Section R523-1-5. This change moves both sections into one rule under Section R523-1-5 and updates the rule to current practice. (DAR NOTE: The proposed amendment to Section R523-20-2 is under DAR No. 29246 in this issue, December 15, 2006, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: The Mental Health (MH) and Substance Abuse (SA) providers fee sections will be placed in one rule, making the requirements consistent. The following are substantial changes for each provider from current rule. The changes for SA are: 1) all clients must be given written explanation of the fee policy; 2) clients who have been assessed and require services will not be denied based on ability to pay; and 3) the policy will include a fee reduction plan based on the client's ability to pay for services. The changes for MH are: 1) the State Board of Substance Abuse and Mental Health will no longer approve the fee schedule, it will be determined by community mental health centers based on a "usual and customary rate"; 2) a written notice must be given to clients on the fee policy; and 3) clients who have been assessed and require mental health treatment will not be

denied services based on the ability to pay. Currently, both SA and MH providers have fee policies that include a sliding scale for clients. This rule standardizes the process across the system.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 62A-15-713(7) and Section 17-43-204

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The costs associated with this rule have no impact on the state budget, since the Division of Substance Abuse and Mental Health neither provides direct substance abuse and mental health services nor collects fees for services provided through the local mental health and substance abuse agencies.

❖ LOCAL GOVERNMENTS: Currently, all programs that charge fees have a fee policy and have a sliding fee scale. No cost saving is anticipated. The only anticipated increase to local governments would be the cost of printing a written statement of the fee policy for clients. This cost would be difficult to determine since it is based on the size of the program and the number of clients who are served.

❖ OTHER PERSONS: All programs collect fees when applicable and have a fee policy and sliding fee schedule. There is nothing in this rule change that would require programs to increase fees to clients who are already paying a certain amount for services, or assess fees to anyone who receives services now and does not pay a fee.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only anticipated cost increase would be the requirement that each client be given a written explanation of the fee policy. There might be a slight cost in printing this statement. Currently, clients are charged a fee when applicable and all programs have a sliding fee schedule and ability to waive fees in case of financial hardships, so there is no anticipated increase in the cost of service to the client.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After careful review, the Department of Human Services has determined that this rule will have no financial impact on businesses in the state of Utah. Lisa-Michele Church, Executive Director

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

HUMAN SERVICES
SUBSTANCE ABUSE AND MENTAL HEALTH
Room 209
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Thom Dunford at the above address, by phone at 801-538-4519, by FAX at 801-538-9892, or by Internet E-mail at TDUNFORD@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 01/15/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/23/2007

AUTHORIZED BY: Mark I Payne, Director

R523. Human Services, Substance Abuse and Mental Health.

R523-1. Procedures.

R523-1-5. Fee for Service.

~~[(1) All consumers of community mental health centers within the state of Utah shall be charged the actual cost of services rendered to them by personnel of the centers.~~

~~— (2) There shall be a dual fee schedule approved by the State Board of Substance Abuse and Mental Health:~~

~~— (a) intensive services — uniform fee schedule as attached;~~

~~— (b) outpatient services — Local cost will be based on actual unit cost as determined by the center's annual study and in accordance with the minimum discount fee schedule attached.~~

~~— (c) the mental health center may waive the charging of a fee if they determine that the assessment of a fee would result in a financial hardship for the recipient of services.~~

~~— (3) Unless otherwise prohibited by law, all differences between the actual cost of services rendered and third party payments shall be charged to the consumers receiving the service. These charges may not exceed the adjusted fee, if any, based on the above mentioned fee schedules.~~

~~— (4) Fee adjustments may be made following locally determined procedures. The procedures will be available in writing.~~

~~— (5) Except for emergency services, all consumers are to be informed of the actual cost of services to be received and of the adjusted fee, if any, before the commencement of services.](1) Each local authority:~~

~~(a) Shall require all programs that receive federal and state funds from the Division of Substance Abuse and Mental Health (Division) and provide services to clients to establish a policy for the collection of fees.~~

~~(i) Each fee policy shall include:~~

~~(A) a fee reduction plan based on the client's ability to pay for services; and~~

~~(B) a provision that clients who have received an assessment and require mental health treatment or substance abuse services will not be denied services based on the lack of ability to pay.~~

~~(ii) Any adjustments to the assessed fee shall follow the procedures approved by the local authority.~~

~~(iii) Any change to the fee policy will be made in writing to the Division within ninety days.~~

~~(b) Shall approve the fee policy; and~~

~~(c) Shall set a usual and customary rate for services rendered.~~

~~(2) All programs shall provide a written explanation of the fee policy to all clients at the time of intake except in the case of emergency services.~~

~~(3) All clients shall be assessed fees based on:~~

~~(a) the usual and customary rate established by the local authorities, or~~

~~(b) a negotiated contracted cost of services rendered to clients.~~

~~(4) All programs shall make reasonable effort to collect outstanding fee charges and may use an outside collection agency.~~

~~(5) All programs may reduce the assessed fee for services if the fee is determined to be a financial hardship for the client.~~

(6) The Division shall annually review each program's policy and fee schedule to ensure that the elements set for in this rule are incorporated.

KEY: bed allocations, due process, prohibited items and devices, fees

Date of Enactment or Last Substantive Amendment: ~~March 7, 2005~~ 2007

Notice of Continuation: December 11, 2002

Authorizing, and Implemented or Interpreted Law: 62A-12-102; 62A-12-104; 62A-12-209.6(2); 62A-12-283.1(3)(a)(i); 62A-12-283.1(3)(a)(ii); 62A-15-612(2)

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Human Services, Substance Abuse and Mental Health **R523-20-2** Providers' Application for Funding - Fee Collection Policy

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29246

FILED: 11/21/2006, 10:21

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Before the merger of the State Divisions of Substance Abuse and Mental Health, each division had their own set of rules in the Utah Administrative Code, which in some cases covered the same subject. This fee section is one of those sections that is similar to one associated with mental health. This section is being deleted and moved to Section R523-1-5 to consolidate the Division's rules and update the rule to reflect current practices. (DAR NOTE: The proposed amendment to Section R523-1-5 is under DAR No. 29245 in this issue, December 15, 2006, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: This section will be deleted and new language dealing with fees will be consolidated in Section R523-1-5. All substance abuse programs that receive funds from the Division of Substance Abuse and Mental Health have a fee policy. The new language for substance abuse will be the same as that for mental health which requires both entities to: 1) have a fee reduction plan based on the client's ability to pay, 2) set customary and usually fees, and 3) provide each client with a written explanation of the fee policy. The new language also provides the agencies with the ability to reduce fees in the case of financial hardship, and allows each program to make a reasonable effort to collect outstanding fees.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 62A-15-713(7) and Section 17-43-204

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** Deleting this section will have no financial impact on the State's budget because the Division of Substance Abuse and Mental Health neither provides direct substance abuse services nor collects fees for services rendered.

❖ **LOCAL GOVERNMENTS:** No cost savings to local governments are anticipated. The new language replacing this section requires each program to provide a written copy of its fee policy to all clients. This requirement will add a printing cost to all programs.

❖ **OTHER PERSONS:** Currently, all substance abuse programs collect fees when applicable and have a fee policy and sliding fee schedule. There is nothing in the new language replacing this section that would require the need for programs to increase fees to clients who are already paying a certain amount for services, or assess fees to clients who receive services now, and do not pay a fee.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only anticipated cost increase to organizations will come from the requirement that each client be given a written explanation of the fee policy. There could be a slight cost in printing a statement, but it would be difficult to determine the costs because of the number and size of various programs. Currently, clients are charged a fee for services, this rule would not change that procedure.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After careful review, the Department of Human Services has determined that this rule will have no financial impact on businesses in the state of Utah. Lisa-Michele Church, Executive Director

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

HUMAN SERVICES
SUBSTANCE ABUSE AND MENTAL HEALTH
Room 209
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Thom Dunford at the above address, by phone at 801-538-4519, by FAX at 801-538-9892, or by Internet E-mail at TDUNFORD@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 01/15/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/23/2007

AUTHORIZED BY: Mark I Payne, Director

R523. Human Services, Substance Abuse and Mental Health.**R523-20. Division Rules of Administration.****~~[R523-20-2. Providers' Application for Funding—Fee Collection Policy.~~**

~~1. All programs receiving funds allocated by the Division of Substance Abuse and Mental Health shall prepare, as part of their application for funding, a fee collection policy. Fees collected by programs shall remain in their program and be used only in providing alcohol and drug services. Upon request by the Division each program shall submit a report to the Division which will include the total dollar amount of fees collected and services provided by the expenditure of these funds. Fees collected shall not be a reason to reduce federal and/or state funding.~~

]

KEY: substance abuse, financing of programs**Date of Enactment or Last Substantive Amendment: ~~[November 5, 1997]~~2007****Notice of Continuation: June 5, 2002****Authorizing, and Implemented or Interpreted Law: 62A-15-105**

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Insurance, Administration

R590-225-6

Filing Submission Requirements

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 29290

FILED: 11/30/2006, 12:25

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: A change has been made in the electronic filing program SERFF that necessitates a change in the rule filing requirements of the rule.

SUMMARY OF THE RULE OR CHANGE: The certification information Subsection R590-225-6(4) of the rule is being moved to Subsection R590-225-6(3) under "Filing Description". The language of the certification is also changing to no longer requiring the signature to make the certification valid. The certification will be validated when the filer submits the filing.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-2-201.1, 31A-2-202, and 31A-19a-203

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** The changes to this rule will not change the workload of office personnel. It will not require a change in filings made to the department nor revenues coming into the department.
- ❖ **LOCAL GOVERNMENTS:** The requirements of this rule impact only licensees of the department and will not affect their relationship with local governments.
- ❖ **OTHER PERSONS:** The changes to this rule will eliminate the need for property and casualty insurers to file a transmittal form when they submit a SERFF filing to the department. This

will save these insurers time and reduce the workload of employees involved in this process. It should not be enough of a reduction in work load to require the elimination of an employee. Since the filing process is still electronic, there will be no savings in paper and printing and as a result, no savings to pass on to their insureds.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The changes to this rule will eliminate the need for property and casualty insurers to file a transmittal form when they submit a SERFF filing to the department. This will save these insurers time and reduce the workload of employees involved in this process. It should not be enough of a reduction in work load to require the elimination of an employee. Since the filing process is still electronic, there will be no savings in paper and printing and as a result, no savings to pass on to their insureds.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have no fiscal impact on Utah businesses. D. Kent Michie, Commissioner

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

INSURANCE
ADMINISTRATION
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 01/15/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/22/2007**AUTHORIZED BY: Jilene Whitby, Information Specialist****R590. Insurance, Administration.****R590-225. Submission of Property and Casualty Rate and Form Filings.****R590-225-6. Filing Submission Requirements.**

A filing must be submitted by market type and type of insurance, not by annual statement line number. A filing may not include more than one type of insurance, unless the filing is a commercial or personal inter-line form filing. The inter-line use of a form must be explained in the Filing Description. A filer may submit a filing for more than one insurer if all applicable companies are listed on the transmittal and a copy of the transmittal is submitted for each company. A complete filing consists of the following documents submitted in the following order:

- (1) "NAIC Uniform Property and Casualty Transmittal Document." COMPLETE THE TRANSMITTAL BY USING THE FOLLOWING:

- (a) "NAIC Coding Matrix;"
 - (b) "NAIC Instruction Sheet;" and
 - (c) "Utah Property and Casualty Content Standards."
- (2) Do not submit the documents described in (1)(a),(b), and (c) with a filing.

(3) Filing Description. The following information must be included in the Filing Description on the transmittal and presented in the order shown below:

(a) Certification. The filer must certify that a filing has been properly completed AND is in compliance with Utah laws and rules. The following statement must be included in the filing description:

"BY SUBMITTING THIS FILING I CERTIFY THAT THE ATTACHED FILING HAS BEEN COMPLETED IN ACCORDANCE WITH UTAH ADMINISTRATIVE RULE R590-225 AND IS IN COMPLIANCE WITH APPLICABLE UTAH LAWS AND RULES". A filing will be rejected if the certification is missing or incomplete. A certification that is inaccurate may subject the filer to administrative action.

~~(b)~~(b) Provide a detailed description of the purpose of the filing.

~~(c)~~(c) Describe the benefits and features of each form, rate or supplementary information contained in the filing, including specific features and options;

~~(d)~~(d) Identify any new, unusual or controversial provision.

~~(e)~~(e) Identify any unresolved previously prohibited provision and explain why the provision is included in the filing;

~~(f)~~(f) If the filing is replacing or modifying a previous submission, provide information that identifies the filing being replaced or modified, the Utah filed date, and a detailed description of the changes made;

~~(g)~~(g) If filing an application, or endorsement, and the filing does not contain a policy, identify the affected policy form number, the Utah filed date, and describe the effect of the submitted forms on the base policy.].

~~(4) Certification. The filer must certify that a filing has been properly completed AND is in compliance with Utah laws and rules. Section 21 must contain this statement:~~

~~"BY SIGNING THE TRANSMITTAL I CERTIFY THAT THE ATTACHED FILING HAS BEEN COMPLETED IN ACCORDANCE WITH UTAH ADMINISTRATIVE RULE R590-225 AND IS IN COMPLIANCE WITH APPLICABLE UTAH LAWS AND RULES".~~

~~A filing will be rejected if the certification is missing or incomplete. A certification that is inaccurate may subject the filer to administrative action.~~

~~(4)~~(4) Letter of Authorization. When the filer is not the insurer, a letter of authorization from the insurer must be included. The insurer remains responsible for the filing being in compliance with Utah laws and rules.

~~(5)~~(5) Items being submitted for filing. Refer to each applicable subsection of this rule for general procedures and additional procedures on how to submit forms, rates, and supplementary information.

~~(6)~~(6) Return Notification Materials.

(a) Return notification materials are limited to:

- (i) a copy of the transmittal; and
- (ii) a self-addressed, stamped envelope.

(b) Additional documents submitted for return will be discarded.

(c) Notice of filing will not be provided unless return notification materials are submitted.

KEY: property casualty insurance filing

Date of Enactment or Last Substantive Amendment: ~~June 29, 2006~~2007

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-2-201.1; 31A-2-202; 31A-19a-203

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Labor Commission, Occupational Safety and Health **R614-1-4** Incorporation of Federal Standards

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29282

FILED: 11/30/2006, 08:08

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule amendment incorporates federal OSHA's rules limiting occupational exposure to hexavalent chromium. Exposure to hexavalent chromium is associated with increased risk of lung cancer, asthma, and damage to the nasal epithelial and skin. This rule amendment also incorporates federal OSHA's rules revising standards for testing roll-over protective structures used to protect employees who operate wheel-type tractors. The proposed rule provides equipment manufacturers with additional testing options without reducing employee protections. This rule amendment also incorporates federal OSHA's revisions to definitions and requirements governing the selection of respirators used by employees exposed to atmospheric contaminants. Proper respirator selection is an important component of an effective respiratory protection program. Further more, federal OSHA requires incorporation of these standards, or other standards that are equally effective, as a condition to continued financial support of Utah's occupational safety and health program.

SUMMARY OF THE RULE OR CHANGE: Hexavalent Chromium Standard: the proposed rule reduces the existing exposure limit for occupational exposure to hexavalent chromium by establishing an 8-hour time/weighted average exposure limit of 5 micrograms of hexavalent chromium per cubic meter of air. The proposed rule also includes provisions for exposure determination, preferred exposure control methods, worker protection, medical surveillance, record-keeping, and start-up dates for engineering controls. Roll-Over Protection Standard: the proposed rule incorporates federal OSHA rules that reinstate OSHA's pre-1996 standards regulating testing of roll-over protective structures. Specifically, these standards allow cold-temperature, impact, static, and dynamic testing options. The standards are applicable to Construction and Agricultural industries. Respirator Standard: the federal standards to be incorporated by this rule change include provisions that: a) add definitions and requirements for assigned protection

factors (APF) and maximum use concentrations (MUC); b) supersede existing respirator selection provisions, except for the respirator selection provisions of the 1,3 butadiene standard; and c) provide critical information for selecting respirators.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 34A, Chapter 7

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: 71 FR 39, pages 10100 through 10385, "Occupational Exposure to Hexavalent Chromium"; 71 FR 39, pages 76979 to and including 77025, "Roll-Over Protection Structures"; and 71 FR 164, pages 50122 to and including 50192, "Assigned Protection Factors

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Hexavalent Chromium Standard: based on OSHA's evaluation of the fiscal impact of the proposed rule, the state will incur \$3,000 in initial implementation costs and \$180 per year in on-going expense.

Roll-Over Protection Standard: the state is not engaged in the activities subject to this proposed rule, and the rule does not impose any additional costs on employers. Consequently, the rule will not result in any cost of savings to the state budget. Respirator Standard: very few state employees are subject to the proposed rule's respiratory protection standards. For most of the employees who are subject to the rule, the rule will not require any change to current respiratory protection. For a few employees, the proposed rule may require greater protection at an additional cost. However, for other employees, the proposed rule will require less stringent protection at lower cost. Consequently, the proposed rule amendment will not result in any aggregate increase of decrease to the state budget.

❖ LOCAL GOVERNMENTS: Hexavalent Chromium Standard: based on OSHA's evaluation of the fiscal impact of the proposed rule, local government will incur \$4,200 in initial implementation costs and \$170 per year in on-going costs. Roll-Over Protection Standard: local governments are not engaged in the activities subject to this proposed rule, and the rule does not impose any additional costs on employers. Consequently, the rule will not result in any cost or savings to local governments. Respirator Standard: very few local government employees are subject to the proposed rule's respiratory protection standards. For most of the employees who are subject to the rule, the rule will not require any change to current respiratory protection. For a few employees, the proposed rule may require greater protection at an additional cost. However, for other employees the proposed rule will require less stringent protection at lower cost. Consequently, the proposed rule amendment will not result in any aggregate increase or decrease to the costs of local government.

❖ OTHER PERSONS: Hexavalent Chromium Standard: based on OSHA's evaluation of the fiscal impact of the proposed rule, employers in welding, electroplating, painting, and other related fields will incur \$750,000 in initial implementation costs and \$124,000 in annual ongoing costs. Employers in building construction, special trades and constructions of highways,

streets, and bridges will incur \$264,000 in initial implementation costs and \$59,000 in annual ongoing costs. Roll-Over Protection Standard: the proposed rule does not impose any additional or more stringent requirements, but does provide additional options for roll-over testing protection.

The rule will not result in any additional cost or savings to other persons. Respirator Standard: most employees do not work in jobs that require respiratory protection. In those occupations that do require such protection, the proposed rule will not generally require any change to current levels of protection. In some relatively unique situations, the proposed rule may have the effect of requiring greater protection, which may require the purchase of additional respiratory protective gear. However, for other employees, the proposed rule will allow use of less expensive protective equipment. On balance, the proposed rule amendment will not result in any aggregate costs of savings to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Hexavalent Chromium Standard: approximately 1,900 general industry employees will be affected by the proposed rule. The average cost to employers for compliance with the proposed rule is \$300 for initial implementation and less than \$50 per year in ongoing annual costs. Approximately 660 construction industry employees will be affected by the proposed rule. The average cost to employers for compliance with the proposed rule is \$400 for initial implementation and less than \$90 per year in ongoing annual costs. Roll-Over Protection Standard: by providing additional testing options, this rule may marginally reduce manufacturing costs of wheel-type tractors.

The rule imposes no additional compliance costs. Respirator Standard: respiratory protection required by this rule must be provided to employees by employers. In most cases, no additional protection will be required and there will be no compliance costs. In a small number of other cases, additional protective equipment may be required, at an estimated cost of \$350 per affected employee.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Hexavalent Chromium Standard: the fiscal impact of this proposed rule on businesses will depend upon the nature of the business and the degree to which protections against exposure to hexavalent chromium have already been implemented. In instances where no protections are in place, compliance costs are estimated at \$300 to \$400 per affected employee. Counterbalancing these costs are long-term savings from reduction of lung cancer, asthma, and associated maladies caused by hexavalent chromium exposure. Roll-Over Protection Standard: the proposed rule's fiscal impact on business is limited to the possibility of reduced manufacturing costs of the subject equipment. Respirator Standard: the proposed rule makes only minor changes to existing standards for respiratory protection. These changes may increase business costs in some instances, but will reduce costs in other cases. Furthermore, the overall effect of the rule will reduce employer costs related to worker exposure to fumes and pollutants. When all these factors are considered, the proposed rule should have no fiscal impact on businesses.

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

LABOR COMMISSION
OCCUPATIONAL SAFETY AND HEALTH
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY UT 84111-2316, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

William Adams at the above address, by phone at 801-530-6897, by FAX at 801-530-7606, or by Internet E-mail at wadams@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 01/15/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/23/2007

AUTHORIZED BY: Sherrie Hayashi, Commissioner

R614. Labor Commission, Occupational Safety and Health.

R614-1. General Provisions.

R614-1-4. Incorporation of Federal Standards.

A. General Industry Standards.

1. Sections 29 CFR 1910.21 to 1910.999 and 1910.1000 through the end of part 1910 of the July 1, 2005, edition are incorporated by reference.

2. 29 CFR 1908, July 1, 2005, is incorporated by reference.

3. 29 CFR 1904, July 1, 2005, is incorporated by reference.

4. FR Vol. 71, No. 39, Tuesday, February 28, 2006, Pages 10100 to and including 10385. "Occupational Exposure to Hexavalent Chromium: Final Rule" is incorporated by reference.

5. FR Vol. 71, No. 164, Thursday, August 24, 2006, Pages 50122 to and including 50192 "Assigned Protection Factors: Final Rule" is incorporated by reference.

B. Construction Standards.

1. Section 29 CFR 1926.20 through the end of part 1926, of the July 1, 2005, edition is incorporated by reference.

2. FR Vol. 71, No. 11, Wednesday, January 18, 2006, Pages 2879 to and including 2885, "Steel Erection: Slip Resistance of Skeletal Structural Steel; Final Rule" is incorporated by reference.

3. FR Vol. 71, No. 39, Tuesday, February 28, 2006, Pages 10100 to and including 10385. "Occupational Exposure to Hexavalent Chromium: Final Rule" is incorporated by reference.

4. FR Vol. 71, No. 39, Thursday, December 29, 2005, Pages 76979 to and including 77025. "Roll-Over Protection Structures (Direct Final Rule)" is incorporated by reference.

5. FR Vol. 71, No. 164, Thursday, August 24, 2006, Pages 50122 to and including 50192 "Assigned Protection Factors: Final Rule" is incorporated by reference.

KEY: safety

Date of Enactment or Last Substantive Amendment: ~~May 2, 2006~~ 2007

Notice of Continuation: November 25, 2002

Authorizing, and Implemented or Interpreted Law: 34A-6

Science Technology and Research Governing Authority (USTAR), Administration

R856-1

Formation and Funding of Utah Science Technology and Research Innovation Teams

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 29298

FILED: 12/01/2006, 12:04

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is issued pursuant to Subsection 63-38g-302(f).

SUMMARY OF THE RULE OR CHANGE: This rule relates to all funds allocated to Utah Science Technology and Research innovation teams by the Utah Science Technology and Research Governing Authority.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63-38g-302(f)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be no anticipated cost to the state budget as this is an instruction detailing when and how the Utah Science Technology and Research Governing Authority allocates money appropriated to it by the Legislature. Additionally, there will be no savings as this is a new process that will likely have no cost associated with it.

❖ LOCAL GOVERNMENTS: There will be no anticipated cost to local government as this is an instruction detailing when and how the Utah Science Technology and Research Governing Authority allocates money appropriated to it by the Legislature. Additionally, there will be no savings as this is a new process that will likely have no cost associated with it.

❖ OTHER PERSONS: There will be no anticipated cost to other persons as this is an instruction detailing when and how the Utah Science Technology and Research Governing Authority allocates money appropriated to it by the Legislature. Additionally, there will be no savings as this is a new process that will likely have no cost associated with it.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no compliance cost to any affected persons as this is an instruction detailing when and how the Utah Science Technology and Research Governing Authority allocates

money appropriated to it by the Legislature. Additionally, there will be no savings as this is a new process that will likely have no cost associated with it.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As there will be no aggregate anticipated costs or savings to the state budget, local government, or other persons, and no compliance costs for affected persons, we anticipate no fiscal impact on businesses. Ted McAleer, Executive Director

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

SCIENCE TECHNOLOGY AND
RESEARCH GOVERNING AUTHORITY (USTAR)
ADMINISTRATION
Room 500
324 S STATE ST
SALT LAKE CITY UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Michael Driscoll at the above address, by phone at 801-538-8693, by FAX at 801-538-888, or by Internet E-mail at mdriscoll@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 01/15/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/22/2007

AUTHORIZED BY: Michael Driscoll, Program Specialist

R865. Science Technology and Research Governing Authority (USTAR), Administration.

R856-1. Formation and Funding of Utah Science Technology and Research Innovation Teams.

R856-1-1. Authority.

_____ This rule is issued pursuant to Title 63-38g-302(f).

R856-1-2. Scope of Rule.

_____ This rule relates to all funds allocated to Utah Science Technology and Research innovation teams by the Utah Science Technology and Research Governing Authority.

R856-1-3. Definitions.

_____ (A) "Capital equipment" means an article of non-expendable tangible personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.

_____ (B) "Core operating support" means telephone administrative support and equipment, consumables, and other recurring support of Utah Science Technology and Research innovation team hire.

_____ (C) "Executive director" means the person appointed by the governing authority under Section 63-38g-301.

_____ (D) "Governing authority" means the Utah Science Technology and Research Governing Authority created in Section 63-38g-301.

_____ (E) "Program budget" means the budget proposed by each Utah Science Technology and Research innovation team and approved by the Utah Science Technology and Research Governing Authority.

_____ (F) "Start-up funds" means Utah Science Technology and Research money allocated to pay for Utah Science Technology and Research innovation team hire's recruiting, moving, capital equipment, laboratory and office space build-out, and other expenses necessary for Utah Science Technology and Research project.

_____ (G) "Utah Science Technology and Research Project" means the buildings and activities described in Title 63-38g Part 2, Utah Science Technology and Research Project.

_____ (H) "Utah Science Technology and Research innovation team" means the research teams recruited and hired through the Utah Science Technology and Research initiative to conduct science and technology research within the framework set forward by the Utah Science Technology and Research Governing Authority.

_____ (I) "Utah Science Technology and Research innovation team hire" means the researchers recruited and hired directly through the Utah Science Technology and Research initiative to conduct science and technology research within the framework set forward by the Utah Science Technology and Research Governing Authority.

R856-1-4. Initial Allocation of Funds to Utah Science Technology and Research Innovation Team.

_____ (A) 10% of program money is released for Utah Science Technology and Research innovation team when initial position is considered necessary and approved for by the governing authority.

_____ (1) Total amount of program money is determined by pro forma program budget approved by the governing authority.

R856-1-5. Secondary Allocation of Funds to Utah Science Technology and Research Innovation Team.

_____ (A) The remaining 90% of program money is eligible for release to Utah Science Technology and Research innovation team when a memorandum of understanding of first team hire is presented to the governing authority and the detailed program budget is deemed to be within the guidelines of the governing authority.

_____ (B) Utah Science Technology and Research innovation team hire and the appropriate university representatives such as department head, dean, provost, or vice president for research will agree upon and enter into a memorandum of understanding detailing:

_____ (1) capital equipment and other start-up requirements;

_____ (2) salary and benefits requirements;

_____ (3) core operating support requirements;

_____ (4) how the expected Utah Science Technology and Research innovation team will be organized;

_____ (5) Utah Science Technology and Research innovation team requirements and expectations;

_____ (6) other points important to Utah Science Technology and Research innovation team hire and university.

R856-1-6. Ongoing Funding for Utah Science Technology and Research Innovation Team.

_____ (A) Innovation team funding will have non-lapsing status based on the previous years funding, until:

(1) the governing authority cancels the Utah Science Technology and Research innovation team; or

(2) program changes are mutually proposed by the authorized university representative and the executive director and approved by the governing authority.

R856-1-7. Unused Funds for Utah Science Technology and Research Innovation Team.

(A) Utah Science Technology and Research innovation team funds allocated as start-up funds according to memorandum of understanding will have non-lapsing status between fiscal years for the first 3 fiscal years based on the date of the memorandum of understanding.

(1) Start-up funds unused after the first 3 fiscal years will revert back to the Utah Science Technology and Research General Fund.

(B) Core operating support and salary and benefit funds unused by the end of the fiscal year will have a threshold 10% automatic carry over into the subsequent fiscal year.

(1) Institutions may request carry forward of the unused funds over the 10% threshold subject to executive director approval.

KEY: STAR, technology funding, research funding
Date of Enactment or Last Substantive Amendment: 2007
Authorizing, and Implemented or Interpreted Law: 63-38g-302(f)



**Science Technology and Research
 Governing Authority (USTAR),
 Administration**

R856-2

**Distribution of Utah Science
 Technology and Research
 Commercialization Revenues**

**NOTICE OF PROPOSED RULE
 (New Rule)**

DAR FILE NO.: 29299
 FILED: 12/01/2006, 12:10

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is issued pursuant to Subsection 63-38g-302(f).

SUMMARY OF THE RULE OR CHANGE: This rule relates to all revenues generated through the Utah Science Technology and Research Project.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63-38g-302(f)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be no anticipated cost to the state budget as this is an instruction detailing when and how

the Utah Science Technology and Research Governing Authority allocates money earned through any innovation team technology commercialization process. Additionally, there will be no savings as this is a new process that will likely have no cost associated with it.

❖ LOCAL GOVERNMENTS: There will be no anticipated cost to local government as this is an instruction detailing when and how the Utah Science Technology and Research Governing Authority allocates money earned through any innovation team technology commercialization process. Additionally, there will be no savings as this is a new process that will likely have no cost associated with it.

❖ OTHER PERSONS: There will be no anticipated cost to other persons as this is an instruction detailing when and how the Utah Science Technology and Research Governing Authority allocates money earned through any innovation team technology commercialization process. Additionally, there will be no savings as this is a new process that will likely have no cost associated with it.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no compliance cost to any affected persons as this is an instruction detailing when and how the Utah Science Technology and Research Governing Authority allocates money earned through any innovation team technology commercialization process. Additionally, there will be no savings as this is a new process that will likely have no cost associated with it.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As there will be no aggregate anticipated costs or savings to the state budget, local government, or other persons, and no compliance costs for affected persons, we anticipate no fiscal impact on businesses. Ted McAleer, Executive Director

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

SCIENCE TECHNOLOGY AND
 RESEARCH GOVERNING AUTHORITY (USTAR)
 ADMINISTRATION
 Room 500
 324 S STATE ST
 SALT LAKE CITY UT 84111, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Michael Driscoll at the above address, by phone at 801-538-8693, by FAX at 801-538-888, or by Internet E-mail at mdriscoll@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 01/15/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/22/2007

AUTHORIZED BY: Michael Driscoll, Program Specialist



R865. Science Technology and Research Governing Authority (USTAR), Administration.**R856-2. Distribution of Utah Science Technology and Research Commercialization Revenues.****R856-2-1. Authority.**

This rule is issued pursuant to Title 63-38g-302(f).

R856-2-2. Scope of Rule.

This rule relates to all revenues generated through the Utah Science Technology and Research Project.

R856-2-3. Definitions.

(A) "Commercialization revenues" means dividends, realized capital gains, license fees, royalty fees, and other revenues received by a university as a result of commercial applications developed from the project, less:

(1) the portion of those revenues allocated to the inventor; and

(2) expenditures incurred by the university to legally protect the intellectual property beyond that paid out of the outreach program.

(B) "Executive director" means the person appointed by the governing authority under Section 63-38g-301.

(C) "Governing authority" means the Utah Science Technology and Research Governing Authority created in Section 63-38g-301.

(D) "Utah Science Technology and Research Project" means the buildings and activities described in Title 63-38g Part 2, Utah Science Technology and Research Project.

R856-2-4. Collection and Allocation of Initial Commercialization Revenues Generated Through the University of Utah and Utah State University.

(A) The University of Utah and Utah State University will collect commercialization revenues generated through the Utah Science Technology and Research project conducted at each respective university.

(B) The University of Utah and Utah State University will report commercialization revenues to the executive director on an annual basis 45 days after the end of the fiscal year.

(1) Annually, the money will be distributed 2/3 to Utah State University and the University of Utah, with the monies distributed proportionately based upon which university conducted the research that generated the license fees and royalty fees; and 1/3 to the Centers of Excellence program created by Chapter 38f, Part 7, Centers of Excellence Act.

(C) The University of Utah and Utah State University will continue to report commercialization revenues until the total reaches \$15,000,000; at which point the allocation described in R856-2-5 will be commenced.

R856-2-5. Collection and Allocation of Subsequent Commercialization Revenues Generated Through the University of Utah and Utah State University.

(A) Subsequent to the initial \$15,000,000 of commercialization revenues received, the University of Utah and Utah State University will collect commercialization revenues generated through the Utah Science Technology and Research project conducted at each respective university, and will report commercialization revenues to the executive director on an annual basis.

(1) Annually, the money will be distributed 50% to Utah State University and the University of Utah with the monies distributed

proportionately based upon which university conducted the research that generated the commercialization revenues; and 50% to the governing authority or other entity designated by the state to be used for:

(i) the Centers of Excellence program created by Chapter 38f, Part 7, Centers of Excellence Act;

(ii) replacement or maintenance of equipment in the research buildings;

(iii) recruiting and paying additional research teams;

(iv) construction of additional research buildings; and

(v) other activities approved by the governing authority.

(2) the University of Utah and Utah State University will collect revenues generated through the Utah Science Technology and Research project conducted at each respective university.

(3) the University of Utah and Utah State University will report commercialization revenues to the executive director on an annual basis.

(4) the University of Utah and Utah State University will deposit the commercialization revenues at their discretion until:

(i) commercialization revenues are allocated according to the schedule set by the governing authority.

KEY: STAR, commercialization revenues, distribution of revenues

Date of Enactment or Last Substantive Amendment: 2007
Authorizing, and Implemented or Interpreted Law: 63-38g-302(f)

◆ ————— ◆

**Workforce Services, Employment
Development
R986-200-246
Transitional Cash Assistance**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29300

FILED: 12/01/2006, 12:26

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for this amendment is to create a transitional cash assistance for Family Employment Program (FEP) clients.

SUMMARY OF THE RULE OR CHANGE: Transitional cash assistance is necessary to help clients stabilize employment and reduce recidivism. These benefits will be provided for three months for clients who are no longer eligible for FEP or FEP Two Parent assistance and who are working 30 hours per week (60 hours for two-parent households). With this additional assistance, the Department anticipates fewer households will need to seek further Department assistance and will therefore, become self-sufficient sooner.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104 and Subsections 35A-1-104(4) and 35A-3-302(5)(b)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: This is a federally-funded program so there are no costs or savings to the state budget.
- ❖ LOCAL GOVERNMENTS: This is a federally-funded program so there are no costs or savings to local government.
- ❖ OTHER PERSONS: There are no costs or savings to any other persons as there are no fees associated with this program and it is federally funded.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs or savings to any affected persons as there are no fees associated with this program and it is federally funded.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change. There are no fees associated with this change. There will be no cost to anyone to comply with these changes. There will be no fiscal impact on any business. Tani Downing, Executive Director

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

WORKFORCE SERVICES
EMPLOYMENT DEVELOPMENT
140 E 300 S
SALT LAKE CITY UT 84111-2333, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 01/15/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 02/01/2007

AUTHORIZED BY: Tani Downing, Executive Director

R986. Workforce Services, Employment Development.**R986-200. Family Employment Program.****R986-200-246. Transitional Cash Assistance.**

(1) Transitional Cash Assistance (TCA) is offered to help FEP and FEPTP customers stabilize employment and reduce recidivism.

(2) To be eligible for TCA a client must;

(a) have been eligible for and have received FEP or FEPTP during the month immediately preceding the month during which TCA is requested or granted. The FEP or FEPTP assistance must have been terminated due to earned or unearned income and not for nonparticipation under R986-200-212. If the immediately preceding month was during a diversion period, the client is not eligible for TCA, and

(b) be employed an average of 30 hours per week for FEP households. The parents in a FEPTP household must be employed a combined average of 60 hours per week.

(3) TCA is only available if the customer verifies employment averaging the minimum required in subparagraph (2)(b) of this section.

(4) TCA is available for a maximum of three months.

(a) The assistance payment for the first two months of TCA is based on household size. All household income, earned and unearned, is disregarded.

(b) Payment for the third month is one half of the payment available in (4)(a) of this section.

(5) If initial verification is provided and a client is paid one month of TCA but the client is unable to provide documentation to support that initial verification, no further payments will be made under TCA but the one month payment will not result in an overpayment.

(6) A client can only receive TCA once in any 24 month period. This time limit applies regardless of how many months of TCA a client received.

(7) TCA counts toward the 36 month time limit found in R986-200-217.

KEY: family employment program

Date of Enactment or Last Substantive Amendment: ~~November 4, 2006~~ 2007

Notice of Continuation: September 14, 2005

Authorizing, and Implemented or Interpreted Law: 35A-3-301 et seq.

◆ ————— ◆

Workforce Services, Employment Development **R986-700** Child Care Assistance

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29301

FILED: 12/01/2006, 12:52

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for this change is to clarify custody issues and broaden transitional assistance.

SUMMARY OF THE RULE OR CHANGE: Child care assistance is available to eligible individuals who have legal custody of children in need of care. This change makes it clear that a nonbinding "transfer" of custody is not sufficient and a court order is needed. The Department anticipates that they can decrease recidivism and stabilize employment if the subsidy deduction is waived for the first six months of employment instead of the current rule which waives the deduction for only three months.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104 and Subsections 35A-1-104(4) and 35A-3-310(3)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: This is a mostly federally-funded program and any increased costs will be absorbed within current funding levels.
- ❖ LOCAL GOVERNMENTS: This proposed amendment does not affect local governments and there will be no costs or savings to local governments.
- ❖ OTHER PERSONS: There are no costs or savings to any other persons as there are no fees associated with this program.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs to any affected persons as there are no fees associated with this program and it is federally funded. Clients eligible for the additional three months of transitional assistance will not be required to pay the subsidy deduction.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change. There are no fees associated with this change. There will be no cost to anyone to comply with these changes. There will be no fiscal impact on any business. Tani Downing, Executive Director

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

WORKFORCE SERVICES
EMPLOYMENT DEVELOPMENT
140 E 300 S
SALT LAKE CITY UT 84111-2333, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 01/15/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 02/01/2007

AUTHORIZED BY: Tani Downing, Executive Director

R986. Workforce Services, Employment Development.**R986-700. Child Care Assistance.****R986-700-702. General Provisions.**

- (1) CC is provided to support employment.
- (2) CC is available, as funding permits, to the following clients who are employed or are participating in activities that lead to employment:
 - (a) parents;
 - (b) specified relatives; or
 - (c) clients who have been awarded custody or appointed guardian of the child by court order. If there is no court order, an exception can be made on a case by case basis in unusual circumstances by the Department program specialist.

(3) Child care is provided only for children living in the home and only during hours when neither parent is available to provide care for the children.

(4) If a client is eligible to receive CC, the following children, living in the household unit, are eligible:

- (a) children under the age of 13; and
- (b) children up to the age of 18 years if the child;
 - (i) meets the requirements of rule R986-700-717, and/or
 - (ii) is under court supervision.

(5) Clients who qualify for child care services will be paid if and as funding is available. When the child care needs of eligible applicants exceed available funding, applicants will be placed on a waiting list. Eligible applicants on the list will be served as funding becomes available. Special needs children, homeless children and FEP or FEPTP eligible children will be prioritized at the top of the list and will be served first. "Special needs child" is defined in rule R986-700-717.

(6) The amount of CC might not cover the entire cost of care.

(7) A client is only eligible for CC if the client has no other options available for child care. The client is encouraged to obtain child care at no cost from a parent, sibling, relative, or other suitable provider. If suitable child care is available to the client at no cost from another source, CC cannot be provided.

(8) CC can only be provided for an eligible provider and will not be provided for illegal or unsafe child care. Illegal child care is care provided by any person or facility required to be licensed or certified but where the provider has not fulfilled the requirements necessary to obtain the license or certification.

(9) Neither the Department nor the state of Utah are liable for injuries that may occur when a child is placed in child care even if the parent receives a subsidy from the Department.

(10) Foster care parents receiving payment from the Department of Human Services are not eligible to receive CC for the foster children.

(11) Once eligibility for CC has been established, eligibility must be reviewed at least once every six months. The review is not complete until the the client has completed, signed and returned all necessary review forms to the local office. All requested verifications must be provided at the time of the review. If the Department has reason to believe the client's circumstances have changed, affecting either eligibility or payment amount, the Department will reduce or terminate CC even if the certification period has not expired.

R986-700-707. Subsidy Deduction and Transitional Child Care.

(1) "Subsidy deduction" means a dollar amount which is deducted from the standard CC subsidy for Employment Support CC. The deduction is determined on a sliding scale and the amount of the deduction is based on the parent(s) countable earned and unearned income and household size.

(2) The parent is responsible for paying the amount of the subsidy deduction directly to the child care provider.

(3) If the subsidy deduction exceeds the actual cost of child care, the family is not eligible for child care assistance.

(4) The full monthly subsidy deduction is taken even if the client receives CC for only part of the month.

(5) There is no subsidy deduction during:

- (a) the months covered by a FEP diversion payment;
- (b) transitional child care. Transitional child care is available[; subject to subsection (6) of this section;]during;

(i) the ~~three~~six months immediately following the period covered by the diversion payment if the client is working a minimum of 15 hours per week and is otherwise eligible for ESCC. The subsidy deduction will resume in the ~~fourth~~seventh month after the period covered by the diversion payment; or

(ii) the ~~three~~six months immediately following a FEP or FEPTP termination if the termination was due to increased income and the parent is otherwise eligible for ESCC. The subsidy deduction will resume in the ~~fourth~~seventh month after the termination of FEP or FEPTP. The six month time limit is the same regardless of whether the client receives TCA or not.

(6) A client does not need to fill out a new application for child care during the six month transitional period even if there is a gap in services during those six months. ~~(6) The subsidy deduction will only be waived for transitional child care if the client received ESCC during the calendar month following the termination of FEP or FEPTP or the expiration of the time covered by the diversion agreement. For instance, if a client's FEP was terminated due to increased income on May 18, and the client fails to request or is not eligible for ESCC during June, the client is not eligible for the~~

~~subsidy deduction waiver. If the same client reapplies and receives ESCC for July, the client is not eligible for the subsidy deduction waiver even though July is one of the three months immediately following the termination of FEP. Likewise, if the client received a diversion payment on March 1 which covered the months of March, April and May, the client must receive ESCC anytime during the month of June. If the client does not request, receive, or is not eligible for ESCC during June but becomes eligible during August, the ESCC is subject to the subsidy deduction even though August is one of the three months immediately following the period covered by diversion.]~~

KEY: child care

Date of Enactment or Last Substantive Amendment: ~~August 1, 2006~~2007

Notice of Continuation: September 14, 2005

Authorizing, and Implemented or Interpreted Law: 35A-3-310

◆ ————— ◆

End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a PROPOSED RULE in the *Utah State Bulletin*, it may receive public comment that requires the PROPOSED RULE to be altered before it goes into effect. A CHANGE IN PROPOSED RULE allows an agency to respond to comments it receives.

As with a PROPOSED RULE, a CHANGE IN PROPOSED RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the CHANGE IN PROPOSED RULE including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the RULE ANALYSIS, the text of the CHANGE IN PROPOSED RULE is usually printed. The text shows only those changes made since the PROPOSED RULE was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [example]). A row of dots in the text (.) indicates that unaffected text was removed to conserve space. If a CHANGE IN PROPOSED RULE is too long to print, the Division of Administrative Rules will include only the RULE ANALYSIS. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends January 15, 2007. At its option, the agency may hold public hearings.

From the end of the waiting period through April 14, 2007, the agency may notify the Division of Administrative Rules that it wants to make the CHANGE IN PROPOSED RULE effective. When an agency submits a NOTICE OF EFFECTIVE DATE for a CHANGE IN PROPOSED RULE, the PROPOSED RULE as amended by the CHANGE IN PROPOSED RULE becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file another CHANGE IN PROPOSED RULE in response to additional comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or another CHANGE IN PROPOSED RULE, the CHANGE IN PROPOSED RULE filing, along with its associated PROPOSED RULE, lapses and the agency must start the process over.

CHANGES IN PROPOSED RULES are governed by *Utah Code* Section 63-46a-6 (2001); and *Utah Administrative Code* Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

The Changes in Proposed Rules Begin on the Following Page.

Human Services, Substance Abuse and
Mental Health
R523-23
On-Premise Alcohol Training and
Education Seminar Rules of
Administration

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 28928
Filed: 11/27/2006, 13:05

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The original amendment added language to the rule that would require all participants in an alcohol server-training course to practice, face-to-face with an instructor, techniques for denying alcohol to patrons who had consumed too much alcohol. This requirement would have denied on-line training companies from participating in that particular market. During and after the public comment period, the Division received several comments from servers in rural areas who stated they wanted to be able to take the training course on-line for convenience sake, and an on-line training organization also made comments about fairness to all businesses. Based on these comments, the Division of Substance Abuse and Mental Health Board chose to remove the face-to-face practice requirement.

SUMMARY OF THE RULE OR CHANGE: Subsection R523-23-7(1)(f) has been renumbered along with all items in this section, and the expectation of practicing techniques for dealing with problem customers through face-to-face role-play has been removed. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the September 1, 2006, issue of the Utah State Bulletin, on page 43. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-15-401

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: This amendment has no impact on the cost to administer the rule including the cost for staff and materials.
- ❖ LOCAL GOVERNMENTS: This amendment places no financial obligation on local governments because they neither serve alcohol nor provide training to servers.
- ❖ OTHER PERSONS: This amendment will have no additional financial impact on others within the State of Utah beyond that which is already associated with this rule prior to the current change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendment will have no additional financial impact on others within the State of Utah beyond that which is already associated with this rule prior to the current change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After careful review, the Department of Human Services has determined that this rule will have no additional financial impact on businesses in the State of Utah beyond that which is already associated with this rule prior to the current change. Lisa-Michele Church, Executive Director

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

HUMAN SERVICES
SUBSTANCE ABUSE AND MENTAL HEALTH
Room 209
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Thom Dunford at the above address, by phone at 801-538-4519, by FAX at 801-538-9892, or by Internet E-mail at TDUNFORD@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 01/15/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/16/2007

AUTHORIZED BY: Mark I Payne, Director

**R523. Human Services, Substance Abuse and Mental Health.
R523-23. On-Premise Alcohol Training and Education Seminar
Rules of Administration.**

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R523-23-7. Approved Curriculum.

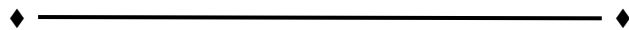
(1) Each provider must have a curriculum approved by the Division. This curriculum must provide at least three hours of classroom instruction both for original certification and for any and all recertifications. The contents of an approved curriculum shall include the following components:

- (a) Alcohol as a drug and its effect on the body and behavior:
 - (i) facts about alcohol;
 - (ii) what alcohol is; and
 - (iii) alcohol's path through the body.
- (b) Factors influencing the effect of alcohol including:
 - (i) food and digestive factors;
 - (ii) weight, physical fitness and gender factors;
 - (iii) psychological factors;
 - (iv) tolerance; and
 - (v) alcohol used in combination with other drugs.
- (c) Recognizing drinking levels:
 - (i) explanation of behavioral signs and indications of impairment;

- (ii) classification of behavioral signs; and
- (iii) defining intoxication.
- (d) Recognizing the problem drinker and techniques for servers to help control consumption:
 - (i) use of classification system;
 - (ii) use of alcohol facts;
 - (iii) continuity of service; and
 - (iv) drink counting.
- (e) Overview of state alcohol laws:
 - (i) Utah liquor distribution and control;
 - (ii) legal age;
 - (iii) prohibited sales;
 - (iv) third party liability and the Dram Shop Law;
 - (v) legal definition of intoxication; and
 - (vi) legal responsibilities of servers.
- (f) Techniques for dealing with the problem customer including rehearsal and practice of these techniques[~~using face to face role play~~].
- (g) Intervention techniques:
 - (i) slowing down service;
 - (ii) offering food or nonalcoholic beverages;
 - (iii) serving water with drinks;
 - (iv) not encouraging reorders; and
 - (v) cutting off service.
- (h) Establishing house rules for regulating alcoholic beverages:
 - (i) management and co-workers' support; and
 - (ii) dealing with minors; and
- (i) Alternative means of transportation and getting the customer home safely:
 - (i) ask customer to arrange alternative transportation;
 - (ii) call a taxi for transportation service;
 - (iii) accommodations for the night; and
 - (iv) telephone the police.

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KEY: substance abuse, server training
Date of Enactment or Last Substantive Amendment: ~~2006~~2007
Notice of Continuation: June 24, 2002
Authorizing, and Implemented or Interpreted Law: 62A-15-401



Insurance, Administration
R590-220
(Second)
 Submission of Accident and Health
 Insurance Filings

NOTICE OF CHANGE IN PROPOSED RULE
 DAR File No.: 28767
 Filed: 12/01/2006, 07:52

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These changes were requested during the last comment period.

SUMMARY OF THE RULE OR CHANGE: The changes to this rule require insurers to submit filing status information only when

domiciliary approval has not been obtained. (DAR NOTE: This is the second change in proposed rule (CPR) for Rule R590-220. The original proposed amendment upon which the first CPR was based was published in the June 15, 2006, issue of the Utah State Bulletin, on page 27. The first CPR upon which this second CPR is based was published in the August 15, 2006, issue of the Utah State Bulletin, on page 30. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike out indicates text that has been deleted. You must view the first CPR, the second CPR, and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-2-201.1, and 31A-2-202

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: This procedural change will reduce an insurer's filing requirements by one page. This will save the department a little on storage. It will not reduce the workload of the department. The Department will still receive the same number of filings as before the rule changes.
- ❖ LOCAL GOVERNMENTS: The amendments to this rule will not affect local governments since the rule deals only with the relationship between the department and their licensees, in this case, health and accident insurers.
- ❖ OTHER PERSONS: These changes will reduce the paperwork by one page for each filing made by the approximately 220 health and accident insurers actively engaged in selling insurance in Utah. The cost savings will be minimal in the way of paper saved but it will save the insurers time with one less page to fill out for each filing. Since there will be minimal cost savings to the insurers, there will be little or no cost savings to pass on to the consumer.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These changes will reduce the paperwork by one page for each filing made by the approximately 220 health and accident insurers actively engaged in selling insurance in Utah. The cost savings will be minimal in the way of paper saved but it will save the insurers time with one less page to fill out for each filing. Since there will be minimal cost savings to the insurers, there will be little or no cost savings to pass on to the consumer.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to this rule will have little or no fiscal impact on Utah businesses. D. Kent Michie, Commissioner

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

INSURANCE
 ADMINISTRATION
 Room 3110 STATE OFFICE BLDG
 450 N MAIN ST
 SALT LAKE CITY UT 84114-1201, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO: Jilene Whitby at the above address, by phone at 801-538-

3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 01/15/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 01/22/2007

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

R590-220. Submission of Accident and Health Insurance Filings.

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R590-220-6. Filing Submission Requirements.

A filing must be submitted by market type and type of insurance. A filing may not include more than one type of insurance, or request filing for more than one insurer. A complete filing consists of the following documents submitted in the following order:

(1) Transmittal. The NAIC Life, Accident and Health, Annuity, Credit Transmittal Document, as provided in R590-220-3(2), must be on the top of the filing. The transmittal form must be properly completed.

(a) Complete the transmittal by using the following:

(i) NAIC Instruction Sheet for Life, Accident and Health, Annuity, Credit Transmittal Document;

(ii) NAIC Instruction Sheet for Life, Accident and Health, Annuity, Credit Transmittal Document Form Filing Attachment and Rate Filing Attachment; and

(iii) NAIC Uniform Life, Accident and Health, Annuity and Credit Coding Matrix.

(b) Do not submit the document described in sections (a)(i),(ii), and (iii) with the filing.

(2) Filing Description. A cover letter should not be submitted. Instead, the following information must be included in the Filing Description on the transmittal and presented in the order shown below.

(i) Indicate if the filing is new, replacing a previous filing, or contains forms that have been previously filed and are included for informational purposes.

(ii) Provide a brief description of each component's purpose, benefits and provisions.

(iii) Identify any new, unusual, or controversial provision.

(iv) Identify any unresolved previously prohibited provision and explain why the provision is included in the filing.

(v) Explain any change in benefits or premiums that may occur while the contract is in force.

(vi) If the filing is replacing or modifying a previous submission, provide information that identifies the filing being replaced or modified, the Utah filed date, and a detailed description of the changes made.

(vii) If the filing includes forms for informational purposes, provide the dates the forms were filed.

(viii) If filing a certificate, outline of coverage, application, or endorsements, and the filing does not contain a policy, identify the

affected policy form number, the Utah filed date, and describe the effect of the submitted forms on the base policy.

(b) Marketing Facts.

(i) List the issue ages, which means the range of minimum and maximum ages for which a policy will be issued;

(ii) Identify the intended market, such as senior citizens, nonprofit organizations, association members, etc; and

(iii) Describe marketing and advertising in detail, i.e., through a marketing association, mass solicitation, electronic media, financial institutions, internet, telemarketing, or individually through licensed producers.

(c) Underwriting Methods. Provide a general explanation of the underwriting applicable to the filing.

(3) Certification. The Utah Accident and Health Insurance Filing Certification must be properly completed and signed. A filing will be rejected if the certification is missing or incomplete. A certification that is inaccurate may subject the filer to administrative action.

(4) ~~Domicile~~Domiciliary Approval and Filing Status Information. ~~[A foreign insurer and filer must first submit filings to their domicile state.]~~All filings for a foreign insurer must include domicile status and filing status information:

(a) ~~Provide~~Provide a stamped copy of the approval letter from the domicile state for the exact same filing~~and~~;

(b) ~~Filing~~filing status information which includes~~;~~;

(i) a list of the states to which the filing was submitted~~;~~;

(ii) the date submitted~~;~~ and

(iii) summary of the states' actions and their responses~~;~~ or

(c) ~~if~~if the filing is specific to Utah and only filed in Utah, then section 14 of the transmittal must be completed stating, "UTAH SPECIFIC - NOT SUBMITTED TO ANY OTHER STATE."

(5) Group Questionnaire or Discretionary Group Authorization Letter. A group filing must identify the type of group, and include either a signed and fully completed "Utah Accident and Health Insurance Group Questionnaire," or a copy of the "Utah Accident and Health Insurance Discretionary Group Authorization" letter.

(6) Letter of Authorization. When the filer is not the insurer, a letter of authorization from the insurer must be included. The insurer remains responsible for the filing being in compliance with Utah laws and rules.

(7) Items being submitted for filing. Refer to each applicable subsection of this rule for general procedures and additional procedures on how to submit forms, rates, and reports.

(8) Return Notification Materials.

(a) Return notification materials are limited to:

(i) a copy of the transmittal; and

(ii) a self addressed, stamped envelope.

(b) Any additional documents submitted for return will be discarded.

(c) Notice of filing will not be provided unless return notification materials are submitted.

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KEY: health insurance filings

**Date of Enactment or Last Substantive Amendment: ~~2006~~2007
Authorizing, and Implemented or Interpreted Law: 31A-2-201;
31A-2-201.1; 31A-2-202; 31A-22-605; 31A-22-620; 31A-30-106**



NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a 120-DAY (EMERGENCY) RULE when it finds that the regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (*Utah Code* Subsection 63-46a-7(1)).

As with a PROPOSED RULE, a 120-DAY RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the 120-DAY RULE including the name of a contact person, justification for filing a 120-DAY RULE, anticipated cost impact of the rule, and legal cross-references. A row of dots in the text (. . . .) indicates that unaffected text was removed to conserve space.

A 120-DAY RULE is effective at the moment the Division of Administrative Rules receives the filing, or on a later date designated by the agency. A 120-DAY RULE is effective for 120 days or until it is superseded by a permanent rule.

Because 120-DAY RULES are effective immediately, the law does not require a public comment period. However, when an agency files a 120-DAY RULE, it usually files a PROPOSED RULE at the same time, to make the requirements permanent. Comment may be made on the proposed rule. Emergency or 120-DAY RULES are governed by *Utah Code* Section 63-46a-7 (2001); and *Utah Administrative Code* Section R15-4-8.

Health, Health Care Financing, Coverage and Reimbursement Policy **R414-320-7** Creditable Health Coverage

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 29250
FILED: 11/28/2006, 12:00

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change complies with the Standard Terms and Conditions of the Section 1115 Demonstration Waiver program approved by the Centers for Medicare and Medicaid Services.

SUMMARY OF THE RULE OR CHANGE: Subsection R414-320-7(2) removes language that allows an individual enrolled in employer-sponsored health insurance for less than 60 days to be eligible for the Section 1115 Demonstration Waiver program.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-18-3 and 26-1-5

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** There are minimal savings in state and federal dollars because this rule limits enrollment in the demonstration waiver program. Nevertheless, there is insufficient data to quantify dollar amounts.
- ❖ **LOCAL GOVERNMENTS:** There is no budget impact because local governments do not fund demonstration waiver programs.
- ❖ **OTHER PERSONS:** There is a minimal loss of revenue to providers and an out-of-pocket expense to Medicaid clients

who do not qualify for the demonstration waiver program. Nevertheless, there is insufficient data to quantify dollar amounts.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is a minimal loss of revenue to a single provider and an out-of-pocket expense to a single Medicaid client who does not qualify for the demonstration waiver program. Nevertheless, there is insufficient data to quantify dollar amounts.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The federally-approved state plan provision will not allow an individual enrolled in employer-sponsored health insurance for less than 60 days to be eligible for the Section 1115 Demonstration Waiver program. This emergency rule keeps Utah in compliance with federal requirements. David N. Sundwall, MD, Executive Director

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD cause an imminent budget reduction because of budget restraints or federal requirements. place the agency in violation of federal or state law.

This change is necessary to comply with federal requirements. Non-compliance results in the loss of federal funds for this waiver program and a budget reduction for Medicaid clients.

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

HEALTH
HEALTH CARE FINANCING, COVERAGE
AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Craig Devashrayee or Gayleen Henderson at the above address, by phone at 801-538-6641 or 801-538-6135, by FAX at 801-538-6099 or 801-538-6860, or by Internet E-mail at cdevashrayee@utah.gov or ghenderson@utah.gov

THIS RULE IS EFFECTIVE ON: 11/28/2006

AUTHORIZED BY: David N. Sundwall, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-320. Medicaid Health Insurance Flexibility and Accountability Demonstration Waiver.

R414-320-7. Creditable Health Coverage.

(1) The Department adopts 42 CFR 433.138(b), 2005 ed., which are incorporated by reference.

(2) An individual who is covered under a group health plan or other creditable health insurance coverage, as defined by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), ~~[at the time of application]~~ is not eligible for enrollment ~~[if they have been enrolled for less than 60 days at the time of application]~~.

(3) Eligibility for an individual who has access to but has not yet enrolled in employer-sponsored health insurance coverage will be determined as follows:

(a) If the cost of the employer-sponsored coverage does not exceed 5% of the household's gross income, the individual is not eligible for the HIFA program.

(b) For adults, if the cost of the employer-sponsored coverage exceeds 15% of the household's gross income the adult may choose to enroll in the HIFA program or may choose direct coverage through the Primary Care Network program if enrollment has not been stopped under the provisions of R414-310-16.

(c) A child may choose enrollment in HIFA or direct coverage under the CHIP program if the cost of the employer sponsored coverage is more than 5% of the household's gross income.

(d) An individual is considered to have access to coverage even if the employer offers coverage only during an open enrollment period.

(4) An individual who is covered under Medicare Part A or Part B, or who could enroll in Medicare Part B coverage, is not eligible for enrollment, even if the individual must wait for a Medicare open enrollment period to apply for Medicare benefits.

(5) An individual who is enrolled in the Veteran's Administration (VA) Health Care System is not eligible for enrollment. An individual who is eligible to enroll in the VA Health Care System, but who has not yet enrolled, may be eligible for the HIFA program while waiting for enrollment in the VA Health Care System to become effective. To be eligible during this waiting period, the individual must initiate the process to enroll in the VA Health Care System. Eligibility for the HIFA program ends once the individual becomes enrolled in the VA Health Care System.

(6) The Department shall deny eligibility if the applicant, spouse, or dependent child has voluntarily terminated health insurance coverage within the 90 days immediately prior to the application date for enrollment under the HIFA program.

(a) An applicant, applicant's spouse, or dependent child can be eligible for the HIFA program if their prior insurance ended more than 90 days before the application date.

(b) An applicant, applicant's spouse, or dependent child who voluntarily discontinues health insurance coverage under a COBRA plan, or under the state Health Insurance Pool, or who is involuntarily terminated from an employer's plan may be eligible for the HIFA program without a 90 day waiting period.

(7) An individual with creditable health coverage operated or financed by the Indian Health Services may enroll in the HIFA program.

(8) Individuals must report at application and recertification whether each individual for whom enrollment is being requested has access to or is covered by a group health plan or other creditable health insurance coverage. This includes coverage that may be available through an employer or a spouse's employer, Medicare Part A or B, or the VA Health Care System.

(9) The Department shall deny an application or recertification if the applicant or enrollee fails to respond to questions about health insurance coverage for any individual the household seeks to enroll or recertify.

KEY: Medicaid, PCN, CHIP

Date of Enactment or Last Substantive Amendment: November 28, 2006

Authorizing, and Implemented or Interpreted Law: 26-18-3; 26-1-5



End of the Notices of 120-Day (Emergency) 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.

Attorney General, Administration

R105-1

Attorney General's Selection of Outside Counsel, Expert Witnesses and Other Litigation Support Services

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 29249
FILED: 11/22/2006, 15:49

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 was adopted pursuant to authority granted by the Chief Procurement Officer of the Division of Purchasing of the Department of Administrative Services under Section 67-5-5 and the Utah Procurement Code, Section 63-56-1 et seq.

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 allows the Attorney General's office to hire outside counsel, expert witnesses, or other providers of litigation support services when determined to be necessary for the handling of lawsuits involving the State's business. Without this authority, the office would be severely handicapped in representing the State in some critical cases. Therefore, this rule should be continued. Expert witnesses are frequently needed to prove a case, other litigation support services are often needed for evidentiary matters, and on occasion outside counsel is essential to handle a case where for some reason, the office either has a conflict or is without the necessary expertise.

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

ATTORNEY GENERAL
ADMINISTRATION
Room E320 EAST BUILDING
420 N STATE ST
SALT LAKE CITY UT 84114-2320, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jerrold Jensen at the above address, by phone at 801-366-0350, by FAX at 801-366-0352, or by Internet E-mail at jerroldjensen@utah.gov

AUTHORIZED BY: Ray Hintze, Chief Civil Deputy

EFFECTIVE: 11/22/2006



Commerce, Occupational and Professional Licensing

R156-15

Health Facility Administrator Act Rules

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 29297
FILED: 11/30/2006, 19:06

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 15, provides for the licensure of health facility administrators. Subsection 58-1-106(1)(a) provides that the Division may adopt and enforce rules to administer Title 58. Section 58-15-3 provides that the Health Facility Administrators Licensing Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that

one of the duties of each board is to recommend appropriate rules to the division director. This rule was enacted to clarify the provisions of Title 58, Chapter 15, with respect to health facility administrators.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the rule was last reviewed in February 2002, the Division has received no written comments.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 15, with respect to health facility administrators. The rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: J. Craig Jackson, Director

EFFECTIVE: 11/30/2006

◆ ————— ◆
**Health, Epidemiology and Laboratory
Services, Laboratory Services**

R438-10

**Rules for Establishment of a Procedure
to Examine the Blood of all Adult
Pedestrians and all Drivers of Motor
Vehicles Killed in Highway Accidents for
the Presence and Concentration of
Alcohol, for the Purpose of Deriving
Statistics Therefrom**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 29292
FILED: 11/30/2006, 14:40

**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 26-1-30(2)(q) and 26-1-30(2)(r) provide that the Department of Health establish procedures for the examination of highway accident deaths for the presence of alcohol in the blood and to provide the Department of Public Safety with statistical information. This rule establishes the procedures contemplated by these statutory provisions.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes a procedure to examine the blood for alcohol content of adult drivers and pedestrians killed in highway accidents for the purpose of deriving statistics as required by Subsection 26-1-30(2)(r). Therefore, this rule should be continued.

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

HEALTH
EPIDEMIOLOGY AND LABORATORY SERVICES,
LABORATORY SERVICES
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

David Mendenhall at the above address, by phone at 801-584-8470, by FAX at 801-584-8501, or by Internet E-mail at davidmendenhall@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 11/30/2006

◆ ————— ◆
**Health, Epidemiology and Laboratory
Services, Laboratory Improvement**

R444-1

Approval of Clinical Laboratories

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 29291
 FILED: 11/30/2006, 14:23

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 26-1-30(2)(m) charges the Department to set and enforce standards for laboratory services.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were 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 provides standards for the approval of laboratories desiring to be approved to conduct examinations. Various programs within the state require that testing for their specific program is performed in a Department-approved laboratory. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 David Mendenhall at the above address, by phone at 801-584-8470, by FAX at 801-584-8501, or by Internet E-mail at davidmendenhall@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 11/30/2006



Human Services, Recovery Services

R527-231

Review and Adjustment of Child Support Order

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 29289
 FILED: 11/30/2006, 11:35

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 62A-11-320.5, 62A-11-320.6, and 78-45-7.2 require that support orders for dependent children be reviewed and, if in the best interest of the child, adjusted. Rule R527-231 provides additional clarification by listing specific situations where a review and adjustment will or will not be pursued or where a review and adjustment process will be terminated.

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 should be continued because the state laws are still in effect which require review and adjustment processes for child support orders. This rule provides essential clarification and explanation relating to the procedures followed by the Office of Recovery Services in implementing these legal requirements.

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

HUMAN SERVICES
 RECOVERY SERVICES
 515 E 100 S
 SALT LAKE CITY UT 84102-4211, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Liesa Corbridge at the above address, by phone at 801-536-8986, by FAX at 801-536-8833, or by Internet E-mail at lcorbri2@utah.gov

AUTHORIZED BY: Mark Brasher, Director

EFFECTIVE: 11/30/2006



Insurance, Administration

R590-91

Credit Life Insurance and Credit Accident and Health Insurance

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 29302
 FILED: 12/01/2006, 13:55

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 31A-2-201 gives the commissioner the authority to write rules to implement the provisions of Title 31A. The rule implements the provisions of Title 31A, Chapter 22, Part 9, regarding reasonable rating, policy form, and operating standards for the transaction of credit life insurance and credit accident and health insurance.

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 in the department in the past five years regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule provides guidance for the credit insurance industry to be compliant with insurance laws and provides consumer protection for those purchasing credit insurance. Therefore, this rule should be continued.

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

INSURANCE
ADMINISTRATION
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 12/01/2006



Labor Commission, Antidiscrimination
and Labor, Fair Housing
R608-1
Utah Fair Housing Rules

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 29283
FILED: 11/30/2006, 08:09

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS

AUTHORIZE OR REQUIRE THE RULE: Section 57-21-8 gives the Labor Commission authority to establish rules to administer the Utah Fair Housing Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received during or since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Labor Commission continues to have jurisdiction over discrimination in matters of housing for the State of Utah. This rule establishes the procedures necessary to implement the Utah Fair Housing Act. Therefore, this rule should be continued.

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

LABOR COMMISSION
ANTIDISCRIMINATION AND LABOR, FAIR HOUSING
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:
Heather Morrison at the above address, by phone at 801-530-6921, by FAX at 801-530-7601, or by Internet E-mail at hmorrison@utah.gov

AUTHORIZED BY: Sherrie Hayashi, Commissioner

EFFECTIVE: 11/30/2006



Labor Commission, Antidiscrimination
and Labor, Labor
R610-1
Minimum Wage, Clarify Tip Credit, and
Enforcement

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 29284
FILED: 11/30/2006, 08:10

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 34-40-105 gives the Utah Labor Commission authority to establish rules to administer the Utah Minimum Wage Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received during or since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Labor Commission continues to have jurisdiction over the minimum wage standards set forth in the Utah Minimum Wage Act. This rule implements the statute's requirement that employees in Utah receive at least the minimum wage amount for their work. Therefore, this rule should be continued.

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

LABOR COMMISSION
 ANTIDISCRIMINATION AND LABOR, LABOR
 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:
 Heather Morrison at the above address, by phone at 801-530-6921, by FAX at 801-530-7601, or by Internet E-mail at hmorrison@utah.gov

AUTHORIZED BY: Sherrie Hayashi, Commissioner

EFFECTIVE: 11/30/2006



**Labor Commission, Antidiscrimination
 and Labor, Labor
 R610-2
 Employment of Minors**

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**
 DAR FILE No.: 29285
 FILED: 11/30/2006, 08:12

**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 34-23-104 gives the Labor Commission authority to establish rules to administer the Employment of Minors Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received during or since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Labor Commission continues to have jurisdiction over the employment of minors under the Utah Employment of Minors Act. This rule implements the Act's standards for the safety and well-being of working minors. Therefore, this rule should be continued.

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

LABOR COMMISSION
 ANTIDISCRIMINATION AND LABOR, LABOR
 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:
 Heather Morrison at the above address, by phone at 801-530-6921, by FAX at 801-530-7601, or by Internet E-mail at hmorrison@utah.gov

AUTHORIZED BY: Sherrie Hayashi, Commissioner

EFFECTIVE: 11/30/2006



**Labor Commission, Antidiscrimination
 and Labor, Labor
 R610-3
 Filing, Investigation, and Resolution of
 Wage Claims**

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**
 DAR FILE No.: 29286
 FILED: 11/30/2006, 08:13

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 34-28-9 and 34-28-19 give the Labor Commission authority to establish rules regarding filing of wage claims.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received during or since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Labor Commission continues to have jurisdiction over the filing of wage claims. This rule sets forth the procedures for filing a wage claim and

what information must be given to an employee as to what has been deducted from the paycheck. Therefore, this rule should be continued.

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

LABOR COMMISSION
ANTIDISCRIMINATION AND LABOR, LABOR
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:

Heather Morrison at the above address, by phone at 801-530-6921, by FAX at 801-530-7601, or by Internet E-mail at hmorrison@utah.gov

AUTHORIZED BY: Sherrie Hayashi, Commissioner

EFFECTIVE: 11/30/2006

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Labor Commission, Safety
R616-2
Boiler and Pressure Vessel Rules

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 29287
FILED: 11/30/2006, 08:13

**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 34A-7-103(6) and (7) give the Labor Commission authority to establish rules for the establishment of reasonable safety standards for boilers and pressure vessels to prevent exposure to risks for the public and employees.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received during or since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Labor Commission continues to have jurisdiction over the safety standards for boilers and pressure vessels. Therefore, this rule should be continued.

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

LABOR COMMISSION
SAFETY
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:

Pete Hackford at the above address, by phone at 801-530-7605, by FAX at 801-530-6390, or by Internet E-mail at phackford@utah.gov

AUTHORIZED BY: Sherrie Hayashi, Commissioner

EFFECTIVE: 11/30/2006

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Labor Commission, Safety
R616-3
Elevator Rules

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 29288
FILED: 11/30/2006, 08:14

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 34A-2-703(6) gives the Labor Commission authority to establish reasonable safety standards regarding elevators for the protection of life, health, and safety of the general public and employees.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received during or since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Labor Commission continues to have jurisdiction over the safety standards for elevators. Therefore, this rule should be continued.

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

LABOR COMMISSION
SAFETY
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:
Pete Hackford at the above address, by phone at 801-530-7605, by FAX at 801-530-6390, or by Internet E-mail at phackford@utah.gov

AUTHORIZED BY: Sherrie Hayashi, Commissioner

EFFECTIVE: 11/30/2006

Public Safety, Driver License
R708-34
Medical Waivers for Intrastate
Commercial Driving Privileges

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 29253
FILED: 11/28/2006, 16:48

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53-3-303.5(2)(a) says, "The Driver License Medical Advisory Board shall establish fitness standards for determining the physical qualifications under 49 CFR 391.41, for intrastate commercial driving privileges." This rule sets forth the procedure whereby a person may apply for a waiver, and also for the Driver License Division to respond to waiver requests.

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 needs to be continued in order to grant waivers from the Federal Motor Carrier Safety Regulations for those who qualify to get a commercial driving privilege for intrastate driving only.

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

PUBLIC SAFETY
DRIVER LICENSE
CALVIN L RAMPTON COMPLEX
4501 S 2700 W 3RD FL
SALT LAKE CITY UT 84119-5595, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Vinn Roos at the above address, by phone at 801-965-4456, by FAX at 801-964-4482, or by Internet E-mail at vroos@utah.gov

AUTHORIZED BY: Nannette Rolfe, Director

EFFECTIVE: 11/28/2006

Public Service Commission,
Administration
R746-409
Pipeline Safety

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 29255
FILED: 11/29/2006, 11:41

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 54, Chapter 13, specifically charges the Commission with responsibility to establish safety standards and practices for intrastate pipeline transportation and requires the Commission to promulgate/adopt rules to discharge that responsibility.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Over the past five years, the only comments received have been from the Utah Division of Public Utilities, Department of Commerce, requesting that the state rule incorporation of and references to federal rules be updated as the federal rules (Code of Federal Regulations (CFR)) have changed. As the relevant federal CFRs have changed, the Commission has amended the state rule in 2003 and 2004.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Utah statutory provisions continue to require the Commission to establish safety standards and regulate the operation of intrastate pipelines to ensure they are used in a safe and efficient manner, consistent with the public interest. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Sandy Mooy at the above address, by phone at 801-530-6708, by FAX at 801-530-6796, or by Internet E-mail at smooy@utah.gov

AUTHORIZED BY: Sandy Mooy, Legal Counsel

EFFECTIVE: 11/29/2006



Transportation, Administration
R907-1
Appeal of Departmental Actions

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR File No.: 29259
FILED: 11/29/2006, 14:01

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 issued pursuant to the department's general rulemaking authority under Section 72-1-201 and Title 63, Chapter 46b (the Administrative Procedures Act).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The department needs to have a written rule on administrative procedures. These have worked well and have received no contrary written or verbal comments. Therefore, this rule should be continued.

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

TRANSPORTATION
ADMINISTRATION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@utah.gov

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 11/29/2006



Transportation, Administration
R907-3
Administrative Procedure

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR File No.: 29260
FILED: 11/29/2006, 14:04

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is issued under Section 72-1-201 and the Government Records Access and Management Act (Title 63, Chapter 2) to make clear the department's general policy that final written orders, decisions, opinions, and statements of general applicability are public records.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The department continues to adhere to the same public records policy and no one has complained about the rule. Therefore, this rule should be continued.

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

TRANSPORTATION
ADMINISTRATION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@utah.gov

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 11/29/2006



Transportation, Administration
R907-60

Handling of Publications Prepared by
 the Utah Department of Transportation
 Either for Sale or Free Copy

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE NO.: 29261
 FILED: 11/29/2006, 14:07

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The rule is implemented under Section 63-2-102, which requires non-private, controlled, or protected documents to be treated as public records.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The department continues to adhere to this policy, i.e., that unless otherwise exempt, its records are public. Therefore, this rule should be continued.

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

TRANSPORTATION
 ADMINISTRATION
 CALVIN L RAMPTON COMPLEX
 4501 S 2700 W
 SALT LAKE CITY UT 84119-5998, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@utah.gov

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 11/29/2006



Transportation, Administration
R907-62
 Americans with Disabilities Act

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE NO.: 29262
 FILED: 11/29/2006, 14:13

**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 issued under the department's general rulemaking powers and under Section 67-19-32, which requires that people who believe they have been unlawfully discriminated against, file grievances separate from the Career Service Review Board process.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The department has a continuing need for the rule. Therefore, this rule should be continued.

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

TRANSPORTATION
 ADMINISTRATION
 CALVIN L RAMPTON COMPLEX
 4501 S 2700 W
 SALT LAKE CITY UT 84119-5998, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@utah.gov

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 11/29/2006



Transportation, Administration
R907-63
 Structure Repair and Loss Recovery
 Procedure

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE NO.: 29263
 FILED: 11/29/2006, 14:16

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 72-7-301 and 72-1-201 allow the department to issue a rule specifying the manner by which it recovers costs from damage to structures. This rule is issued to carry that out.

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 in opposition or support of 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 and the program it creates has worked well to provide a quick and cost-efficient method for the department to fix important structures. Therefore, this rule should be continued.

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

TRANSPORTATION
ADMINISTRATION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@utah.gov

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 11/29/2006



Transportation, Administration
R907-66
Administration,
Architecture/Engineering Services
Procurement, Consultant Services --
Eligibility of Costs for Reimbursement --
Bonuses or Incentive Compensation

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 29256
FILED: 11/29/2006, 13:09

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The Department enacted this rule under its general administrative rulemaking authority in Section 72-1-201. The rule allows the Department to specify the manner in which it will calculate contract costs.

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 rule has received no comments over 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 needs to continue because the Department maintains the need to calculate contract costs. However, the Department also has a pending rule amendment that will change the rule due to an amendment in federal law. That rule change is due to come into effect on 12/22/2006.

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

TRANSPORTATION
ADMINISTRATION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@utah.gov

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 11/29/2006



Transportation, Motor Carrier
R909-1
Safety Regulations for Motor Carriers

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 29264
FILED: 11/29/2006, 14:19

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 72-9-301 requires the department to issue a rule establishing safety regulations for motor carriers.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The statute still requires safety regulations and this rule has served well without opposing comments over the years. Therefore, this rule should be continued.

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

TRANSPORTATION
MOTOR CARRIER
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@utah.gov

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 11/29/2006



**Transportation, Motor Carrier
R909-16
Overall Motor Carrier Safety Standing**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 29257
FILED: 11/29/2006, 13:14

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 72-9-103 specifically requires the Department to make rules governing motor carrier safety.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any written comments to this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The statute still requires a Departmental rule and no comments have been made

indicating dissatisfaction with the current rule. Therefore, this rule should be continued.

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

TRANSPORTATION
MOTOR CARRIER
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@utah.gov

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 11/29/2006



**Transportation, Motor Carrier
R909-17
Appeal Process for Utah Commercial
Vehicle Safety Alliance Inspections**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 29258
FILED: 11/29/2006, 13:17

**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 issued under Section 72-9-103 and Title 63, Chapter 46b (the Administrative Procedures Act), to provide a means by which motor carriers can appeal Departmental decisions on motor carrier safety.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The statutes continue to require the Department to regulate motor carrier safety and the Administrative Procedures Act requires a means for appeal of agency decisions. Therefore, this rule should be continued.

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

TRANSPORTATION
MOTOR CARRIER
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@utah.gov

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 11/29/2006

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

TRANSPORTATION
MOTOR CARRIER
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@utah.gov

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 11/29/2006

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Transportation, Motor Carrier
R909-75

Safety Regulations for Motor Carriers
Transporting Hazardous Materials
and/or Hazardous Wastes

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 29265
FILED: 11/29/2006, 14:21

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 72-9-103 directs the department to write rules incorporating federal security requirements for motor carriers.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Motor carriers that carry hazardous materials mandate safety regulations that are more strict than those that relate to regular motor carriers. This rule is necessary to provide the correct level of guidance. Therefore, this rule should be continued.

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Transportation, Operations,
Construction
R916-1
Advertising and Awarding Construction
Contracts

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 29266
FILED: 11/29/2006, 14:25

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63-56-207 allows the Department to institute its own rules relating to transportation contracting.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Department needs this rule to make sure that the peculiar needs of transportation contracting are established. Therefore, this rule should be continued.

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

TRANSPORTATION
OPERATIONS, CONSTRUCTION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@utah.gov

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 11/29/2006

◆ ————— ◆

**Transportation, Operations,
Construction
R916-2
Prequalification of Contractors**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 29267
FILED: 11/29/2006, 14:29

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 63-56-207 allows the department to make its own rules regarding transportation contracting.

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 comments about this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Because of the peculiarities of transportation contracting, this rule needs to remain in place. Therefore, this rule should be continued.

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

TRANSPORTATION
OPERATIONS, CONSTRUCTION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@utah.gov

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 11/29/2006

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**Transportation, Operations,
Construction
R916-3
DESIGN-BUILD Contracts**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 29268
FILED: 11/29/2006, 14:31

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The provisions of this rule are authorized by the following grants of rulemaking authority and provisions of Title 63, Chapter 56; Title 63, Chapter 46a; and Sections 72-1-201, 72-5-114, and 72-6-105.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Department continues to do some design-build projects and may do some in the future. Consequently, this rule is necessary to allow such projects to go forward. Therefore, this rule should be continued.

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

TRANSPORTATION
OPERATIONS, CONSTRUCTION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@utah.gov

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 11/29/2006



Transportation, Program Development
R926-2
Evaluation of Proposed Additions to or
Deletions from the State Highway
System

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 29269
FILED: 11/29/2006, 14:35

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 72-4-102.5 requires establishment of an administrative rule that allows the department to establish what kind of roads qualify as state roads.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The statute still requires a rule-based criterion and no opposing comments to this rule have been given. Therefore, this rule should be continued.

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

TRANSPORTATION
PROGRAM DEVELOPMENT
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@utah.gov

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 11/29/2006



Transportation, Program Development
R926-3
Class B and Class C Road Funds

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 29270
FILED: 11/29/2006, 14:37

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 72-2-109, 72-3-103, and 72-3-104 authorize the Utah Department of Transportation and city and county officials to mutually adopt rules governing the expenditure of class B and class C road funds.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule has worked well in providing a formula for distribution of road funds to local governments. Therefore, this rule should be continued.

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

TRANSPORTATION
PROGRAM DEVELOPMENT
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@utah.gov

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 11/29/2006



Transportation, Program Development
R926-5
State Park Access Highways
Improvement Program

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 29271
FILED: 11/29/2006, 14:39

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 72-3-207 authorizes the Utah Department of Transportation to administer this program and to establish procedures for a county, city, or town to apply for a grant of program monies

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 received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The statute still requires a rule for state park access road improvements and no opposing comment has been heard. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TRANSPORTATION
PROGRAM DEVELOPMENT
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@utah.gov

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 11/29/2006



Transportation, Program Development
R926-6
Transportation Corridor Preservation
Revolving Loan Fund

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 29272
FILED: 11/29/2006, 14:42

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS

AUTHORIZE OR REQUIRE THE RULE: Subsections 72-2-117.7(c) and 72-2-117.10(a) authorize the Utah Transportation Commission to establish this rule. Subsection 72-2-117(7)(f) directs the Department to write rules governing the dispersal of monies from the fund, how monies are awarded, and how repayment should occur. Subsection 72-2-117(10)(a) directs the Department to make rules which establish a corridor preservation council.

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 received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The corridor preservation revolving fund continues to exist and rules are needed for it to work. There have been no negative comments received about this rule. Therefore, this rule should be continued. The statutory citations in the rule are outdated and will be corrected in a later nonsubstantive filing.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TRANSPORTATION
PROGRAM DEVELOPMENT
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@utah.gov

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 11/29/2006



Transportation, Preconstruction
R930-1
Installation of New Mailboxes and
Correction of Nonconforming Mailboxes

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 29273
FILED: 11/29/2006, 14:44

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 72-7-102 allows the Department to write rules allowing excavating and the installation of utilities and other facilities in the right-of-way.

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 received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Department needs to maintain a rule regarding mailboxes because it is a subject that concerns everyone who lives next to a state road and having the information in rule makes it more easily available for the public. Therefore, this rule should be continued.

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

TRANSPORTATION
PRECONSTRUCTION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@utah.gov

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 11/29/2006

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**Transportation, Preconstruction
R930-2
Public Hearings**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**
DAR File No.: 29274
FILED: 11/29/2006, 14:48

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Federal law requires that the Department establish a public hearing process for all projects that receive federal funds, see 23 CFR 771. This rule establishes that process.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The department still needs to involve the public via a public hearing process and this process works well. Therefore, this rule should be continued.

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

TRANSPORTATION
PRECONSTRUCTION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@utah.gov

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 11/29/2006

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**Transportation, Preconstruction
R930-3
Highway Noise Abatement**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**
DAR File No.: 29275
FILED: 11/29/2006, 14:50

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The Department is obligated to issue rules regarding noise abatement methods in Section 72-6-111 and in federal regulation, see 23 CFR 772.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule has worked well for the department in allowing it to fashion noise abatement methods. Therefore, this rule should be continued.

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

TRANSPORTATION
PRECONSTRUCTION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@utah.gov

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 11/29/2006

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Transportation, Preconstruction **R930-5**

Establishment and Regulation of At-Grade Railroad Crossings

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 29276
FILED: 11/29/2006, 14:53

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Section 54-4-15. Additional sections in the Utah Code and federal rules (Code of Federal Regulations (CFR)) supporting this rule are found in Sections 10-8-34, 10-8-82, 41-6-19, 72-1-102, 72-2-112; and 23 CFR 924 and 23 CFR 646. Section 54-4-15 specifically says that the department "shall have the power" to determine certain things. The department has chosen to use the rulemaking act to specify these determinations.

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 received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule has given the department needed authority and flexibility in monitoring railroad crossings. Therefore, this rule should be continued.

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

TRANSPORTATION
PRECONSTRUCTION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@utah.gov

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 11/29/2006

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Transportation, Preconstruction **R930-6**

Manual of Accommodation of Utility Facilities and the Control and Protection of State Highway Rights-of-Way

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 29281
FILED: 11/29/2006, 15:12

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 following statutes require the department to establish rules setting out access management principles and guidelines for utility access control: Sections 72-3-109, 72-6-116, 72-7-102, and 72-7-108.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The department continues to need rule guidance on access management and control. Therefore, this rule should be continued.

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

TRANSPORTATION
PRECONSTRUCTION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@utah.gov

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 11/29/2006

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Transportation, Preconstruction, Right-of-Way Acquisition

R933-1

Right of Way Acquisition

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 29277
FILED: 11/29/2006, 14:57

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 mandated by federal law for all road projects using federal funds. A rule regarding relocation is also required by Section 57-12-9.

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 received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule has worked well in giving the department guidance in relocating individuals. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TRANSPORTATION
PRECONSTRUCTION, RIGHT-OF-WAY ACQUISITION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@utah.gov

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 11/29/2006



Transportation, Preconstruction, Right-of-Way Acquisition

R933-2

Control of Outdoor Advertising Signs

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 29278
FILED: 11/29/2006, 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: This rule is issued pursuant to Section 72-7-506, which directs the department to issue rules to carry out its enforcement authority.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received about this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The department continues to need a rule under the statute in order to police outdoor advertising. Therefore, this rule should be continued.

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

TRANSPORTATION
PRECONSTRUCTION, RIGHT-OF-WAY ACQUISITION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@utah.gov

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 11/29/2006



Transportation, Preconstruction, Right-of-Way Acquisition

R933-3

Relocation or Modification of Existing Authorized Access Openings or Granting New Access Openings on Limited Access Highways

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 29279
FILED: 11/29/2006, 15:03

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The provisions of this rule are authorized by grants for rulemaking authority under Sections 72-1-201 and 72-7-102. Specifically, Section 72-7-102 says, "a highway authority having jurisdiction over the right-of-way may allow excavating, installation of utilities and other facilities or access under rules made by the highway authority and in compliance with federal, state, and local law as applicable."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The department needs this rule in order to advise the public of its access management methodology. Therefore, this rule should be continued.

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

TRANSPORTATION
PRECONSTRUCTION, RIGHT-OF-WAY ACQUISITION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@utah.gov

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 11/29/2006



Transportation, Preconstruction, Right-of-Way Acquisition
R933-4
Bus Shelters and Bus Benches

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR File No.: 29280
FILED: 11/29/2006, 15:05

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 provisions of this rule are authorized under Sections 72-7-102 through 72-7-104. A highway authority having jurisdiction over the right-of-way may allow excavating, installation of utilities, and other facilities or access under rules made by the highway authority and in compliance with federal, state, and local law as applicable.

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 received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The department continues to have a need to regulate bus shelters and bus benches because they often can infringe on right-of-way. Therefore, this rule should be continued.

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

TRANSPORTATION
PRECONSTRUCTION, RIGHT-OF-WAY ACQUISITION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
James Beadles at the above address, by phone at 801-965-4168, by FAX at 801-965-4796, or by Internet E-mail at jbeadles@utah.gov

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 11/29/2006



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*. Statute permits an agency to make a rule effective "on any date specified by the agency that is no fewer than seven calendar days after the close of the public comment period . . . , nor more than 120 days after the publication date." Subsection 63-46a-4(9).

Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal and Reenact

REP = Repeal

Alcoholic Beverage Control

Administration

No. 29082 (AMD): R81-1-6. Violation Schedule.

Published: October 15, 2006

Effective: November 22, 2006

No. 28904 (AMD): R81-1-25. Sexually-Oriented Entertainers and Stage Approvals.

Published: August 15, 2006

Effective: November 22, 2006

No. 28904 (CPR): R81-1-25. Sexually-Oriented Entertainers and Stage Approvals.

Published: October 15, 2006

Effective: November 22, 2006

Commerce

Consumer Protection

No. 29076 (AMD): R152-34-5. Rules Relating to Institutions Exempt Under Section 13-34-105.

Published: October 15, 2006

Effective: November 27, 2006

Real Estate

No. 28980 (AMD): R162-3. License Status Change.

Published: September 15, 2006

Effective: November 16, 2006

Environmental Quality

Drinking Water

No. 29036 (AMD): R309-105-9. Minimum Water Pressure.

Published: October 1, 2006

Effective: January 1, 2007

Solid and Hazardous Waste

No. 29085 (AMD): R315-1. Utah Hazardous Waste Definitions and References.

Published: October 15, 2006

Effective: December 1, 2006

No. 29093 (AMD): R315-2. General Requirements - Identification and Listing of Hazardous Waste.

Published: October 15, 2006

Effective: December 1, 2006

No. 29086 (AMD): R315-3. Application and Permit Procedures for Hazardous Waste Treatment, Storage, and Disposal Facilities.

Published: October 15, 2006

Effective: December 1, 2006

No. 29094 (AMD): R315-4-1. General Program Requirements.

Published: October 15, 2006

Effective: December 1, 2006

No. 29088 (AMD): R315-5. Hazardous Waste Generator Requirements.

Published: October 15, 2006

Effective: December 1, 2006

No. 29092 (AMD): R315-6. Hazardous Waste Transporter Requirements.

Published: October 15, 2006

Effective: December 1, 2006

No. 29089 (AMD): R315-7. Interim Status Requirements for Hazardous Waste Treatment, Storage, and Disposal Facilities.

Published: October 15, 2006

Effective: December 1, 2006

No. 29090 (AMD): R315-8. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities.

Published: October 15, 2006

Effective: December 1, 2006

No. 29083 (AMD): R315-12. Administrative Procedures.

Published: October 15, 2006

Effective: December 1, 2006

No. 29091 (AMD): R315-13. Land Disposal Restrictions.

Published: October 15, 2006

Effective: December 1, 2006

No. 29087 (AMD): R315-14. Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities.
Published: October 15, 2006
Effective: December 1, 2006

No. 29034 (NEW): R315-17. End of Life Automotive Mercury Switch Removal Standards.
Published: October 1, 2006
Effective: December 1, 2006

No. 29084 (AMD): R315-50. Appendices.
Published: October 15, 2006
Effective: December 1, 2006

Governor

Administration

No. 29045 (REP): R355-2. Complaint Procedure for Americans With Disabilities Act (ADA).
Published: October 15, 2006
Effective: December 1, 2006

Health

Health Care Financing, Coverage and Reimbursement Policy

No. 29073 (AMD): R414-304. Income and Budgeting.
Published: October 15, 2006
Effective: November 28, 2006

Tax Commission

Auditing

No. 29025 (AMD): R865-4D-5. Special Fuel Tax Entrance Permits Pursuant to Utah Code Ann. Section 59-13-303.
Published: October 1, 2006
Effective: November 17, 2006

No. 29026 (AMD): 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.
Published: October 1, 2006
Effective: November 17, 2006

No. 29029 (AMD): 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.
Published: October 1, 2006
Effective: November 17, 2006

No. 29021 (AMD): R865-6F-19. Taxation of Trucking Companies Pursuant to Utah Code Ann. Sections 59-7-302 through 59-7-321.
Published: October 1, 2006
Effective: November 17, 2006

No. 29020 (AMD): R865-6F-29. Taxation of Railroads Pursuant to Utah Code Ann. Sections 59-7-302 through 59-7-321.
Published: October 1, 2006
Effective: November 17, 2006

No. 29031 (AMD): R865-6F-31. Taxation of Publishing Companies Pursuant to Utah Code Ann. Sections 59-7-302 through 59-7-321.
Published: October 1, 2006
Effective: November 17, 2006

No. 29032 (AMD): R865-6F-32. Taxation of Financial Institutions Pursuant to Utah Code Ann. Sections 59-7-302 through 59-7-321.
Published: October 1, 2006
Effective: November 17, 2006

No. 29018 (AMD): R865-6F-33. Taxation of Telecommunications Pursuant to Utah Code Ann. Sections 59-7-302 through 59-7-321.
Published: October 1, 2006
Effective: November 17, 2006

No. 29022 (AMD): 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.
Published: October 1, 2006
Effective: November 17, 2006

No. 29027 (AMD): R865-12L-5. Place of Sale Pursuant to Utah Code Ann. Section 59-12-207.
Published: October 1, 2006
Effective: November 17, 2006

No. 29019 (AMD): R865-19S-32. Leases and Rentals Pursuant to Utah Code Ann. Section 59-12-103.
Published: October 1, 2006
Effective: November 17, 2006

No. 29033 (AMD): R865-19S-34. Admission to Places of Amusement Pursuant to Utah Code Ann. Section 59-12-103.
Published: October 1, 2006
Effective: November 17, 2006

No. 29024 (AMD): R865-19S-49. Sales to and by Farmers and Other Agricultural Producers Pursuant to Utah Code Ann. Section 59-12-104.
Published: October 1, 2006
Effective: November 17, 2006

No. 29030 (AMD): R865-19S-76. Painters, Polishers and Car Washers Pursuant to Utah Code Ann. Section 59-12-103 and 59-12-104.
Published: October 1, 2006
Effective: November 17, 2006

No. 29023 (AMD): R865-19S-80. Printer's Purchases and Sales Pursuant to Utah Code Ann. Section 59-12-103.
Published: October 1, 2006
Effective: November 17, 2006

No. 29028 (AMD): 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.
Published: October 1, 2006
Effective: November 17, 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 December 1, 2006, the effective dates of which are no later than December 15, 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	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Administrative Services					
<u>Administrative Rules</u>					
R15-4	Administrative Rulemaking Procedures	28586	EMR	04/15/2006	2006-8/57
<u>Facilities Construction and Management</u>					
R23-1	Procurement of Construction	28609	AMD	06/01/2006	2006-9/3
R23-1	Procurement of Construction	28608	AMD	06/01/2006	2006-9/10
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
<u>Finance</u>					
R25-2	Finance Adjudicative Proceedings	29077	5YR	09/25/2006	2006-20/79
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
<u>Fleet Operations</u>					
R27-1	Definitions (5YR EXTENSION)	28279	NSC	01/30/2006	Not Printed
R27-1	Definitions	28474	5YR	01/30/2006	2006-4/33
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 (5YR EXTENSION)	28280	NSC	01/30/2006	Not Printed
R27-3	Vehicle Use Standards	28477	5YR	01/30/2006	2006-4/34
R27-7	Safety and Loss Prevention of State Vehicles	28469	5YR	01/20/2006	2006-4/34
<u>Fleet Operations, Surplus Property</u>					
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
<u>Information Technology Services</u>					
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
<u>Purchasing and General Services</u>					
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
R33-3	Source Selection and Contract Formation	28447	AMD	02/21/2006	2006-2/5
R33-4	Specifications	28438	NSC	02/22/2006	Not Printed
R33-5	Construction and Architect-Engineer Selection	28448	NSC	02/22/2006	Not Printed
R33-7	Cost Principles	28439	NSC	02/22/2006	Not Printed
R33-8	Property Management	28440	NSC	02/22/2006	Not Printed
<u>Records Committee</u>					
R35-1	State Records Committee Appeal Hearing Procedures	28462	AMD	03/14/2006	2006-3/3
R35-1	State Records Committee Appeal Hearing Procedures	28776	AMD	08/09/2006	2006-13/4
<u>Risk Management</u>					
R37-1	Risk Management General Rules	28413	AMD	03/31/2006	2006-1/4
R37-4	Adjusted Utah Governmental Immunity Limitations on Judgments	28667	R&R	07/01/2006	2006-10/5
Agriculture and Food					
<u>Administration</u>					
R51-3	Government Records Access and Management Act	28552	5YR	03/16/2006	2006-8/69
R51-4	ADA Complaint Procedure	28553	5YR	03/16/2006	2006-8/69
<u>Animal Industry</u>					
R58-2	Diseases, Inspections and Quarantines	28925	5YR	08/15/2006	2006-17/65
R58-4	Use of Animal Drugs and Biologicals in the State of Utah	28926	5YR	08/15/2006	2006-17/65
R58-4-1	Authority	28972	NSC	09/22/2006	Not Printed
R58-10	Meat and Poultry Inspection	28506	AMD	04/03/2006	2006-5/2
R58-14	Holding Live Raccoons or Coyotes in Captivity	28971	5YR	08/29/2006	2006-18/46
R58-19-1	Authority	29153	NSC	11/08/2006	Not Printed

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Marketing and Development</u>					
R65-7	Horse Racing	28970	5YR	08/29/2006	2006-18/46
R65-8	Management of the Junior Livestock Show Appropriation	28558	5YR	03/16/2006	2006-8/70
R65-8-1	Authority	29154	NSC	11/08/2006	Not Printed
<u>Plant Industry</u>					
R68-4	Standardization, Marketing, and Phytosanitary Inspection of Fresh Fruits, Vegetables, and Other Plant and Plant Products	28504	5YR	02/10/2006	2006-5/47
R68-7	Utah Pesticide Control Act	28554	5YR	03/16/2006	2006-8/70
R68-7	Utah Pesticide Control Act	28769	AMD	07/25/2006	2006-12/6
R68-8	Utah Seed Law	28452	5YR	01/09/2006	2006-3/38
R68-15-5	Restrictions	29100	NSC	11/15/2006	Not Printed
R68-16-1	Authority	29155	NSC	11/08/2006	Not Printed
R68-17-1	Authority	29156	NSC	11/08/2006	Not Printed
R68-18	Quarantine Pertaining to Karnal Bunt	28505	5YR	02/10/2006	2006-5/48
R68-18-1	Authority	29157	NSC	11/08/2006	Not Printed
R68-19-1	Authority	29158	NSC	11/08/2006	Not Printed
<u>Regulatory Services</u>					
R70-101	Bedding, Upholstered Furniture and Quilted Clothing	28503	AMD	04/03/2006	2006-5/3
R70-201-1	Authority	29159	NSC	11/08/2006	Not Printed
R70-310	Grade A Pasteurized Milk	29099	NSC	11/15/2006	Not Printed
R70-330	Raw Milk for Retail	28555	5YR	03/16/2006	2006-8/71
R70-370	Butter	28556	5YR	03/16/2006	2006-8/71
R70-380	Grade A Condensed and Dry Milk Products and Condensed and Dry Whey	28557	5YR	03/16/2006	2006-8/72
R70-410	Grading and Inspection of Shell Eggs With Standard Grade and Weight Classes	28471	5YR	01/24/2006	2006-4/35
R70-410-1	Authority	28485	AMD	03/20/2006	2006-4/4
R70-920	Packaging and Labeling of Commodities	28976	5YR	08/29/2006	2006-18/47
R70-920-2	Adopted by Reference	28977	NSC	09/22/2006	Not Printed
R70-930	Method of Sale of Commodities	28974	5YR	08/29/2006	2006-18/47
R70-930-2	Adopted by Reference	28973	NSC	09/22/2006	Not Printed
R70-940	Standards and Testing of Motor Fuel	28978	5YR	08/29/2006	2006-18/48
Alcoholic Beverage Control					
<u>Administration</u>					
R81-1	Scope, Definitions, and General Provisions	28985	5YR	08/31/2006	2006-18/48
R81-1-3	General Policies	29046	NSC	11/15/2006	Not Printed
R81-1-6	Violation Schedule	29047	NSC	11/15/2006	Not Printed
R81-1-6	Violation Schedule	29082	AMD	11/22/2006	2006-20/3
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R861-1A-39	Penalty for Failure to File a Return Pursuant to Utah Code Ann. Sections 10-1-405, 59-1-401, 59-12-118, and 69-2-5	28731	AMD	09/01/2006	2006-11/81
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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	29029	AMD	11/17/2006	2006-19/100
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R986-400	General Assistance and Working Toward Employment	28992	AMD	11/01/2006	2006-18/40
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R994-406-401	Claimant Fraud	28877	NSC	07/27/2006	Not Printed

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ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

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	29059	R156-40	5YR	09/19/2006	2006-20/80
	28876	R156-40-302c	AMD	09/14/2006	2006-15/4
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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
	28458	R612-4	5YR	01/12/2006	2006-3/39
	28298	R612-4-2	AMD	01/01/2006	2005-22/41
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Workforce Services, Employment Development	28760	R986-600	AMD	08/09/2006	2006-12/65
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	28890	R986-600-652	NSC	08/09/2006	Not Printed

<u>KEYWORD</u> <u>AGENCY</u>	<u>FILE</u> <u>NUMBER</u>	<u>CODE REFERENCE</u>	<u>ACTION</u>	<u>EFFECTIVE</u> <u>DATE</u>	<u>BULLETIN</u> <u>ISSUE/PAGE</u>
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