

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
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Kenneth A. Hansen, Director  
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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

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## Governor's Executive Order 2007-0007: Wildland Fire Management

### EXECUTIVE ORDER

#### Wildland Fire Management

**WHEREAS**, the danger from wildland fires is extremely high throughout the State of Utah;

**WHEREAS**, numerous wildland fires are burning and continue to burn in various areas statewide and present a serious threat to public safety, property, natural resources and the environment;

**WHEREAS**, some of the areas are extremely remote and inaccessible and the situation has the potential to greatly worsen if left unattended;

**WHEREAS**, immediate action is required to suppress the fires and mitigate post-burn flash floods to protect public safety, property, natural resources and the environment,

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

**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 order that:

It is found, determined and declared that a "State of Emergency" exists statewide due to the threat to public safety, property, natural resources and the environment for thirty days, effective as of July 10, 2007 requiring aid, assistance and relief available pursuant to the provisions of state statutes, and the State Emergency Operations Plan, which is hereby activated.

**IN WITNESS, WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah this 10th day of July 2007

(State Seal)

**Jon M. Huntsman**  
Governor

**ATTEST:**

**Gary R. Herbert**  
Lieutenant Governor

2007/0007

**End of the Special Notices Section**

## NOTICES OF PROPOSED RULES

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A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between June 16, 2007, 12:00 a.m., and July 2, 2007, 11:59 p.m. are included in this, the July 15, 2007, 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 between paragraphs (· · · · ·) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not printed. 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 August 14, 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 November 12, 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.

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



**Administrative Services, Administrative  
Rules  
R15-4-10  
Estimates of Anticipated Cost or  
Savings, and Compliance Costs**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 30112

FILED: 06/20/2007, 16:04

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Effective 07/01/2007, H.B. 64 (2007) amends the Utah Administrative Rulemaking Act. It changes the information an agency is required to provide related to anticipated cost or savings when it files a proposed rule, change in proposed rule, emergency rule, or expedited rule. This proposed rule makes the Division's rule related to the reporting of anticipated costs or savings consistent with the new provisions added by H.B. 64. (DAR NOTE: H.B. 64 (2007) is found at Chapter 102, Laws of Utah 2007, and was effective 07/01/2007.)

SUMMARY OF THE RULE OR CHANGE: This amendment requires an agency to provide the same level of specificity when it reports anticipated costs or savings for small businesses, and persons other than small businesses, businesses, or local government entities as it does when it reports anticipated costs or savings to state budgets and local governments. At Subsection R15-4-10(1)(d), the rule clarifies that an agency must report anticipated costs or savings accruing to small businesses or persons other than small businesses, businesses, or local government as incremental, aggregated costs or savings. Similarly, at Subsection R15-4-10(5), an agency may indicate that there is no cost to small businesses or persons other than small businesses, businesses, or local government entities, but such a statement must be followed by an explanation of how the agency estimated that there would be no impact or how the rule does not apply to small businesses, or persons other than small businesses, businesses, or local government entities.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 63-46a-10, 63-46a-4, and 63-46a-6

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: This rule imposes no costs to the state budget. Any costs related to this change were reflected in the fiscal note attached to H.B. 64.
- ❖ LOCAL GOVERNMENTS: The division does not regulate local government. This rule does not impose any costs or accrue any savings to local government.
- ❖ OTHER PERSONS: The division does not regulate other persons. This rule does not impose any costs or accrue any savings to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The division only regulates agencies. It does not regulate persons as defined

by the Rulemaking Act. Therefore, there are no compliance costs for persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule is necessary to implement H.B. 64 and make the Division's rules consistent with the statute. It does not impose a fiscal impact on businesses. Kimberly K. Hood, Executive Director

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

ADMINISTRATIVE SERVICES  
ADMINISTRATIVE RULES  
Room 4120 STATE OFFICE BLDG  
450 N MAIN ST  
SALT LAKE CITY UT 84114-1201, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kenneth A. Hansen at the above address, by phone at 801-538-3777, by FAX at 801-538-1773, or by Internet E-mail at khansen@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 08/14/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2007

AUTHORIZED BY: Kenneth A. Hansen, Director

**R15. Administrative Services, Administrative Rules.**

**R15-4. Administrative Rulemaking Procedures.**

**R15-4-10. Estimates of Anticipated Cost or Savings, and Compliance Cost.**

(1) Pursuant to Subsections 63-46a-4(3), 63-46a-6(1), 63-46a-7(2), and 53C-1-201(3), when an agency files a proposed rule, change in proposed rule, 120-day (emergency) rule, or expedited rule and provides anticipated cost or savings, and compliance cost information in the rule analysis, the agency shall:

(a) estimate the incremental cost or savings and incremental compliance cost associated with the changes proposed by the rule or change;

(b) estimate the incremental cost or savings and incremental compliance cost in dollars, except as otherwise provided in Subsections R15-4-10(4) and (5);

(c) indicate that the amount is either a cost or a savings; and

(d) estimate the incremental cost or savings expected to accrue to "state budgets," "local governments," ~~or "other persons"~~ "small businesses," and "persons other than small businesses, businesses, or local governmental entities" as aggregated cost or savings;

(2) In addition, an agency may:

(a) provide a narrative description of anticipated cost or savings, and compliance cost;

(b) compare anticipated cost or savings, and compliance cost figures, for the rule or change to:

(i) current budgeted costs associated with the existing rule,

(ii) figures reported on a fiscal note attached to a related legislative bill, or

(iii) both (i) and (ii).

(3) If an agency chooses to provide comparison figures, it shall clearly distinguish comparison figures from the anticipated cost or savings, and compliance cost figures.

(4) If dollar estimates are unknown or not available, or the obtaining thereof would impose a substantial unbudgeted hardship on the agency, the agency may substitute a reasoned narrative description of cost-related actions required by the rule or change, and explain the reason or reasons for the substitution.

(5) If no cost, savings, or compliance cost is associated with the rule or change, an agency may enter "none," "no impact," or similar words in the rule analysis followed by a written explanation of how the agency estimated that there would be no impact, or how the proposed rule, or changes made to an existing rule does not apply to "state budgets," "local government," ["~~other persons,~~"] "small businesses," "persons other than small businesses, businesses, or local governmental entities," or any combination of these.

(6) If an agency does not provide an estimate of cost, savings, compliance cost, or a reasoned narrative description of cost information; or a written explanation as part of the rule analysis in compliance with this section, the Division may, after making an attempt to obtain the required information, refuse to register and publish the rule or change. If the Division refuses to register and publish a rule or change, it shall:

- (a) return the rule or change to the agency with a notice indicating that the Division has refused to register and publish the rule or change;
- (b) identify the reason or reasons why the Division refused to register and publish the rule or change; and
- (c) indicate the filing deadlines for the next issue of the Bulletin.

**KEY: administrative law**

**Date of Enactment or Last Substantive Amendment:** ~~December 25, 2006~~ **2007**

**Notice of Continuation:** September 29, 2005

**Authorizing, and Implemented or Interpreted Law:** 63-46a-10; 63-46a-4; 63-46a-6



Alcoholic Beverage Control,  
Administration  
**R81-1-6**  
Violation Schedule

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE No.: 30166  
FILED: 07/02/2007, 14:06

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Alcoholic Beverage Control (ABC) Commission has updated its ten-year-old Violation Grid to include recent legislative changes. It is necessary to amend Subsection R81-1-6(6) to identify which edition of the Violation Grid is currently incorporated by reference.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment to Subsection R81-1-6(6) and simply adds in parentheses the words "2007 edition".

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Violation Grid, 2007 edition

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--This proposed amendment merely identifies a new edition of materials that are incorporated by reference.
- ❖ LOCAL GOVERNMENTS: None--The proposed rule amendment identifies the edition of the Violation Grid that will be used when the ABC Commission adjudicates administrative proceedings against ABC licensees and permittees who have violated liquor laws. These proceedings do not involve local governments.
- ❖ OTHER PERSONS: None--The Violation Grid has been incorporated by reference merely identifies which edition of the violation Grid is currently incorporated by reference.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The amendment is proposed for the purpose of identifying which edition of the Violation Grid is currently incorporated by reference to the ABC's Violation Schedule and will involve no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule amendment will have no fiscal impact on businesses. The amendment is proposed for the purpose of identifying the edition of the Violation Grid currently incorporated by reference to ABC's Violation Schedule. Dennis R. Kellen, Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
ALCOHOLIC BEVERAGE CONTROL  
ADMINISTRATION  
1625 S 900 W  
SALT LAKE CITY UT 84104-1630, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Sharon Mackay at the above address, by phone at 801-977-6800, by FAX at 801-977-6889, or by Internet E-mail at smackay@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 08/14/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 08/22/2007

AUTHORIZED BY: Dennis R. Kellen, Director

**R81. Alcoholic Beverage Control, Administration.****R81-1. Scope, Definitions, and General Provisions.****R81-1-6. Violation Schedule.**

(1) Authority. This rule is pursuant to Sections 32A-1-107(1)(c)(i), 32A-1-107(1)(e), 32A-1-107(4)(b), 32A-1-119(5), (6) and (7). These provisions authorize the commission to establish criteria and procedures for imposing sanctions against licensees and permittees and their officers, employees and agents who violate statutes and commission rules relating to alcoholic beverages. For purposes of this rule, holders of certificates of approval are also considered licensees. The commission may revoke or suspend the licenses or permits, and may impose a fine against a licensee or permittee in addition to or in lieu of a suspension. The commission also may impose a fine against an officer, employee or agent of a licensee or permittee. Violations are adjudicated under procedures contained in Section 32A-1-119 and disciplinary hearing Section R81-1-7.

(2) General Purpose. This rule establishes a schedule setting forth a range of penalties which may be imposed by the commission for violations of the alcoholic beverage laws. It shall be used by department decision officers in processing violations, and by presiding officers in charging violations, in assisting parties in settlement negotiations, and in recommending penalties for violations. The schedule shall be used by the commission in rendering its final decisions as to appropriate penalties for violations.

**(3) Application of Rule.**

(a) This rule governs violations committed by all commission licensees and permittees and their officers, employees and agents except single event permittees. Violations by single event permittees and their employees and agents are processed under Section 32A-7-106.

(b) This rule does not apply to situations where a licensee or permittee fails to maintain the minimum qualifications provided by law for holding a license or permit. These might include failure to maintain a bond or insurance, or a conviction for a criminal offense that disqualifies the licensee or permittee from holding the license or permit. These are fundamental licensing and permitting requirements and failure to maintain them may result in immediate suspension or forfeiture of the license or permit. Thus, they are not processed in accordance with the Administrative Procedures Act, Title 63, Chapter 46b or Section R81-1-7. They are administered by issuance of an order to show cause requiring the licensee or permittee to provide the commission with proof of qualification to maintain their license or permit.

(c) If a licensee or permittee has not received a letter of admonishment, as defined in Sections R81-1-2 and R81-1-7(2)(b), or been found by the commission to be in violation of Utah statutes or commission rules for a period of 36 consecutive months, its violation record shall be expunged for purposes of determining future penalties sought. The expungement period shall run from the date the last offense was finally adjudicated by the commission.

(d) In addition to the penalty classifications contained in this rule, the commission may:

(i) upon revocation of a license or permit, take action to forfeit the bond of any licensee or permittee;

(ii) prohibit an officer, employee or agent of a licensee or permittee from serving, selling, distributing, manufacturing, wholesaling, warehousing, or handling alcoholic beverages in the course of employment with any commission licensee or permittee for a period determined by the commission;

(iii) order the removal of a manufacturer's, supplier's or importer's products from the department's sales list and a suspension of the

department's purchase of those products for a period determined by the commission if the manufacturer, supplier, or importer directly committed the violation, or solicited, requested, commanded encouraged, or intentionally aided another to engage in the violation.

(iv) require a licensee to have a written responsible alcohol service plan as provided in R81-1-24.

(e) When the commission imposes a fine or administrative costs, it shall establish a date on which the payment is due. Failure of a licensee or permittee or its officer, employee or agent to make payment on or before that date shall result in the immediate suspension of the license or permit or the suspension of the employment of the officer, employee or agent to serve, sell, distribute, manufacture, wholesale, warehouse or handle alcoholic beverages with any licensee or permittee until payment is made. Failure of a licensee or permittee to pay a fine or administrative costs within 30 days of the initial date established by the commission shall result in the issuance of an order to show cause why the license or permit should not be revoked and the licensee's or permittee's compliance bond forfeited. The commission shall consider the order to show cause at its next regularly scheduled meeting.

(f) Violations of any local ordinance are handled by each individual local jurisdiction.

(4) Penalty Schedule. The department and commission shall follow these penalty range guidelines:

(a) Minor Violations. Violations of this category are lesser in nature and relate to basic compliance with the laws and rules. If not corrected, they are sufficient cause for action. Penalty range: Verbal warning from law enforcement or department compliance officer(s) to revocation of the license or permit and/or up to a \$25,000 fine. A record of any letter of admonishment shall be included in the licensee's or permittee's and the officer's, employee's or agent's violation file at the department to establish a violation history.

(i) First occurrence involving a minor violation: the penalty shall range from a verbal warning from law enforcement or department compliance officer(s), which is documented to a letter of admonishment to the licensee or permittee and the officer, employee or agent involved. Law enforcement or department compliance officer(s) shall notify management of the licensee or permittee when verbal warnings are given.

(ii) Second occurrence of any type of minor violation: a written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department. The penalty shall range from a \$100 to \$500 fine for the licensee or permittee, and a letter of admonishment to a \$25 fine for the officer, employee or agent.

(iii) Third occurrence of any type of minor violation: a one to five day suspension of the license or permit and employment of the officer, employee or agent, and/or a \$200 to \$500 fine for the licensee or permittee and up to a \$50 fine for the officer, employee or agent.

(iv) More than three occurrences of any type of minor violation: a six day suspension to revocation of the license or permit and a six to ten day suspension of the employment of the officer, employee or agent, and/or a \$500 to \$25,000 fine for the licensee or permittee and up to a \$75 fine for the officer, employee or agent.

(v) If more than one violation is charged during the same investigation, the penalty shall be the sum of the days of suspension and/or the monetary penalties for each of the charges in their respective categories. If other minor violations are discovered during the same investigation, a verbal warning shall be given for each violation on a first occurrence. If the same type of violation is reported more than once during the same investigation, the violations shall be charged as a single occurrence.

(b) Moderate Violations. Violations of this category demonstrate a general disregard for the laws or rules. Although the gravity of the acts are not viewed in the same light as in the serious and grave categories, they are still sufficient cause for action. Penalty range: Written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department on the first occurrence. The penalty shall range from a letter of admonishment to revocation of the license or permit and/or up to a \$25,000 fine.

(i) First occurrence involving a moderate violation: a written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department. The penalty shall range from a letter of admonishment to a \$1000 fine for the licensee or permittee, and a letter of admonishment to a \$50 fine for the officer, employee or agent.

(ii) Second occurrence of any type of moderate violation: a three to ten day suspension of the license or permit and a three to ten day suspension of the employment of the officer, employee or agent, and/or a \$500 to \$1000 fine for the licensee or permittee and up to a \$75 fine for the officer, employee or agent.

(iii) Third occurrence of any type of moderate violation: a ten to 20 day suspension of the license or permit and a ten to 20 day suspension of the employment of the officer, employee or agent, and/or a \$1000 to \$2000 fine for the licensee or permittee and up to a \$100 fine for the officer, employee or agent.

(iv) More than three occurrences of any type of moderate violation: a 15 day suspension to revocation of the license or permit and a 15 to 30 day suspension of the employment of the officer, employee or agent, and/or a \$2000 to \$25,000 fine for the licensee or permittee and up to a \$150 fine for the officer, employee or agent.

(v) If more than one violation is charged during the same investigation, the penalty shall be the sum of the days of suspension and/or the sum of the monetary penalties for each of the charges in their respective categories.

(vi) If the same type of violation is reported more than once during the same investigation, the violations shall be charged as a single occurrence.

(c) Serious Violations. Violations of this category directly or indirectly affect or potentially affect the public safety, health and welfare, or may involve minors. Penalty range: Written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department on the first occurrence. The penalty shall range from a five day suspension to revocation of the license or permit and/or up to a \$25,000 fine.

(i) First occurrence involving a serious violation: written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department. The penalty shall range from a five to 30 day suspension of the license or permit and a five to 30 day suspension of the employment of the officer, employee or agent, and/or a \$500 to \$3000 fine for the licensee or permittee and up to a \$100 fine for the officer, employee or agent.

(ii) Second occurrence of any type of serious violation: a ten to 90 day suspension of the license or permit and a ten to 90 day suspension of the employment of the officer, employee or agent, and/or a \$1000 to \$9000 fine for the licensee or permittee and up to a \$150 fine for the officer, employee or agent.

(iii) More than two occurrences of any type of serious violation: a 15 day suspension to revocation of the license or permit and a 15 to 120 day suspension of the employment of the officer, employee or agent, and/or a \$9000 to \$25,000 fine for the licensee or permittee and up to a \$500 fine for the officer, employee or agent.

(iv) If more than one violation is charged during the same investigation, the penalty shall be the sum of the days of suspension and/or the sum of the monetary penalties for each of the charges in their respective categories.

(v) If the same type of violation is reported more than once during the same investigation, the violations shall be charged as a single occurrence.

(d) Grave Violations. Violations of this category pose or potentially pose, a grave risk to public safety, health and welfare, or may involve lewd acts prohibited by title 32A, fraud, deceit, willful concealment or misrepresentation of the facts, exclusion of competitors' products, unlawful tied house trade practices, commercial bribery, interfering or refusing to cooperate with authorized officials in the discharge of their duties, unlawful importations, or industry supplying liquor to persons other than the department and military installations. Penalty range: Written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department on the first occurrence. The penalty shall range from a ten day suspension to revocation of the license or permit and/or up to a \$25,000 fine.

(i) First occurrence involving a grave violation: written investigation report from law enforcement or department compliance officer(s) shall be forwarded to the department. The penalty shall range from a ten day suspension to revocation of the license or permit and a 10 to 120 day suspension of the employment of the officer, employee or agent, and/or a \$1000 to \$25,000 fine to the licensee or permittee and up to a \$300 fine for the officer, employee or agent.

(ii) More than one occurrence of any type of grave violation: a fifteen day suspension to revocation of the license or permit, and a 15 to 180 day suspension of the employment of the officer, employee or agent and/or a \$3000 to \$25,000 fine for the licensee or permittee and up to a \$500 fine for the officer, employee or agent.

(iii) If more than one violation is charged during the same investigation, the penalty shall be the sum of the days of suspension and/or the sum of the monetary penalties for each of the charges in their respective categories.

(iv) If the same type of violation is reported more than once during the same investigation, the violations shall be charged as a single occurrence.

(e) The following table summarizes the penalty ranges contained in this section of the rule for licensees and permittees.

Violation Degree and Frequency	Warning Verbal/Written	Fine \$ Amount	Suspension No. of Days	Revoke License
Minor				
1st	X X			
2nd		100 to 500		
3rd		200 to 500	1 to 5	
Over 3		500 to 25,000	6 to	X
Moderate				
1st	X	to 1,000		
2nd		500 to 1,000	3 to 10	
3rd		1,000 to 2,000	10 to 20	
Over 3		2,000 to 25,000	15 to	X
Serious				
1st		500 to 3,000	5 to 30	
2nd		1,000 to 9,000	10 to 90	
Over 2		9,000 to 25,000	15 to	X

Grave				
1st	1,000 to 25,000	10 to		X
Over 1	3,000 to 25,000	15 to		X

32A-4-203(1)(a); 32A-4-304(1)(a); 32A-4-307(22); 32A-4-401(1)(a); 32A-4-403(1)(a); 32A-5-103(1)(a); 32A-5-107(40); 32A-6-103(2)(a); 32A-7-103(2)(a); 32A-7-106(5); 32A-8-103(1)(a); 32A-8-503(1)(a); 32A-9-103(1)(a); 32A-10-203(1)(a); 32A-10-206(14); 32A-10-303(1)(a); 32A-10-306(5); 32A-11-103(1)(a)

(f) The following table summarizes the penalty ranges contained in this section of the rule for officers, employees or agents of licensees and permittees.

TABLE

Violation Degree and Frequency	Warning Verbal/Written	Fine \$ Amount	Suspension No. of Days
Minor			
1st	X		
2nd		to 25	
3rd		to 50	1 to 5
Over 3		to 75	6 to 10
Moderate			
1st	X	to 50	
2nd		to 75	3 to 10
3rd		to 100	10 to 20
Over 3		to 150	15 to 30
Serious			
1st		to 100	5 to 30
2nd		to 150	10 to 90
Over 2		to 500	15 to 120
Grave			
1st		to 300	10 to 120
Over 1		to 500	15 to 180

(5) Aggravating and Mitigating Circumstances. The commission and presiding officers may adjust penalties within penalty ranges based upon aggravating or mitigating circumstances. Examples of mitigating circumstances are: no prior violation history, good faith effort to prevent a violation, existence of written policies governing employee conduct, and extraordinary cooperation in the violation investigation that shows the licensee or permittee and the officer, employee or agent of the licensee or permittee accepts responsibility. Examples of aggravating circumstances are: prior warnings about compliance problems, prior violation history, lack of written policies governing employee conduct, multiple violations during the course of the investigation, efforts to conceal a violation, intentional nature of the violation, the violation involved more than one patron or employee, the violation involved a minor and, if so, the age of the minor, and whether the violation resulted in injury or death.

(6) Violation Grid. A violation grid describing each violation of the alcoholic beverage control laws, the statutory and rule reference, and the degree of seriousness of each violation is available for public inspection in the department's administrative office. A copy will be provided upon request at reproduction cost. It is entitled "Alcoholic Beverage Control Commission Violation Grid" (2007 edition) and is incorporated by reference as part of this rule.

**KEY: alcoholic beverages**

**Date of Enactment or Last Substantive Amendment:** ~~March 30, 2007~~

**Notice of Continuation:** August 31, 2006

**Authorizing, and Implemented or Interpreted Law:** 32A-1-107; 32A-1-119(5)(c); 32A-3-103(1)(a); 32A-4-103(1)(a); 32A-4-106(22);



## Commerce, Occupational and Professional Licensing **R156-3a** Architect Licensing Act Rules

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 30113

FILED: 06/21/2007, 09:36

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Due to statute amendments requiring continuing professional education for licensed architects which were passed during the 2007 legislative session in H.B. 258, this rule is being amended to implement the continuing professional education requirements provided for in Title 58, Chapter 3a. (DAR NOTE: H.B. 258 (2007) is found at Chapter 251, Laws of Utah 2007, and was effective 04/30/2007.)

**SUMMARY OF THE RULE OR CHANGE:** Throughout the rule, amendments are being proposed to change the rule from plural to singular. Section R156-31-304 is being added to define and clarify the continuing professional education hours for licensed architects which are required in Section 58-3a-303.5.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 58-3a-101 and 58-3a-303.5, and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

**ANTICIPATED COST OR SAVINGS TO:**

- ❖ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$75 to reprint the rule once the proposed changes are made effective. Any costs incurred will be absorbed in the Division's current budget. Other state agency budgets may be affected if the agency pays for any continuing professional education hours for a licensed architect which may be employed by that agency. The Division is unable to determine however if any other state agencies will actually pay for continuing professional education hours for a licensed architect employee or how many licensed architects are employed by other state agencies.

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

❖ OTHER PERSONS: The Division does not anticipate the proposed amendments to this rule regarding continuing professional education will result in any higher costs to licensed architects or a small business consisting of licensed architects beyond the amount of fiscal impact considered during the 2007 legislative session when the governing statute was amended to require continuing professional education hours.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Division does not anticipate the proposed amendments to this rule regarding continuing professional education will result in any higher costs to licensed architects or a small business consisting of licensed architects beyond the amount of fiscal impact considered during the 2007 legislative session when the governing statute was amended to require continuing professional education hours.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule change adopts continuing education requirements as required by statute. No fiscal impact to businesses is anticipated beyond those addressed in H.B. 258. Francine A. Giani, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dan S. Jones at the above address, by phone at 801-530-6720, by FAX at 801-530-6511, or by Internet E-mail at dansjones@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 08/14/2007

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 8/10/2007 at 9:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 402 (fourth floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/22/2007

AUTHORIZED BY: F. David Stanley, Director

## **R156. Commerce, Occupational and Professional Licensing.**

### **R156-3a. Architect Licensing Act Rule[s].**

#### **R156-3a-101. Title.**

Th[ese] rule[s-are] is known as the "Architect Licensing Act Rule[s]".

#### **R156-3a-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 3a, as used in Title 58, Chapters 1, 3a, and 22 or th[ese] rule[s]:

(1) "ARE" means the NCARB Architectural Registration Examination.

(2) "Committee" means the IDP Committee created in Section R156-3a-201.

(3) "Complete and final" as used in Subsection 58-3a-603(1) means "complete construction plans" as defined in Subsection 58-3a-102(4).

(4) "Divisions of the ARE" mean:

(a) pre-design (PD): satisfied by passing Division A between 1983 and 1996;

(b) site planning (SP): satisfied by passing both Division B-Written and Division B-Graphic between 1988 and 1996; or by passing Division B between 1983 and 1987;

(c) building planning (BP): satisfied by passing Division C between 1983 and 1996;

(d) building technology (BT): satisfied by passing Division C between 1983 and 1996;

(e) general structures (GS): satisfied by passing Division D/F between 1988 and 1996; or by passing both Division D and Division F between 1983 and 1987;

(f) lateral forces (LF): satisfied by passing Division E between 1983 and 1996;

(g) mechanical and electrical systems (ME): satisfied by passing Division G between 1983 and 1996;

(h) materials and methods (MM): satisfied by passing Division H between 1983 and 1996; and

(i) construction documents and services (CD): satisfied by passing Division I between 1983 and 1996.

(5) "EESA" means the Education Evaluation Services for Architects.

(6) "Employee, subordinate, associate, or drafter of an architect" as used in Subsections 58-3a-102(8), 58-3a-603(1)(b) and th[ese] rule[s] means one or more individuals not licensed as an architect who are working for, with, or providing architectural services directly to the licensed architect under the supervision of the licensed architect.

(7) "Incidental practice" means "architecture work as is incidental to the practice of engineering" as used in Subsection 58-22-102(9) and "engineering work as is incidental to the practice of architecture as used in Subsection 58-3a-102(6) which:

(a) can be safely and competently performed by the licensee without jeopardizing the life, health, property and welfare of the public;

(b) is in an area where the licensee has demonstrated competence by adequate education, training and experience;

(c) arises from and is directly related to work performed in the licensed profession;

(d) is substantially less in scope and magnitude when compared to the work performed or to be performed by the licensee in the licensed profession; and

(e) is work in which the licensee is fully responsible for the incidental practice performed as provided in Subsection 58-3a-603(1) or Subsection 58-22-603(1).

(8) "Intern Development Program" or "IDP" as used in Subsection R156-3a-302(2) means a NCARB approved training program.

(9) "NAAB" means the National Architectural Accrediting Board.

(10) "NCARB" means the National Council of Architectural Registration Boards.

(11) "Program of diversified practical experience" as used in Subsection 58-3a-302(1)(e) means:

- (a) current licensure in a recognized jurisdiction; or
- (b) the training standards and requirements set forth in the Intern Development Program.

(12) "Recognized jurisdiction" as used in Subsections 58-3a-302(2)(d)(i) and (iii), for licensure by endorsement, means any state, district, territory of the United States, or any foreign country who issues licenses for architects, and whose licensure requirements include:

- (a) a bachelors or post graduate degree in architecture or equivalent education as set forth in Subsection R156-3a-301(2);
- (b) a program of diversified practical experience as set forth in Subsection R156-3a-102(10), or an equivalent training program; and
- (c) passing the ARE or passing a professional architecture examination that is equivalent to the ARE.

(13) "Responsible charge" as used in Subsections 58-3a-102(7), 58-3a-302(2)(d)(iv) and 58-3a-304(6) means direct control and management by a principal over the practice of architecture by an organization.

(14) "Under the direction of the architect" as used in Subsection 58-3a-102(8), as part of the definition of "supervision of an employee, subordinate, associate, or drafter of an architect" means that the unlicensed employee, subordinate, associate, or drafter of the architect engages in the practice of architecture only on work initiated by the architect, and only under the administration, charge, control, command, authority, oversight, guidance, jurisdiction, regulation, management, and authorization of the architect.

(15) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 3a, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-3a-502.

#### **R156-3a-103. Authority - Purpose.**

Th[ese]is rule[s-are] is adopted by the division under the authority of Subsection 58-1-106(1)(a) to enable the division to administer Title 58, Chapter 3a.

#### **R156-3a-304. Continuing Professional Education for Architects.**

In accordance with Section 58-3a-303.5, the qualifying continuing professional education standards for architects are established as follows:

(1) During each two year period ending on December 31 of each odd numbered year, a licensed architect shall be required to complete not less than 16 hours of qualified professional education directly related to the licensee's professional practice.

(a) Transition requirement. During the two year period ending on December 31, 2007, an architect shall be required to complete five hours of qualifying continuing professional education.

(2) The required number of hours of professional education for an individual who first becomes licensed during the two year period shall be decreased in a pro-rata amount equal to any part of that two year period preceding the date on which that individual first became licensed.

(3) Qualified continuing professional education under this section shall:

(a) have an identifiable, clear statement of purpose and defined objective for the educational program directly related to the practice of an architect and directly related to topics involving the public health, safety, and welfare of architectural practice and the ethical standards of architectural practice;

(i) health, safety, welfare and ethical standards as used in this subsection are defined to include the following:

(A) The definition of "health" shall include, but not be limited to, aspects of architecture that have salutary effects among users of buildings or sites and that address environmental issues. Examples include all aspects of air quality, provisions of personal hygiene, and use of non-toxic materials and finishes.

(B) The definition of "safety" shall include, but not be limited to, aspects of architecture intended to limit or prevent accidental injury or death among users of buildings or construction sites. Examples include fire-rated egress enclosures, automatic sprinkler systems, stairs with correct rise-to-run proportions, and accommodations for users with disabilities.

(C) The definition of "welfare" shall include, but not be limited to, aspects of architecture that consist of values that may be spiritual, physical, aesthetic and monetary in nature. Examples include spaces that afford natural light or views of nature or whose proportions, color or materials engender positive emotional responses from its users.

(D) The definition of "ethical standards of architectural practice" shall include, but not be limited to the NCARB rules of conduct specified in Subsection R156-3a-502(4).

(b) be relevant to the licensee's professional practice;

(c) be presented in a competent, well organized and sequential manner consistent with the stated purpose and objective of the program;

(d) be prepared and presented by individuals who are qualified by education, training and experience; and

(e) have associated with it a competent method of registration of individuals who actually completed the professional education program and records of that registration and completion are available for review.

(4) Credit for qualified continuing professional education shall be recognized in accordance with the following:

(a) unlimited hours shall be recognized for professional education completed in blocks of time of not less than one hour in formally established classroom courses, seminars, or conferences;

(b) a maximum of eight hours per two year period may be recognized for teaching in a college or university or for teaching qualified continuing professional education courses in the field of architecture, provided it is the first time the material has been taught during the preceding 12 months;

(c) a maximum of three hours per two year period may be recognized for preparation of papers, articles, or books directly related to the practice of architecture and submitted for publication; and

(d) unlimited hours may be recognized for continuing professional education that is provided via the Internet or through home study courses provided the course verifies registration and participation in the course by means of a test which demonstrates that the participant has learned the material presented.

(5) A licensee shall be responsible for maintaining records of completed qualified continuing professional education for a period of four years after the two year period to which the records pertain.

It is the responsibility of the licensee to maintain information with respect to qualified continuing professional education to demonstrate it meets the requirements under this section.

(6) If a licensee exceeds the 16 hours of qualified continuing professional education during the two year period, the licensee may carry forward a maximum of 8 hours of qualified continuing professional education into the next two year period.

(7) A licensee who is unable to complete the continuing professional education requirement for reasons such as a medical or related condition, humanitarian or ecclesiastical services, or extended presence in a geographical area where continuing professional education is not available, may be excused from the requirement for a period of up to three years as provided in Section R156-1-308d.

(8) Any licensee who fails to timely complete the continuing professional education hours required by this rule shall be required to complete double the number of hours missed to be eligible for renewal or reinstatement of licensure.

(9) Any applicant for reinstatement shall be required to complete 16 hours of continuing professional education complying with these rules within two years prior to the date of application for reinstatement of licensure.

**KEY:** architects, licensing

**Date of Enactment or Last Substantive Amendment:** [~~April 3, 2006~~2007]

**Notice of Continuation:** April 10, 2006

**Authorizing, and Implemented or Interpreted Law:** 58-3a-101; 58-1-106(1)(a); 58-1-202(1)(a); 58-3a-303.5



Commerce, Occupational and  
Professional Licensing  
**R156-11a**  
Cosmetologist/Barber, Esthetician,  
Electrologist and Nail Technician  
Licensing Act Rule

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 30158

FILED: 06/28/2007, 12:27

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The proposed changes to the rule are to bring the rule into compliance with statute (Title 58, Chapter 11a) amendments which were made during the 2007 Legislative Session in H.B. 419. One of the major amendments in H.B. 419 was to reintroduce the profession of "barber" to the practice act. (DAR NOTE: H.B. 419 (2007) is found at Chapter 209, Laws of Utah 2007, and was effective 04/30/2007.)

**SUMMARY OF THE RULE OR CHANGE:** Throughout the rule, all statute and rule references have been updated to reflect amendments made in the statute. The term "barber" is added where required to update the rule. The term "basic" is added

to esthetics, where required, to eliminate confusion with master esthetics modalities. Some modifications in language were made to improve grammar and reduce redundancies. In Section R156-11a-102, added a definition for "extraction", "advanced extraction", and "manual extraction". A physician assistant was removed from the definition of "health care practitioner" since a physician assistant must be supervised by a licensed physician and therefore, the physician assistant cannot supervise licensees providing medical treatments. Also added a definition for the Utah Cosmetologist/Barber Instructor Licensing Examination (UCBIL Examination) that will be used for all types of instructor licenses covered in the statute. In Section R156-11a-302a, the statute requires the addition of new examination components for the barber profession. The added examination requirements are consistent with all of the other regulated professions covered in Title 58, Chapter 11a. Also added a single instructor licensing examination for all types of instructors covered in the statute. In Section R156-11a-605, an addition is made to restrict schools and instructors from requiring students to perform hair removal from the genital or anal area of a client. Section R156-11a-700 is a new section which outlines the required curriculum to be used by barber schools. The curriculum is consistent with all of the other regulated professions in statute. In Section R156-11a-701, statute amendments in H.B. 419 required the number of hours to qualify for an electrology license be changed from 500 to 600 hours. This change makes Utah consistent with the existing national average for electrologists. A similar change in hours is made in this section. In Subsection R156-11a-704(25), amendments were made by removing "with" or "without machines" and adding "manual" and "mechanical" to be more consistent with similar modalities in other subsections. In Section R156-11a-703, H.B. 419 removed from the statute the mandatory 200 hours of training in manual lymphatic drainage for master estheticians. Therefore, associated amendments are made in this section. Master esthetic programs that wish to teach manual lymphatic drainage to students are still required to teach a 200-hour component. The breakdown in the hours of education required to teach manual lymphatic drainage is consistent with the existing rule. In Section R156-11a-705, H.B. 419 provides full flexibility to cosmetology/barber school curricula and thus requires deletion of the requirements in this section for 600 hours in esthetics and 200 hours in nail technology. Section R156-11a-800 is a new section which outlines the new apprenticeship requirements for the barber profession. The requirements are consistent with all of the other apprenticeship programs required under the statute. In Section R156-11a-901, throughout this section the term "on-site" has been added to clarify the supervision requirements for the cosmetology/barber on the job training program.

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

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$150 to reprint the rule once the proposed changes are made effective. Any costs incurred will be



absorbed in the Division's current budget. Competency-based examinations will be provided by the Division's current testing vendor and the barbering practical and theory examinations already exist; therefore, no additional state funds will be expended on new test development.

❖ LOCAL GOVERNMENTS: The proposed amendments do not apply to local governments; therefore, no costs or savings are anticipated. The proposed amendments only apply to licensed barbers, cosmetologists/barbers, estheticians, electrologists, and nail technicians. It should be noted that some local governments may see a slight increase in revenue from business licenses as new barber shops are opened. However, the Division is unable to determine exactly how many new barber shops may open or in what areas of the state they may be opened.

❖ OTHER PERSONS: The Division does not anticipate the proposed amendments to this rule will result in any higher costs to licensed barbers, cosmetologists/barbers, estheticians, electrologists, and nail technicians; or applicants for licensure in those professions; or any small business consisting of licensees beyond the amount of fiscal impact considered during the 2007 legislative session when the governing statute was amended in H.B. 419. The Division believes that costs associated with the licensing of the professions should remain relatively stable. Tuition costs for barber schools will be less than the cost of cosmetology/barber programs because of the 1,000 fewer required hours. Existing cosmetology/barber schools already have established lesson plans and training materials in place, so curriculum development costs for barbers only will be minimal. The Division anticipates that some stand alone barber schools will open for those persons interested in a barbering career. However, the Division is not able to determine any costs associated with operating a stand alone barber school. It should be noted that more competition for the student dollar will force all schools to keep tuition costs down.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Division does not anticipate the proposed amendments to this rule will result in any higher costs to licensed barbers, cosmetologists/barbers, estheticians, electrologists, and nail technicians; or applicants for licensure in those professions; or any small business consisting of licensees beyond the amount of fiscal impact considered during the 2007 legislative session when the governing statute was amended in H.B. 419. The Division believes that costs associated with the licensing of the professions should remain relatively stable. Tuition costs for barber schools will be less than the cost of cosmetology/barber programs because of the 1,000 fewer required hours. Existing cosmetology/barber schools already have established lesson plans and training materials in place, so curriculum development costs for barbers only will be minimal. The Division anticipates that some stand alone barber schools will open for those persons interested in a barbering career. However, the Division is not able to determine any costs associated with operating a stand alone barber school. It should be noted that more competition for the student dollar will force all schools to keep tuition costs down.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule change adopts standards for the licensing and regulation of barbers and clarifies curriculum standards for cosmetology/barber schools pursuant to statutory amendments in Chapter 209, Laws of Utah 2007 (H.B. 419). No fiscal impact to businesses is anticipated beyond those addressed in H.B. 419. No fiscal impact to businesses is anticipated from additional clarifying amendments as 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  
OCCUPATIONAL AND PROFESSIONAL LICENSING  
HEBER M WELLS BLDG  
160 E 300 S  
SALT LAKE CITY UT 84111-2316, or  
at the Division of Administrative Rules.

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 08/14/2007

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 7/30/2007 at 9:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2007

AUTHORIZED BY: F. David Stanley, Director

**R156. Commerce, Occupational and Professional Licensing.**  
**R156-11a. Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act Rule.**  
**R156-11a-101. Title.**

This rule is known as the "Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act Rule."

**R156-11a-102. Definitions.**

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

(1) "Advanced pedicures", as used in Subsection 58-11a-102(~~27~~31)(a)(i)(D), means any of the following while caring for the nails, cuticles or calluses of the feet:

(a) utilizing manual instruments, implements, advanced electrical equipment, tools, or microdermabrasion for cleaning, trimming, softening, smoothing, or buffing;

(b) ~~the use of~~utilizing blades, including corn or callus planer or rasp, for smoothing, shaving or removing dead skin from the feet as defined in Subsection R156-11a-611; or

(c) utilizing topical products and preparations for chemical exfoliation as defined in Subsection R156-11a-610(4).

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

(3) "BCA acid" means bicloroacetic acid.

(4) "Body wraps", as used in Subsection 58-11a-102(~~27~~31)(a)(i)(A), means body treatments utilizing products or equipment to enhance and maintain the texture, contour, integrity and health of the skin and body.

(5) "Chemical exfoliation", as ~~used~~ defined in Subsections 58-11a-102(~~27~~31)(a)(i)(C) and R156-11a-610(4), means a resurfacing procedure performed with a chemical solution or product for the purpose of removing superficial layers of the epidermis to a point no deeper than the stratum corneum.

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

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

(8) "Equivalent number of credit hours" means:

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

- (i) theory - 1 credit hour - 30 clock hours;
- (ii) practice - 1 credit hour - 30 clock hours; and
- (iii) clinical experience - 1 credit hour - 45 clock hours; and

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

- (i) theory - 1 credit hour - 20 clock hours;
- (ii) practice - 1 credit hour - 20 clock hours; and
- (iii) clinical experience - 1 credit hour - 30 clock hours.

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

(10) "Extraction" means the following:

(a) "advanced extraction", as used in Subsections 58-11a-102(31)(a)(i)(F) and R156-11a-611(2)(b), means to perform extraction with a lancet or device that removes impurities from the skin;

(b) "manual extraction", as used in Subsection 58-11a-102(25)(a), means to remove impurities from the skin with protected fingertips, cotton swabs or a loop comedone extractor.

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

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

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

(~~13~~14) "Indirect supervision" means the supervising instructor is present within the facility in which the person being supervised is providing services, and is available to provide immediate face to face communication with the person being supervised.

(~~14~~15) "Limited chemical exfoliation" means an extremely gentle chemical exfoliation and is further defined in Subsection R156-11a-610(3).

(16) "~~Manual~~ Lymphatic massage", as used in Subsections 58-11a-102(~~25~~(b))(~~31~~(a)(G)(i) and 58-11a-302(11)(C), means a method using light pressure applied by manual or other means to the skin in specific maneuvers to promote drainage of the lymphatic fluid through the tissue.

(~~15~~17) "Manipulating", as used in Subsection 58-11a-102(25)(a), means applying a light pressure by the hands to the skin.

(~~17~~18) "Microdermabrasion", as used in Subsection 58-11a-102(~~27~~31)(a)(i)(E), means a gentle, progressive, superficial, mechanical exfoliation of the uppermost layers of the stratum corneum using a closed-loop vacuum system.

(~~18~~19) "Patch test" or "predisposition test" means applying a small amount of a chemical preparation to the skin of the arm or behind the ear to determine possible allergies of the client to the chemical preparation.

(~~19~~20) "Pedicure" means any of the following:

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

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

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

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

(~~20~~21) "Supervision by a licensed health care practitioner" means a health care practitioner who, acting within the scope of the licensee's license, authorizes and directs the work of a licensee pursuant to this chapter in the treatment of a patient of the health care practitioner while:

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

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

(~~21~~22) "TCA acid" means trichloroacetic acid.

(~~22~~23) "Unprofessional conduct" is further defined, in accordance with S[ub]section 58-1-~~203~~(5)501, in Section R156-11a-502.

(24) "UCBIL Examination" means the Utah Cosmetologist/Barber Instructor Licensing Examination, the instructor examination for all disciplines addressed in this chapter and adopted under Section R156-11a-302a.

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

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

(1) A single examination is adopted for instructors of all disciplines addressed in this chapter. That examination is to be known as the "Utah Cosmetologist/Barber Instructor Licensing Examination (UCBIL).

(2) Applicants for licensure as a barber shall:

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

(b) pass the Utah Barber Practical Examination with a score of at least 75%; or

(c) pass any other barber theory and practical examination approved by the licensing authority of another state.

(3) Applicants for licensure as a barber instructor shall:

(a) pass the UCBIL Examination with a score of at least 75%; or

(b) pass any equivalent instructor examination approved by the licensing authority of another state.

(~~4~~) Applicants for licensure as a cosmetologist/barber shall:

- (a) pass the Utah Cosmetology/Barber Theory Examination with a score of at least 75%; and
- (b) pass the Utah Cosmetology/Barber Practical Examination with a score of at least 75%; or
- (c) pass any cosmetology/barber theory and practical examination approved by the licensing authority of another state.

(~~2~~) Applicants for licensure as a cosmetologist/barber instructor shall:

- (a) pass the [~~Utah Cosmetologist/Barber Instructor Licensing Examination~~]UCBIL Examination with a score of at least 75%; or
- (b) pass any [~~cosmetology/barber~~]equivalent instructor examination approved by the licensing authority of another state.

(~~3~~) Applicants for licensure as an electrologist shall:

- (a) pass the Utah Electrologist Theory Examination with a score of at least 75%; and
- (b) pass the Utah Electrologist Practical Examination with a score of at least 75%; or
- (c) pass any electrologist theory and practical examination approved by the licensing authority of another state.

(~~4~~) Applicants for licensure as an electrologist instructor shall:

- (a) pass the [~~Utah Electrologist Instructor~~]UCBIL Examination with a score of at least 75%; or
- (b) pass any [~~electrology instructor~~]equivalent examination approved by the licensing authority of another state.

(~~5~~) Applicants for licensure as a ~~a~~ basic esthetician shall:

- (a) pass the Utah Esthetics Theory Examination with a score of at least 75%; and
- (b) pass the Utah Esthetics Practical Examination with a score of at least 75%; or
- (c) pass an esthetics theory and practical examination approved by the licensing authority of another state.

(~~6~~) Applicants for licensure as a master esthetician shall:

- (a) pass the Utah Master Esthetician Theory Examination with a score of at least 75%; and
- (b) pass the Utah Master Esthetician Practical Examination with a score of at least 75%; or
- (c) pass a master esthetician theory and practical examination approved by the licensing authority of another state.

(~~7~~) Applicants for licensure as an esthetician instructor shall:

- (a) pass the [~~Utah Esthetician Instructor~~]UCBIL Examination with a score of at least 75%; or
- (b) pass any [~~esthetician~~]equivalent instructor examination approved by the licensing authority of another state.

(~~8~~) Applicants for licensure as a nail technician shall:

- (a) pass the Utah Nail Technician Theory Examination with a score of at least 75%; and
- (b) pass the Utah Nail Technician Practical Examination with a score of at least 75%; or
- (c) pass a nail technician theory and practical examination approved by the licensing authority of another state.

(~~9~~) Applicants for licensure as a nail technician instructor shall:

- (a) pass the [~~Utah Nail Technician Instructor~~]UCBIL Examination with a score of at least 75%; or
- (b) pass any [~~nail technology~~]equivalent instructor examination approved by the licensing authority of another state.

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

"Unprofessional conduct" includes:

- (1) failing to provide direct supervision of an apprentice, a student attending a barber, cosmetology/barber, esthetics, electrology, or nail technology school, or a student instructor;
- (2) failing to obtain accreditation as a barber, cosmetology/barber, esthetics, electrology, or nail technology school in accordance with the requirements of Section R156-11a-601;
- (3) failing to maintain accreditation as a barber, cosmetology/barber, esthetics, electrology or nail technology school after having been approved for accreditation;
- (4) failing to comply with the standards of accreditation applicable to barber, cosmetology/barber, esthetics, electrology, or nail technology schools;
- (5) failing to provide adequate instruction or training as applicable to a student of a barber, cosmetology/barber, esthetics, electrology, or nail technology school, or in an approved cosmetology/barber, esthetics, or nail technology apprenticeship;
- (6) failing to comply with Title 26, Utah Health Code;
- (7) failing to comply with the apprenticeship requirements applicable to barber, cosmetologist/barber, basic esthetician, master esthetician, or nail technician apprenticeships as set forth in Sections R156-11a-~~801~~800 through R156-11a-~~805~~804;
- (8) failing to comply with the standards for curriculums applicable to barber, cosmetology/barber, esthetics, electrology, or nail technology schools as set forth in Sections R156-11a-~~701~~700 through R156-11a-~~704~~706;
- (9) using any device classified by the Food and Drug Administration as a medical device without the supervision of a licensed health care practitioner acting in the scope of the licensee's practice;
- (10) performing services within the scope of practice as a basic esthetician, or a master esthetician without having been adequately trained to perform such services;
- (11) violating any standard established in Sections R156-11a-601 through R156-11a-612;
- (12) performing a procedure while the licensee has a known contagious disease of a nature that may be transmitted by performing the procedure, unless the licensee takes medically approved measures to prevent transmission of the disease; and
- (13) performing a procedure on a client who has a known contagious disease of a nature that may be transmitted by performing the procedure, unless the licensee takes medically approved measures to prevent transmission of the disease.

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

In accordance with Subsections 58-11a-302(3)(c)(iv), 58-11a-302(6)(c)(iv), ~~58-11a-302(9)(c)(iv)~~, 58-11a-302(~~10~~13)(c)(iv), and 58-11a-302(~~13~~16)(c)(iv), the accreditation standards for a barber school, a cosmetology/barber school, an electrology school, an esthetics school, and a nail technology school include:

- (1) Each school shall be required to become accredited by:
  - (a) the National Accrediting Commission of Cosmetology Arts and Sciences (NACCAS); or
  - (b) other accrediting commissions recognized by the Utah Board of Regents for post secondary schools.
- (2) Each school shall maintain and keep the accreditation current.

(3) A new school shall:

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

(b) file an "Exemption of Registration as a Post-Secondary Proprietary School" form with the Division of Consumer Protection pursuant to Sections 13-34-101 and R152-34-1; and

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

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

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

#### **R156-11a-602. Standards for the Physical Facility.**

In accordance with Subsections 58-11a-302(3)(c)(iii), 58-11a-302(6)(c)(iii), 58-11a-302(9)(c)(iii), 58-11a-302([40]13)(c)(iii) and 58-11a-302([43]16)(c)(iii), the standards for the physical facility of a barber, cosmetology/barber[~~school~~], [an] electrology[~~school~~], [an] esthetics[~~school~~], [and a] or nail technology schools shall include:

(1) the governing standards established by the accreditation commission; and

(2) whether or not addressed in the governing standards, each facility shall have the following available:

(a) enough of each type of training equipment so that each student has an equal opportunity to be properly trained;

(b) laundry facilities to maintain sanitation and sterilization; and

(c) appropriate amounts of clean towels, sheets, linen, sponges, headbands, compresses, robes, drapes and other necessary linens for each student's and client's use.

#### **R156-11a-603. Standards for a Student Kit.**

(1) In accordance with Subsection 58-11a-302(3)(c)(iv), 58-11a-302(6)(c)(iv), 58-11a-302(9)(c)(iv), 58-11a-302([40]13)(c)(iv), and 58-11a-302([43]16)(c)(iv), barber, cosmetology/barber, electrology, esthetics, and nail technology schools shall provide a list of all basic kit supplies needed by each student.

(2) The basic kit may be supplied by the school or purchased independently by the student.

#### **R156-11a-604. Standards for Prohibition Against Operation as a Salon.**

(1) In accordance with Subsections 58-11a-302(3)(c)([iv]iii), 58-11a-302(6)(c)([iv]iii), 58-11a-302(9)(c)(iv), 58-11a-302([40]13)(c)([iv]iii), and 58-11a-302([43]16)(c)([iv]iii), when a barbershop or professional salon [and a school are] is under the same ownership or is otherwise associated with a school, [separate operation of the salon and the school is required] the barbershop or salon shall maintain separate operations for the school.

(2) If the barbershop or salon [and the school are] is located in the same building as a school, separate entrances and visitor reception areas are required. The salon [and the school] or shop shall

also use separate public information releases, advertisements and names than that used by the school.

#### **R156-11a-605. Standards for Protection of Students.**

In accordance with Subsections 58-11a-302(3)(c)(iii) and (iv), 58-11a-302(6)(c)(iii) and (iv), 58-11a-302(9)(c)(iii) and (v), 58-11a-302([40]13)(c)(iii) and (iv), 58-11a-302([43]16)(c)(iii) and (iv), standards for the protection of students shall include the following:

(1) In the event a school ceases to operate for any reason, the school shall notify the division within 15 days by registered or certified mail and shall name a trustee who will be responsible to maintain the student records. Upon request, the trustee shall provide information such as accumulated student hours and dates of attendance.

(2) Schools shall not use students to perform maintenance, janitorial or remodeling work such as scrubbing floor, walls or toilets, cleaning windows, waxing floors, painting, decorating, or performing any outside work on the grounds or building. Students may be required to clean up after themselves and to perform or participate in daily cleanup of work areas, including the floor space, shampoo bowls, laundering of towels and linen and other general cleanup duties that are related to the performance of client services.

(3) Schools shall not require students to sell products applicable to their industry as a condition to graduate, but may provide instruction in product sales techniques as part of their curriculums.

(4) Schools shall keep a daily written record of student attendance.

(5) Schools shall not be permitted to remove hours earned by a student. If a student is late for class, the school may require the student to retake the class before giving credit for the class.

(6) In accordance with Subsection 58-11a-502(3)(a), schools shall not require students to participate in hair removal training that pertains to the genitals or anus of a client.

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

In accordance with Subsections 58-11a-302(3)(c)(iv), 58-11a-302(6)(c)(iv), 58-11a-302(9)(c)(iv), 58-11a-302([40]13)(c)(iv), and 58-11a-302([43]16)(c)(iv), standards for the protection of barber, cosmetology/barber, electrology, esthetics, and nail technology schools shall include the following:

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

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

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

#### **R156-11a-607. Standards for a Written Contract.**

(1) In accordance with Subsections 58-11a-302(3)(c)(iv), 58-11a-302(6)(c)(iv), 58-11a-302([40]9)(c)(iv), [and] 58-11a-302(13)(c)(iv), and 58-11a-302(16)(c)(iv), barber, cosmetology/barber, electrology, esthetics, and nail technology schools shall complete a written contract with each student prior to admission.

(2) Each contract shall contain, as a minimum:

- the current status of the school's accreditation;
- rules of conduct;
- attendance requirements;
- provisions for make up work;
- grounds for probation, suspension or dismissal; and
- a detailed fee schedule which shall include the student's financial responsibility upon voluntarily leaving the school or upon being suspended from the school.

(3) The school shall maintain on file a copy of the contract for each student and shall provide a copy of the contract to the division upon request.

#### **R156-11a-608. Standards for Staff Requirements of Schools.**

In accordance with Subsections 58-11a-302(3)(c)(iv), 58-11a-302(6)(c)(iv), ~~58-11a-302(9)(c)(iv)~~, 58-11a-302(~~10~~13)(c)(iv), and 58-11a-302(~~13~~16)(c)(iv), the staff requirement for barber, cosmetology/barber, electrology, esthetics and nail technology school shall include:

(1) Schools shall be required to have, as a minimum, one licensed instructor for every 20 students, or fraction thereof, attending a practical session, and one licensed instructor for any group attending a theory session. Special guest speakers shall not reduce the number of licensed instructors required to be present.

(2) Schools may give credit for special workshops, training seminars, and competitions, or may invite special guest speakers who are not licensed in accordance with Section 58-11a-302, to provide instruction or give practical demonstrations to supplement the curriculum as long as a licensed instructor from the school is present.

(3) Student instructors shall not be counted as part of the instructor staff.

#### **R156-11a-609. Standards for Instructors.**

(1) In accordance with Subsections 58-11a-302(2)(~~e~~iv)(e) and (f), 58-11a-302(5)(~~e~~iv)(e) and (f), 58-11a-302(~~9~~9)(~~e~~iv)(8)(e) and (f), ~~and~~ 58-11a-302(12)(~~e~~iv)(e) and (f), and 58-11a-302(15)(e) and (f), barber, cosmetology/barber, electrology, esthetics, and nail technology instructors may only teach in those areas for which they have received training and are qualified to teach.

(2) In accordance with Subsection 58-11a-102(21)(b), an individual licensed as a cosmetology/barbering instructor may teach barbering, basic esthetics or nail technology in a licensed barber, cosmetology/barber school or an approved barber, cosmetology/barber, basic esthetics or nail technology apprenticeship, provided the individual can demonstrate the same experience as required in ~~Subsection 58-11a-302(9)(e)~~ Subsection R156-11a-609(1).

(3) An instructor may only teach the use of a mechanical or electrical apparatus for which the instructor is trained and qualified.

#### **R156-11a-610. Standards for the Use of Acids.**

In accordance with Subsections 58-11a-102(25)(~~e~~b), 58-11a-102(~~27~~31)(a)(i)(C) and 58-11a-501(17), the standards for the use of any acid or concentration of acids, shall be:

(1) The use of any acid or acid solution which would exfoliate the skin below the stratum corneum, including those listed in Subsections (3) and (4), is prohibited unless used under the supervision of a licensed health care practitioner.

(2) The following acids are prohibited unless used under the supervision of a licensed health care practitioner:

- phenol;
- ~~trichloroacetic acid;~~
- ~~bichloroacetic acid;~~
- ~~resorcinol, except as provided in Subsection (4)(b); and~~
- ~~any acid in any concentration level that requires a prescription.~~

(3) Limited chemical exfoliation for a ~~basic~~ basic esthetician does not include the mixing, ~~and~~ combining or layering of skin exfoliation products or services, but does include:

(a) alpha hydroxy acids of 30% or less, with a pH of not less than 3.0; and

(b) salicylic acid of ~~20% with a pH of not less than 3.0~~ 15% or less.

(4) Chemical exfoliation for a master esthetician includes using:

(a) ~~those~~ acids allowed for a ~~basic~~ basic esthetician;

(b) modified jessner solution on the face and the tissue immediately adjacent to the jaw line;

(c) alpha hydroxy acids with a pH of not less than 1.0 and at a concentration of 50% must include partially neutralized acids, and any acid above the concentration of 50% is prohibited;

(d) beta hydroxy acids with a concentration of not more than ~~4~~ 15 30%; and

(e) trichloroacetic acid, in accordance with Subsection 58-11a-501(17)(c), may be used in a concentration of not more than 15%, but no manual, mechanical or acid exfoliation can be used prior to treatment; and

(~~e~~f) vitamin based acids.

(5) A licensee may not apply any exfoliating acid to a client's skin that has undergone microdermabrasion within the previous seven days.

(6)(a) A licensee shall prepare and maintain current documentation of the licensee's cumulative experience in chemical exfoliation, including:

(i) courses of instruction;

(ii) specialized training;

(iii) on-the-job experience; and

(iv) the approximate percentage that chemical exfoliation represents in the licensee's overall business.

(b) A licensee shall provide the documentation required by Subsection (6)(a) to the division upon request.

(7) A licensee may not use an acid or perform a chemical exfoliation for which the licensee is not competent to use or perform through training and experience and as documented in accordance with Subsection (6).

(8) Only commercially available products utilized in accordance with manufacturers' instructions may be used for chemical exfoliation purposes.

(9) A patch test shall be administered to each client prior to beginning any chemical exfoliation series.

#### **R156-11a-611. Standards for Approval of Mechanical or Electrical Apparatus.**

In accordance with Subsection 58-11a-102(~~27~~31)(a)(i)(~~F~~G)(II), the standards for approval of mechanical or electrical apparatus shall be:

(1) No mechanical or electrical apparatus that is considered a prescription medical device by the FDA may be used by a licensee, unless such use is completed under the supervision of a licensed

health care practitioner acting within the scope of the licensee's license.

(2) Dermaplane procedures, dermabrasion procedures, blades, knives, lancets, and any tools that invade the skin or living cells are prohibited except for:

- (a) advanced pedicures; and
- (b) advanced extraction of impurities from the skin.

(3) The use of any procedure in which human tissue is cut or altered by [~~mechanical or energy form, including electrical or~~ laser energy or ionizing radiation~~;~~] is prohibited for all individuals licensed under this chapter unless under the supervision of a licensed health care practitioner acting within the scope of the licensee's license.

(4) To be approved, a microdermabrasion machine must meet the following criteria:

- (a) specifically labeled for cosmetic or esthetic purposes;
- (b) closed-loop vacuum system that uses a tissue retention device; and
- (c) the normal and customary use of the machine does not result in the removal of the epidermis beyond the stratum corneum.

#### **R156-11a-612. Standards for Disclosure.**

(1) In accordance with Subsections 58-11a-102(25)(~~e~~)b) and 58-11a-102(~~27~~)31(i)(C), a licensee acting within the licensee's scope of practice shall inform a client of the following before applying a chemical exfoliant or using a microdermabrasion machine:

- (a) [~~that~~]the procedure may only be performed for cosmetic and not medical purposes, unless the licensee is working under the supervision of a licensed health care practitioner, who is working within the scope of the practitioner's license; and
- (b) the benefits and risks of the procedure.

#### **R156-11a-700. Curriculum for Barber Schools.**

In accordance with Subsection 58-11a-302(3), the curriculum for a barber school shall consist of 1,000 hours of instruction in the following subject areas:

- (1) introduction consisting of:
  - (a) history of barbering;
  - (b) an overview of the barber curriculum;
- (2) personal, client and shop safety including:
  - (a) aseptic techniques and sanitary procedures;
  - (b) sterilization methods and procedures;
  - (c) health risks to the barber;
- (3) business and shop management including:
  - (a) developing a clientele;
  - (b) professional image;
  - (c) professional ethics;
  - (d) professional associations;
  - (e) public relations;
  - (f) advertising;
- (4) legal issues including:
  - (a) malpractice liability;
  - (b) regulatory agencies;
  - (c) tax laws;
- (5) human immune system;
- (6) diseases and disorders of the hair and scalp including:
  - (a) bacteriology;
  - (b) sanitation;
  - (c) sterilization;
  - (d) decontamination;

- (e) infection control;
- (7) implements, tools and equipment for barbering;
- (8) first aid;
- (9) anatomy;
- (10) basic science of barbering;
- (11) chemistry for barbering;
- (12) analysis of the hair and scalp;
- (13) properties of the hair, skin, and scalp;
- (14) basic hairstyling and hair cutting including:
  - (a) draping;
  - (b) clipper variations;
  - (c) scissor cutting; and
  - (d) wet and thermal styling;
- (15) shaving and razor cutting;
- (16) mustache and beard design;
- (17) elective topics; and
- (18) the Utah Barber Examination review.

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

In accordance with Subsection 58-11a-302(~~6~~)9(c)(iv), the curriculum for an electrology school shall consist of [~~500~~]600 hours of instruction in the following subject areas:

- (1) introduction consisting of:
  - (a) the history of electrology; and
  - (b) an overview of the curriculum;
- (2) personal, client, and salon safety including:
  - (a) aseptic techniques and sanitary procedures;
  - (b) sterilization methods and procedures; and
  - (c) health risks to the electrologist;
- (3) business and salon management including:
  - (a) developing a clientele;
  - (b) professional image;
  - (c) professional ethics;
  - (d) professional associations;
  - (e) public relations; and
  - (f) advertising;
- (4) legal issues including:
  - (a) malpractice and liability;
  - (b) regulatory agencies; and
  - (c) tax laws;
- (5) human immune system;
- (6) diseases and disorders of hair and skin;
- (7) implements, tools, and equipment for electrology;
- (8) first aid;
- (9) anatomy;
- (10) basic science of electrology;
- (11) analysis of the skin;
- (12) physiology of hair and skin;
- (13) medical definitions including:
  - (a) dermatology;
  - (b) endocrinology;
  - (c) angiology; and
  - (d) neurology;
- (14) evaluating the characteristics of skin;
- (15) evaluating the characteristics of hair;
- (16) medications affecting hair growth including:
  - (a) over-the-counter preparations;
  - (b) anesthetics; and
  - (c) prescription medications;
- (17) contraindications;

- (18) disease and blood-borne pathogens control including:
  - (a) pathogenic bacteria and non-bacterial causes; and
  - (b) American Electrology Association (AEA) infection control standards;
- (19) principles of electricity and equipment including:
  - (a) types of electrical currents, their measurements and classifications;
  - (b) Food and Drug Administration (FDA) approved needle type epilation equipment;
  - (c) FDA approved hair removal devices; and
  - (d) epilator operation and care;
- (20) modalities for need type electrolysis including:
  - (a) needle/probe types, features, and selection;
  - (b) insertions, considerations, and accuracy;
  - (c) galvanic multi needle technique;
  - (d) thermolysis manual and flash technique;
  - (e) blend and progressive epilation technique; and
  - (f) one and two handed techniques;
- (21) clinical procedures including:
  - (a) consultation;
  - (b) health/medical history;
  - (c) pre and post treatment skin care;
  - (d) normal healing skin effects;
  - (e) tissue injury and complications;
  - (f) treating ingrown hairs;
  - (g) face and body treatment;
  - (h) cosmetic electrology; and
  - (i) positioning and draping;
- (22) elective topics; and
- (23) Utah Electrology Examination review.

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

In accordance with Subsection 58-11a-302([40]13)(c)(iv), the curriculum for an esthetics school basic esthetician program shall consist of 600 hours of instruction in the following subject areas:

- (1) introduction consisting of:
  - (a) history of esthetics; and
  - (b) an overview of the curriculum;
- (2) personal, client, and salon safety including:
  - (a) aseptic techniques and sanitary procedures;
  - (b) sterilization methods and procedures; and
  - (c) health risks to the basic esthetician;
- (3) business and salon management including:
  - (a) developing a clientele;
  - (b) professional image;
  - (c) professional ethics;
  - (d) professional associations;
  - (e) public relations; and
  - (f) advertising.
- (4) legal issues including:
  - (a) malpractice liability;
  - (b) regulatory agencies; and
  - (c) tax laws;
- (5) human immune system;
- (6) diseases and disorders of the skin including:
  - (a) bacteriology;
  - (b) sanitation;
  - (c) sterilization;
  - (d) decontamination; and
  - (e) infection control;

- (7) implements, tools, and equipment for basic esthetics including:
  - (a) high frequency or galvanic current; and
  - (b) heat lamps;
- (8) first aid;
- (9) anatomy;
- (10) [~~basic~~]-science of basic esthetics;
- (11) analysis of the skin;
- (12) physiology of the skin;
- (13) facials, manual and mechanical;
- (14) limited chemical exfoliation including:
  - (a) pre-exfoliation consultation;
  - (b) post-exfoliation treatments; and
  - (c) chemical reactions;
- (15) chemistry for basic esthetics;
- (16) temporary removal of superfluous hair by waxing;
- (17) treatment of the skin;
- (18) packs and masks;
- (19) Aroma therapy;
- (20) application of makeup including:
  - (a) application of false eyelashes;
  - (b) arching of the eyebrows; and
  - (c) tinting of the eyelashes and eyebrows;
- (21) medical devices;
- (22) cardio pulmonary resuscitation (CPR);
- (23) basic facials;
- (24) chemistry of cosmetics;
- (25) skin treatments, ~~[with]manual~~ and ~~[without machines]mechanical~~;
- (26) [~~manual lymphatic~~]-massage of the face and neck;
- (27) natural nail manicures and pedicures;
- (28) elective topics; and
- (29) Utah Esthetic Examination review.

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

In accordance with Subsection 58-11a-302([40]13)(c)(iv), the curriculum for an esthetics school master esthetician program shall consist of 1,200 hours of instruction, 600 of which consist of the curriculum for a ~~[a]~~ basic esthetician program, the remaining 600 of which shall be in the following subject areas:

- (1) introduction consisting of:
  - (a) history of master esthetics; and
  - (b) an overview of the curriculum;
- (2) personal, client, and salon safety including:
  - (a) aseptic techniques and sanitary procedures;
  - (b) sterilization methods and procedures; and
  - (c) health risks to the master esthetician;
- (3) business and salon management consisting of:
  - (a) developing clients;
  - (b) professional image;
  - (c) professional ethics;
  - (d) professional associations;
  - (e) advertising; and
  - (f) public relations;
- (4) legal issues including:
  - (a) malpractice liability;
  - (b) regulatory agencies; and
  - (c) tax laws;
- (5) the human immune system;

- (6) diseases and disorders of the skin including:
  - (a) bacteriology;
  - (b) sanitation;
  - (c) sterilization;
  - (d) contamination; and
  - (e) infection controls;
- (7) implements, tools and equipment for master esthetics;
- (8) first aid;
- (9) anatomy;
- (10) basic science of master esthetics;
- (11) analysis of the skin;
- (12) physiology of the skin;
- (13) advanced facials, manual and mechanical;
- (14) chemistry for master esthetics;
- (15) advanced chemical exfoliation, including:
  - (a) pre-exfoliation consultation;
  - (b) post-exfoliation treatments; and
  - (c) reactions;
- (16) temporary removal of superfluous hair by waxing and advanced waxing;
- (17) for schools teaching lymphatic massage, in accordance with Subsections 58-11a-102(31)(a)(ii) and 58-11a-302(11)(d)(i)(C), 200 hours of instruction [in lymphatic massage consisting of] is required and shall consist of:
  - (a) 40 hours of training in anatomy and physiology of the lymphatic system;
  - (b) 70 applications of one hour each in manual lymphatic massage of the full body; and
  - (c) 90 hours of training in lymphatic massage by other means, including but not limited to energy, mechanical devices, suction assisted massage with or without rollers, compression therapy with equipment, or garment therapy;
    - (18) advanced pedicures;
    - (19) advanced Aroma therapy;
    - (20) the aging process and its damage to the skin;
    - (21) medical devices;
    - (22) cardio pulmonary resuscitation (CPR) training;
    - (23) hydrotherapy;
    - (24) advanced mechanical and electrical devices including instruction in using:
      - (a) sanding and microdermabrasion techniques;
      - (b) galvanic or high-frequency current for treatment of the skin;
      - (c) devices equipped with a brush to cleanse the skin;
      - (d) devices that apply a mixture of steam and ozone to the skin;
      - (e) devices that spray water and other liquids on the skin; and
      - (f) any other mechanical devices, esthetic preparations or procedures approved by the division in collaboration with the board for the care and treatment of the skin;
    - (25) elective topics; and
    - (26) Utah Master Esthetician Examination review.

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

In accordance with Subsection 58-11a-302([6]16)(c)(iv), the curriculum for a nail technology school shall consist of 300 hours of instruction in the following subject areas:

- (1) introduction consisting of:
  - (a) history of nail technology; and
  - (b) an overview of the curriculum;
- (2) personal, client and salon safety including:
  - (a) aseptic techniques and sanitary procedures;

- (b) sterilization methods and procedures; and
- (c) health risks to the nail technician;
- (3) business and salon management including:
  - (a) developing clientele;
  - (b) professional image;
  - (c) professional ethics;
  - (d) professional associations;
  - (e) public relations; and
  - (f) advertising;
- (4) legal issues including:
  - (a) malpractice liability;
  - (b) regulatory agencies; and
  - (c) tax laws;
- (5) human immune system;
- (6) diseases and disorders of the nails and skin including:
  - (a) bacteriology;
  - (b) sanitation;
  - (c) sterilization;
  - (d) decontamination; and
  - (e) infection control;
- (7) implements, tools and equipment for nail technology;
- (8) first aid;
- (9) anatomy;
- (10) basic science for nail technology;
- (11) theory of basic manicuring including hand and arm massage;
  - (12) physiology of the skin and nails;
  - (13) chemistry for nail technology;
  - (14) artificial nail techniques consisting of:
    - (a) wraps;
    - (b) nail tips;
    - (c) gel nails;
    - (d) sculptured acrylic nails; and
    - (e) nail art;
  - (15) pedicures and massaging the lower leg and foot;
  - (16) elective topics; and
  - (17) Utah Nail Technology Examination review.

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

In accordance with Subsection 58-11a-302([3]6)(c)(iv), the curriculum for a cosmetology/barber school shall consist of 2,000 hours of instruction[~~600 of which shall consist of the curriculum for an esthetics school esthetician program; 200 of which shall consist of the curriculum for a nail technology school; and the remaining 1,200 hours shall be~~] in all of the following subject areas:

- (1) introduction consisting of:
  - (a) history of cosmetology/barbering, esthetics, nail technology; and
  - (b) overview of the cosmetology/barber curriculum;
- (2) personal, client and salon safety including:
  - (a) aseptic techniques and sanitary procedures;
  - (b) sterilization methods and procedures;
  - (c) health risks to the cosmetologist/barber;
- (3) business and salon management including:
  - (a) developing clientele;
  - (b) professional image;
  - (c) professional ethics;
  - (d) professional associations;
  - (e) public relations; and
  - (f) advertising;



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

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

In accordance with Subsections 58-11a-302(2)(e)(i), (5)(e)(i), (9)(e)(i), (12)(e)(i) and (15)(e)(i). [~~(5), (9) and (12).~~] the curriculum for an approved barber, cosmetology/barber, basic esthetics, master esthetics, electrology and nail technology instructor school shall consist of [~~1,000 hours~~] the number of hours of instruction required in the subsections identified above in the following subject areas:

- (1) motivation and the learning process;
- (2) teacher preparation;
- (3) teaching methods;
- (4) classroom management;
- (5) testing;
- (6) instructional evaluation;
- (7) laws, rules and regulations; and
- (8) Utah Cosmetology/Barber, Master Esthetics, Electrology and Nail Technology Instructors Examination review.

**R156-11a-800. Approved Barber Apprenticeship Requirements.**

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

- (1) The instructor shall have only one apprentice at a time.
- (2) There shall be a conspicuous sign near the work station of the apprentice stating "Apprentice in Training".
- (3) The instructor and apprentice shall keep a daily record, which shall include the hours of theory instruction, the hours of practical instruction, the number and type of client services performed, and other services which will document the total number of hours of training. The record shall be available to the Division upon request.
- (4) A complete set of barber texts shall be available to the apprentice.
- (5) An apprentice may be compensated for services performed.
- (6) The instructor shall provide training and technical instruction of 1250 hours using the curriculum defined in Section R156-11a-700.
- (7) The instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days.
- (8) An apprentice may not perform work on the public until the apprentice has received at least 10% of the hours of technical training, with at least a portion of that time devoted to each of the subjects specified in Section R156-11a-700.
- (9) Any hours obtained while enrolled in a cosmetology/barber school shall not be used to satisfy the required 1250 hours of apprentice training.

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

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

- (1) The instructor shall have no more than one apprentice at a time.
- (2) There shall be a conspicuous sign near the workstation of the apprentice stating, "Apprentice in Training."
- (3) The instructor and apprentice shall keep a daily record, which shall include the hours of theory instruction, the hours of practical instruction, the number and type of client services performed, and other services, which will document the total number of hours of training. The record shall be available to the division upon request.
- (4) A complete set of esthetics texts shall be available to the apprentice.
- (5) An apprentice may be compensated for services performed.
- (6) The instructor shall provide training and technical instruction of 800 hours using the curriculum defined in Section R156-11a-702.
- (7) The instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days.
- (8) An apprentice may not perform work on the public until the apprentice has received at least 10% of the hours required in technical training, with at least a portion of that time devoted to each of the subjects specified in Section R156-11a-702.
- (9) Hours obtained while enrolled in an esthetics school shall not be used to satisfy the required 800 hours of apprentice training.

**R156-11a-901. On the Job Training Internship.**

In accordance with Subsection 58-11a-304(8), students enrolled in a licensed cosmetology/barber school may participate in an on the job training internship if they meet the following requirements:

(1) The on the job training intern must have completed at least 1000 hours of the training contracted ~~for~~ with a cosmetology/barber school, of which 400 hours shall be clinical hours.

(2) There shall be a conspicuous sign near the work station of the on the job training intern stating "Intern in Training".

(3) A licensed "on-site" cosmetology/barber ~~supervisor~~ shall supervise only one on the job training intern at a time.

(4) An on the job training intern, while working under the direct supervision of an "on-site" licensed cosmetologist/barber, may perform the following procedures:

- (a) draping;
- (b) shampooing;
- (c) roller setting;
- (d) blow drying styling;
- (e) applying color;
- (f) removing color by rinsing and shampooing;
- (g) removing permanent chemicals;
- (h) removing permanent rods;
- (i) removing rollers;
- (j) applying temporary rinses, reconditioners, and rebuilders;
- (k) acting as receptionists;
- (l) doing retail sales;
- (m) sanitizing the salon;
- (o) doing inventory and ordering supplies; and
- (p) handing equipment to the cosmetologist/barber supervisor.

(5) The "on-site" cosmetologist/barber supervisor must have in ~~their~~ her possession a letter, which must be updated on a quarterly basis, from the school where the on the job training intern is enrolled stating that the on the job training intern is currently in good standing at the school and is complying with school requirements.

(6) ~~[Credit toward graduation for work as an on the job training intern will not be allowed]~~ Time earned while performing on the job training as an intern shall not apply towards credits required for graduation.

**KEY: cosmetologists/barbers, estheticians, electrologists, nail technicians**

**Date of Enactment or Last Substantive Amendment: ~~March 27,~~ 2007**

**Notice of Continuation: April 12, 2007**

**Authorizing, and Implemented or Interpreted Law: 58-11a-101; 58-1-106(1)(a); 58-1-202(1)(a)**

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## Commerce, Real Estate

# R162-3-5

## Activation

### NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 30162  
FILED: 07/02/2007, 10:28

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** It is necessary to amend Subsection R162-3-5(3.5.1) to correspond with changes made to Subsection R162-3-5(3.50 on 11/16/2006 and a recent amendment to the continuing education rules in Rule R162-9 (DAR No. 29718, published in the April 15, 2007, issue of the Bulletin, and effective 05/30/2007).

**SUMMARY OF THE RULE OR CHANGE:** Subsection R162-3-5(3.5.1) is liberalized to provide that only half of the hours of education required to activate a license must be in certain specified subjects, instead of all of the hours. The balance of the hours may be in "elective" course subjects.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 61-2-5.5(1)(a)

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** None--Which continuing education topics are specified for the education required to activate a real estate license have no effect on the state budget.

❖ **LOCAL GOVERNMENTS:** None--Local governments are neither real estate licensees nor providers of continuing education for real estate licensees. Therefore, which continuing education topics are specified as the education required to activate a real estate license has no effect on local government.

❖ **OTHER PERSONS:** The providers of real estate continuing education courses in Utah are likely to be small businesses. It is possible that this rule change could cause the demand for some courses to be greater or less than the current demand for those courses. A change in demand for any specific course offering could either save or cost the education provider money, depending on the specific impact of the change in demand for a course. However, any impact that there may be on the providers of continuing education because of the liberalization of the courses that will count toward license activation was caused by the 11/16/2006 amendment to Subsection R162-3-5(3.5) and by the recent change to Rule R162-9, and not by this rule change harmonizing Subsection R162-3-5(3.5.1) with those provisions.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The only persons who could be affected by this rule change are providers of continuing education and any licensees who need to take education in order to activate their licenses. It is more likely that the liberalization of the rule by allowing "elective" course topics to count toward activation would benefit both the students and the course providers instead of costing them money. However, if there was any adverse economic impact on these persons because more "elective" courses are allowed, that cost would be attributable to the 11/16/2006, change to Subsection R162-3-5(3.5) and the recent change to Rule R162-9.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule filing amends the license activation provision to become consistent with the

continuing education provisions. 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 801-366-0145, by FAX at 801-366-0315, 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 08/14/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 08/22/2007

AUTHORIZED BY: Derek Miller, Director

**R162. Commerce, Real Estate.**  
**R162-3. License Status Change.**  
**R162-3-5. Activation.**

3.5. All licensees changing to active status must submit to the Division the applicable non-refundable activation fee, a request for activation in the form required by the Division, and, if the license was on inactive status at the time of last license renewal, proof of completion of the examination within six months prior to applying to activate or proof of completion of the 12 hours of continuing education that the licensee would have been required to complete in order to renew on active status. If a licensee last renewed on inactive status and applies to activate the license at the time of license renewal, the licensee shall be required to complete the 12 hours of continuing education required to renew but shall not be required to complete additional continuing education in order to activate the license.

3.5.1 Continuing Education for Activation. The 12 hours of continuing education required to activate a license shall be made up of at least 6 hours of "core" courses in subjects specified in Subsection R162-9.2.1. The balance of the 12 hours of continuing education may be "elective" courses in the subjects listed in Subsection R162-9.2.2. ~~[Courses that have been approved by the Division for continuing education purposes in the following topics will be acceptable toward the continuing education required for activation: agency, contract law, the Real Estate Purchase Contract and other state approved forms, ethics, Utah law, and closing/settlement.]~~

3.5.1.1 To qualify as continuing education for activation, all courses submitted must have been completed within one year before activation.

3.5.1.2 Continuing education that was submitted to activate a license may not be used again toward the continuing education required on the licensee's next renewal.

**KEY: real estate business**

**Date of Enactment or Last Substantive Amendment:** ~~May 30,~~ **2007**

**Notice of Continuation:** April 18, 2007

**Authorizing, and Implemented or Interpreted Law:** 61-2-5.5

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## Environmental Quality, Radiation Control

# R313-16-230

## Registration of Radiation Machines

**NOTICE OF PROPOSED RULE**  
(Amendment)

DAR FILE No.: 30157  
FILED: 06/28/2007, 11:02

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The reason for this change is to modify the annual interval when an owner of an X-ray machine must register X-ray equipment with the state.

**SUMMARY OF THE RULE OR CHANGE:** Owners of ionizing radiation producing machines (X-ray machines) are required to annually register their machines for the prescribed interval of July 1 through June 30 of the following year. The proposed change allows the executive secretary of the Radiation Control Board to establish an alternate annual registration schedule for a registrant.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsections 19-3-104(4) and 19-3-104(6)

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** The department anticipates there will be a savings of about \$5,000 per fiscal year. This savings is anticipated because the Division of Radiation Control does not expect to hire temporary support staff to process registration fee payments.

❖ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local governments that register X-ray machines with the department because there are no changes proposed to the fee schedule approved by the legislature. Local governments, as registrants of X-ray machines, will pay the registration fee at a different time of year compared to the existing registration requirements.

❖ **OTHER PERSONS:** The majority of X-ray registrants are small businesses providing diagnostic medical information for chiropractic, dental, general medical, podiatric, or veterinary services. There are no anticipated costs or savings to small businesses and persons other than businesses because the rule change will require that registration fees be paid at a different time of year compared to the existing registration requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Section R313-16-230 already requires that affected persons (registrants) pay a fee to register an X-ray machine. The compliance cost will not change because the registration fee is not being changed by this rulemaking. The rule will change the time of year when an owner of an X-ray machine is required to pay fees to register the X-ray machine.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The rule will change the time of year when an owner of an X-ray machine is required to pay fees to register the X-ray machine. The rule does not increase or decrease fees for registering an X-ray machine because those fees are established by the Department in compliance with the requirements of Section 63-38-3.2. Richard W. Sprott, Executive Director

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

ENVIRONMENTAL QUALITY  
RADIATION CONTROL  
Room 212  
168 N 1950 W  
SALT LAKE CITY UT 84116-3085, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Craig Jones at the above address, by phone at 801-536-4264, by FAX at 801-533-4097, or by Internet E-mail at cwjones@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 08/14/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 09/14/2007

AUTHORIZED BY: Dane Finerfrock, Director

**R313. Environmental Quality, Radiation Control.**  
**R313-16. General Requirements Applicable to the Installation, Registration, Inspection, and Use of Radiation Machines.**  
**R313-16-230. Registration of Radiation Machines.**

(1) Ionizing radiation producing machines not exempted by Section R313-16-220 shall be registered with the Executive Secretary.

(2) Registration [~~renewal~~] shall be required annually in accordance with a schedule established by the Executive Secretary. ~~The registration interval is July 1 through June 30 of the following year. The annual registration anniversary date shall be July 1. Renewal application will be considered late and late fees may be assessed if not received by the last day of August.~~

(3) Registration for the facility is achieved when the Executive Secretary receives the following:

(a) a current and complete application form DRC-10 for registration of radiation machines; and

(b) annual registration fees.

(4) Registration for the current fiscal year shall be acknowledged by the Executive Secretary through receipts for the remittance of the registration fee.

**KEY: x-rays, inspections**

**Date of Enactment or Last Substantive Amendment: [~~October 20, 2006~~2007]**

**Notice of Continuation: July 10, 2006**

**Authorizing, and Implemented or Interpreted Law: 19-3-104**



**Health, Health Care Financing,  
Coverage and Reimbursement Policy**  
**R414-303**  
**Coverage Groups**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 30133

FILED: 06/26/2007, 10:51

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment is needed to change the resource test for pregnant women, to require verification of a high-risk pregnancy before a client pays a resource payment if the client wants to have the payment waived. It also clarifies that a baby born to a woman who is only presumptively eligible is not eligible for the one year of continued coverage based on the presumptive eligibility.

SUMMARY OF THE RULE OR CHANGE: This amendment modifies the resource limit for the prenatal program so that the resource test is now over \$5,000 instead of being equal to or greater than \$5,000. This change makes the test consistent with how Medicaid applies its other resource tests. This change also clarifies when a pregnant women must document whether she is in a high-risk category before making the payment so that the agency can verify whether the payment may be waived. It incorporates federal statute with an exception that preserves current rule that provides that an infant born to a woman who is only presumptively eligible for Medicaid is not eligible for one year of continued coverage. It also updates the names of the federal waivers in Section R414-303-1. The waivers have not changed, just their names.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-18-3

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Section 1902(a)(10)(A)(i)(IV), (VI), (VII); 1902(a)(10)(A)(ii)(IX); 1902(a)(47); 1902(e)(4) and (5); and 1902(l) of the Social Security Act, effective 01/01/2005

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no budget impact because this amendment does not add new eligibles and does not reduce Medicaid coverage. The change in the resource limit is only a one cent change and will have a negligible, if any, impact on the number of women who will qualify for Medicaid. The change to Subsection R414-303-11(11) appears to exclude some children from coverage who were previously covered.

However, this does not change coverage and is inserted as a necessary exception to the materials incorporated by reference in Subsection R414-303-11(1).

❖ LOCAL GOVERNMENTS: There is no budget impact because local governments do not determine Medicaid eligibility and they are not Medicaid clients.

❖ OTHER PERSONS: There is no impact on other persons because this amendment does not add new eligibles and does not reduce Medicaid coverage. The change in the resource limit is only a one cent change and will have a negligible, if any, impact on the number of women who will qualify for Medicaid. The change to subsection R414-303-11(11) appears to exclude some children from coverage who were previously covered. However, this does not change coverage and is inserted as a necessary exception to the materials incorporated by reference in Subsection R414-303-11(1).

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no impact on other affected because this amendment does not add new eligibles and does not reduce Medicaid coverage. The change in the resource limit is only a one cent change and will have a negligible, if any, impact on the number of women who will qualify for Medicaid. The change to subsection R414-303-11(11) appears to exclude some children from coverage who were previously covered. However, this does not change coverage and is inserted as a necessary exception to the materials incorporated by reference in Subsection R414-303-11(1).

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule does not change eligibility or benefits. No fiscal impact on business is expected. David N. Sundwall, MD, Executive Director

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

HEALTH  
HEALTH CARE FINANCING,  
COVERAGE AND REIMBURSEMENT POLICY  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY UT 84116-3231, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Craig Devashrayee at the above address, by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 08/14/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2007

AUTHORIZED BY: David N. Sundwall, Executive Director

#### **R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**

##### **R414-303. Coverage Groups.**

##### **R414-303-1. Authority and Purpose.**

This rule is authorized by Utah Code Sections 26-1-5 and 26-18-3 and establishes Medicaid eligibility requirements for the following coverage groups:

- (1) Aged;
- (2) Blind;
- (3) Disabled;
- (4) Family;
- (5) Institutional;
- (6) Transitional;
- (7) Child;
- (8) Refugee;
- (9) Prenatal and Newborn;
- (10) Pregnant Women;
- (11) ~~[DD/MR]~~Community Supports Waiver for Home and Community Based Services ~~Waiver~~;
- (12) Aging Home and Community Based Services Waiver;
- (13) Technologically Dependent Child Waiver/Travis C. Waiver;
- (14) ~~[Persons with]~~Brain Injury Home and Community Based Services Waiver;
- (15) ~~[Personal Assistance Waiver for Adults with]~~Physical Disabilities Waiver; and
- (16) Cancer Program.

##### **R414-303-11. Prenatal and Newborn Medicaid.**

(1) The Department adopts Title XIX of the Social Security Act, Section 1902(a)(10)(A)(i)(IV), (VI), (VII), 1902(a)(47), 1902(e)(4) and (5) and 1902(l), in effect January 1, ~~[2004]~~2005, and Title XIX of the Social Security Act, Section 1902(k) in effect January 1, 1993, which are incorporated by reference.

(2) The following definitions apply to this section:

(a) "covered provider" means a provider that the Department has determined is qualified to make a determination of presumptive eligibility for a pregnant woman and that meets the criteria defined in Section 1920(b)(2) of the Social Security Act;

(b) "presumptive eligibility" means a period of eligibility for medical services for a pregnant woman based on self-declaration that she meets the eligibility criteria.

(3) The Department provides coverage to pregnant women during a period of presumptive eligibility if a covered provider determines, based on preliminary information, that the woman:

(a) is pregnant;

(b) meets citizenship or alien status criteria as defined in R414-302-1;

(c) has a declared household income that does not exceed 133% of the federal poverty guideline applicable to her declared household size; and

(d) the woman is not covered by CHIP.

(4) No resource test applies to determine presumptive eligibility of a pregnant woman.

(5) A pregnant woman made eligible for a presumptive eligibility period must apply for Medicaid benefits by the last day of the month following the month the presumptive coverage begins.

(6) The presumptive eligibility period shall end on the earlier of:

(a) the day that the Medicaid agency determines whether the woman is eligible for Medicaid based on her application; or

(b) in the case of a woman who does not file a Medicaid application by the last day of the month following the month the woman was determined presumptively eligible, the last day of that following month.

(7) A pregnant woman may receive medical assistance during only one presumptive eligibility period for any single term of pregnancy.

(8) The Department elects to impose a resource standard on Newborn Medicaid coverage for children age six to the month in which they turn age 19. The resource standard is the same as other Family Medicaid Categories.

(9) The Department elects to provide Prenatal Medicaid coverage to pregnant women whose countable income is equal to or below 133% of poverty.

(10) At the initial determination of eligibility for Prenatal Medicaid, ~~the agency determines the applicant's countable resources using SSI resource methodologies. [applicants]~~ Applicants for Prenatal Medicaid whose ~~have \$5,000 or more of~~ countable resources exceed \$5,000 ~~assets, the Department will require the applicant to~~ must pay four percent of countable resources to ~~the agency to receive~~ become eligible for Prenatal Medicaid. ~~[This]~~ The maximum payment amount ~~[shall not exceed]~~ is \$3,367. The payment must be met with cash~~[-]~~. ~~The applicant cannot use any [incurred-] medical bills [and medical expenses are not allowed]~~ to meet this payment.

(a) In subsequent months, through the 60 day postpartum period, the Department disregards all excess resources.

(b) This resource payment applies only to pregnant women covered under Sections 1902(a)(10)(A)(i)(IV) and 1902(a)(10)(A)(ii)(IX) of the Social Security Act in effect January 1, ~~[2001]~~ 2005.

(c) No resource payment will be required when the Department makes a determination based on information received from a medical professional that social, medical, or other reasons place the pregnant woman in a high risk category. To obtain this waiver of the resource payment, the woman must provide this information to the agency before the woman pays the resource payment so the agency can determine if she is in a high risk category.

(11) A child born to a woman who is only presumptively eligible at the time of the infant's birth is not eligible for the one year of continued coverage defined in Section 1902(e)(4) of the Social Security Act. The mother can apply for Medicaid after the birth and if determined eligible back to the date of the infant's birth, the infant is then eligible for the one year of continued coverage under Section 1902(e)(4) of the Social Security Act.

~~[(14)]~~ 12 Children ~~[born after September 30, 1983,]~~ may qualify for the newborn program through the month in which they turn 19.

~~[(12)]~~ 13 A child who is 18 but not yet 19 and meets the criteria under 1902(l)(1)(D) cannot be made ineligible for coverage under the Newborn program because of deeming income or assets from a parent, even if the child lives in the parent's home.

**KEY: income, coverage groups, independent foster care adolescent**

**Date of Enactment or Last Substantive Amendment: [May 1,] 2007**

**Notice of Continuation: January 31, 2003**

**Authorizing, and Implemented or Interpreted Law: 26-18-3; 26-1-5**



## Natural Resources, Geological Survey R638-3 Energy Efficiency Fund

### NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 30159

FILED: 06/29/2007, 08:49

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule is to conduct the responsibilities assigned to the Board of the Utah Geological Survey (UGS) and the State Energy Program (SEP) in managing the Energy Efficiency Fund and implementing the associated loan program established in Section 53A-20c-102.

**SUMMARY OF THE RULE OR CHANGE:** This rule establishes requirements for eligibility for loans from the Energy Efficiency Fund; procedures for accepting, evaluating, and prioritizing applications for loans; and the terms and conditions for loans.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 53A-20c-102

### ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** Administration of the Energy Efficiency Fund will be performed by the SEP and the UGS Board. SEP will add 1/2 full time equivalent (paid for with federal funds) to assist in administering the Fund. Existing staff will also be involved in administration. Estimated outlays are \$72,000 per year, of which 80% will be funded through a federal formula grant and the remaining 20% through state funds.

❖ **LOCAL GOVERNMENTS:** There will be limited costs to school districts in preparing applications for loans. On balance, however, school districts will realize net energy cost savings as a result of projects financed by the Fund.

❖ **OTHER PERSONS:** There is no cost to small businesses or to other persons. There will be some benefits to local contractors and energy auditors from projects financed by the fund.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There will be limited costs to school districts in preparing applications for loans. There will also be minimal costs in reporting project status during the term of loans.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule creates no costs to businesses. Contractors, engineering, and other businesses will benefit from projects funded by this program that might otherwise not take place. Michael R. Styler, Executive Director

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

NATURAL RESOURCES  
GEOLOGICAL SURVEY  
Room 3110  
1594 W NORTH TEMPLE  
SALT LAKE CITY UT 84116-3154, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Philip Powlick at the above address, by phone at 801-537-3365, by FAX at 801-537-4795, or by Internet E-mail at philippowlick@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 08/15/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 09/15/2007

AUTHORIZED BY: Rick Allis, Director

**R638. Natural Resources, Geological Survey.**

**R638-3: Energy Efficiency Fund.**

**R638-3-1. Purpose.**

This rule is for the purposes of

A. Conducting the responsibilities assigned to the Board of the Utah Geological Survey (UGS) and the State Energy Program (SEP) in managing the Energy Efficiency Fund and implementing the associated loan program established in Utah Code Section 53A-20c-102; and

B. Establishing requirements for eligibility for loans from the Energy Efficiency Fund, procedures for accepting, evaluating, and prioritizing applications for loans, and the terms and conditions for loans.

**R638-3-2. Authority.**

Pursuant to Utah Code Section 53A-20c-102, the UGS board shall make rules establishing criteria, procedures, priorities, and conditions for the award of loans from the Energy Efficiency Fund.

**R638-3-3. Definitions.**

A. "Board" means the Board of the Utah Geological Survey.

B. "Energy" means, for the purposes of this rule, electricity, natural gas or other methane, fuel oil, coal, or propane that is used by a school district to operate a building's electrical devices, lighting, heating and cooling systems, and other equipment necessary for the building's operation.

C. "Energy cost payback" means the period of time, generally expressed in years, that is needed for the energy cost savings of an energy efficiency project to equal the cost of the energy efficiency project. It does not include the time-value of money and is sometimes referred to as simple payback.

D. "Energy cost savings" means the value to a school district of the energy that is saved or is not consumed as a result of an energy efficiency project and is generally stated on an annual cost savings basis. This value is measured based upon the current cost per unit of the energy source or sources used by the building at which an energy efficiency project is to take place.

E. "Energy efficiency project" means

1. For existing buildings, a retrofit to improve energy efficiency; or

2. For new buildings, an enhancement to improve energy efficiency beyond the minimum required by the energy code.

3. It does not mean

a. The repair of existing buildings or equipment;

b. Projects that save money through the switching of fuels, energy sources, or vendors;

c. Projects or measures intended to save money by changing the time of day or year at which energy is consumed; or

d. Upgrades to non-fixed appliances or equipment within a building such as computers, copiers, and other systems.

F. "Energy savings" means the source thermal value (British thermal units or Btu's) of energy saved or not consumed as a result of an energy efficiency project. For purposes of this rule, the following conversion factors are used in converting energy units saved by a project into source Btu's when evaluating loan applications:

1. Electricity - One kilowatt hour = 10,495 Btu's.

2. Natural gas or methane - One therm = 100,000 Btu's.

3. Natural gas or methane - One cubic foot = 1,030 Btu's.

4. Fuel oil - One gallon = 138,690 Btu's.

5. Coal - One pound = 11,580 Btu's.

6. Propane - One gallon = 9,133 Btu's.

G. "Fund" means the Energy Efficiency Fund established by Utah Code Section 53A-20c-102.

H. "Utah Energy Code" means the most-recent edition of the International Energy Conservation Code currently in effect within the State of Utah and as incorporated and amended by Utah Rule 156.56 (Utah Uniform Building Standard Act Rules).

"Quarter" means a three month period beginning with one of the following dates: January 1, April 1, July 1, and October 1.

I. "SEP" means the State Energy Program, a subdivision of the Utah Geological Survey, which is required by Utah Code 53A-20c-102 to serve as staff to the revolving loan program associated with the Energy Efficiency Fund.

J. "UGS" means the Utah Geological Survey.

**R638-3-4. Eligibility of Projects for Loans.**

A. Eligibility for loans from the Fund is limited to school districts within the state of Utah.

B. Loans may be used only by school districts to fully or partially finance energy efficiency projects within buildings owned and operated by the school district.

C. For energy efficiency projects involving renovation, upgrade, or improvement of existing buildings, the following project measures are eligible for loan financing from the Fund:

1. Building shell improvements;

2. Increase or improvement in building insulation;

3. Fenestration upgrades;

4. Lighting upgrades;

5. Lighting delamping;

6. Heating, ventilation, and air conditioning (HVAC) replacements or upgrades;

7. Improvements to energy control systems;

8. Other energy efficiency projects that a district can demonstrate will result in a significant reduction in the consumption of energy within a building.

D. An energy efficiency project can be eligible as part of a new building construction if the following conditions are met:

1. The building measure or system for which a loan is sought must surpass the minimum prescriptive requirements of the Utah Energy Code; and

2. The completed building must exceed the minimum energy performance standards of the Utah Energy Code for its building type by at least 10%.

E. There is no limit to the total number of loans a single district may receive from the Fund, however, no district may receive a loan that would cause the sum of its outstanding loan balances to exceed \$500,000.

F. An energy efficiency project is eligible for a loan only if the energy cost payback of the project is more than two and less than twelve years.

#### **R638-3-5. Eligible Costs.**

A. This section defines the specific costs incurred by an energy efficiency project that are eligible for financing from the Fund.

B. The following direct costs of an energy efficiency project may be eligible for financing, subject to the remaining conditions of this section:

1. Building materials;
2. Doors and windows;
3. Mechanical systems and components including HVAC and hot water;
4. Electrical systems and components including lighting and energy management systems.
5. Labor necessary for the construction or installation of the energy efficiency project;
6. Design and planning of the energy efficiency project;
7. Energy audits that identify measures that are included in the energy efficiency project;
8. Inspections or certifications necessary for implementing the energy efficiency project.

C. The following costs are not eligible for financing from the Fund:

1. The costs of a construction or renovation project that are not directly related to energy efficiency measures;
2. Costs incurred for the acquisition of financing for the project;
3. Costs for equipment or systems that reduce energy costs without also resulting in reductions in the use of energy.

D. In cases for which the school district receives a financial incentive or rebate from a utility or other third party for undertaking some or all of the measures in an energy efficiency project, such incentives or rebates are to be deducted from the costs that are eligible for financing from the Fund. No loans made from the Fund may exceed the final cost incurred by the district for the project after third party financing.

E. For an energy efficiency project undertaken as part of a new building construction, only the incremental cost of the project is eligible. For purposes of this section, incremental cost means the portion of the overall cost of a measure or system that exceeds the cost that would have been incurred by meeting the minimum prescriptive requirements of the Utah Energy Code.

F. For an energy efficiency project undertaken as part of the renovation of an existing building, building components or systems that are covered by the prescriptive requirements of the Utah Energy Code must exceed the minimum Utah Energy Code requirements in order for their costs to be eligible for a loan from the Fund.

#### **R638-3-6. Loan Application Process.**

A. The Board shall receive and evaluate applications for loans from the Fund no fewer than three times per year. Notice of due dates for applications will be made available to school districts no less than three months in advance of the next scheduled Board meeting at which applications will be evaluated.

B. School districts interested in applying for a loan should first contact SEP. SEP staff will consult or meet with district staff to make an initial assessment of the strength or weakness of a proposed project. SEP staff may also choose to conduct a site visit of the proposed project location prior an application. SEP staff may assist districts in evaluating potential project measures and in preparing an application.

C. Applications for loans will be made using forms developed by SEP. Application forms shall require that the following information be provided by the district:

1. Name and location of the district;
2. Name and location of the building or buildings where the energy efficiency project will take place;
3. A description of the building or buildings, including what the building is used for, seasonal variations in use, general construction of the building, and square footage;
4. A description of the current energy usage of the building, including types and quantities of energy consumed, building systems, and their age and condition;
5. A description of the energy efficiency project to be undertaken, including specific measures to be undertaken, the cost or incremental cost of each measure, and the equipment or building materials to be installed;
6. Projected or estimated energy savings that result from each measure undertaken as part of the project;
7. Projected or estimated energy cost savings from each measure undertaken as part of the project;
8. District funds expended per pupil in the district's most recent completed budget year;
9. A description of any additional community or environmental benefits that may result from the project.

D. Applications shall be received for the Board by the SEP which will conduct an initial review of each application. This initial review will be for the purpose of determining the completeness of the application, whether additional information is needed, whether proposed projects, measures, and costs are eligible for loan financing, and to assist the loan applicant in improving its application.

E. The Board shall establish a Review Committee to provide in-depth evaluation of loan applications. The Committee must consist of at least the following:

1. The SEP Manager;
2. An SEP technical specialist chosen by the SEP Manager;
3. The UGS Associate Director;
4. One member of the Board selected by the Board for a two year renewable term;
5. A representative of the Utah Office of Education approved by the Board for a two year renewable term.

Other members may be designated at the discretion of the Board.

F. When SEP has deemed that an application is complete and that the proposed project complies with this rule, the application will be forwarded to the Review Committee for its evaluation. The Review Committee shall provide an opportunity for applicants to make presentations on their projects to the Committee before it has evaluated pending applications.



G. The Review Committee will review and discuss the merits of each application in light of the application provided by the applicant, presentations made by the applicant, and technical analysis undertaken by SEP staff. After discussion of each application, Review Committee members will evaluate each according to the following criteria and scoring:

1. The feasibility and practicality of the project (maximum 30 points);
2. The projected energy cost payback period of the project (maximum 20 points);
3. The energy cost savings attributable to the project (maximum 10 points);
4. The energy savings attributable to the project (maximum 20 points);
5. The financial need of the district for the loan including its financial condition, expenses per pupil, and the availability of other grants, rebates, or low-interest loans for the project (maximum 10 points);
6. The environmental and other benefits to the state and local community attributable to the project (maximum 10 points).

A separate score sheet will be completed by each Review Committee member for each application under consideration.

H. The Review Committee will compile the scores of each of its members for each application. Based upon the compiled scores of all members, the Committee will make recommendations to the Board for the funding of energy efficiency projects. For applications that receive an average score of less than 70 points, the Review Committee shall recommend that the Board not provide a loan from the Fund. Applications receiving an average score over 70 will normally be recommended for funding. However, if the current balance of the fund does not permit for the funding of all projects with an average score over 70, the Review Committee will recommend, beginning with the highest scoring application and working downward in score, those applications that may be funded given the current balance of the Fund.

I. The Review Committee provides advice and recommendations to the Board. It is not vested with the authority to make decisions regarding the public's business in connection with the Fund. The Board is the decision making authority with regard to the award of loans from the Fund.

J. Based upon the Review Committee's evaluations and recommendations, SEP will prepare a memorandum for the Board that will

1. Provide a brief description of each project reviewed by the Review Committee;
2. List the energy savings, energy cost savings, and cost payback for each project as estimated by the applicant;
3. List the energy savings, energy cost savings, and cost payback for each project as estimated by the SEP technical specialist for the program;
4. List the aggregated total score and scores in each evaluation criterion for each application;
5. Specify projects recommended for funding and those not recommended for funding;
6. Provide a brief explanation of the Review Committee's rationale for each application that is not recommended for funding.

This memorandum is to be provided to each member of the Board no less than one week prior to the next scheduled Board meeting at which applications will be evaluated.

K. At its next scheduled meeting after the Review Committee has met, the Board will consider pending applications for loans from the Fund and will review the Review Committee's recommendations for

each project. The Board will then vote on each application. Applications receiving a majority of votes for approval from members that are present will be awarded loans from the Fund.

L. When considering Loan applications, the Board may modify the dollar amount or project scope for which a loan is awarded if the Board determines that individual measures included in a project do not meet the requirements of this rule, are not cost effective, or that funds could better be used for funding of other projects.

#### **R638-3-7. Loan Terms.**

A. The maximum amount that may be approved by the Board for any single energy efficiency project is \$250,000. The minimum amount that may be approved is \$5,000.

B. No district may receive a loan that would cause the sum of its outstanding loan balances to exceed \$500,000.

C. The amount of a loan award approved by the Board represents a maximum approved project cost. The final value of any loan may vary from the Board-approved amount according to the actual incursion of costs by the school district. In cases where costs have exceeded those presented in the initial application, a district may request that the Board increase its loan award, subject to the limitations of subsections (A) and (B) above.

D. After approval of a loan application by the Board, a school district has one year in which to complete the energy efficiency project. If at the end of one year a school district is unable to meet this time limitation, it may request an extension from the Board of no more than six additional months.

E. Loan amounts from the Fund will be disbursed only upon the completion of an energy efficiency project.

F. Once a project has been completed, the school district shall provide to SEP documentation of actual costs incurred, such as invoices from contractors, as well as information on any third party financial incentives received. SEP will use this information to determine the actual cost of the project measures approved by the Board.

G. The final loan amount will be equal to actual costs incurred for the project minus the value of any third party incentives received unless

1. This amount exceeds \$250,000, in which case the amount of the loan will be set at \$250,000; or
2. This amount exceeds the amount approved by the Board, in which case the loan amount will be set at the amount originally approved by the Board; or
3. This amount exceeds the amount approved by the Board and the Board increases the loan award at the request of the school district.

H. No interest will be charged to school districts receiving loans for energy efficiency projects from the Fund.

I. A small administrative fee may be charged to loan recipients to defray the cost of servicing loan accounts. The fee will be no less than \$100 and no more than \$200 per year of the loan's term.

J. Loan repayment periods will be set to be approximately equal to the energy cost payback of each loan. The loan repayment period for a specific energy efficiency project begins with the first day of the next quarter after loan funds have been disbursed.

K. Loan repayments will be due at the beginning of each quarter.

L. Loan repayment amounts will be calculated as follows:  
((Final loan amount + administrative fee) / cost payback period) / 4

M. School districts that are approved for a loan award will enter into a contract with SEP that specifies all terms applying to the loan, including the terms specified in this rule and standard contract terms for contracts and loans currently in effect for the State of Utah.

**R638-3-8. Reporting and Site Visits.**

A. In the period between Board approval and project completion, the school district shall complete and provide to SEP a report at the beginning of each quarter. The report shall include information on the district's progress in completing the energy efficiency project, its most-current estimate for the time of project completion, and any notable problems or changes in the project since Board approval such as construction delays or cost overruns.

B. After loan funds have been disbursed, the school district shall complete and provide to SEP annual reports due at the beginning of the calendar quarter in which the anniversary of the loan disbursement occurs. This report shall include the following:

1. A description of the performance of the building and of the performance of the measures included in the energy efficiency project;

2. A description of any notable problems that have occurred with the building or the project;

3. A description of any notable changes to the building or to its operations that would cause a significant change in its energy consumption;

4. Copies of energy bills incurred for the building during the prior year such as electric and utility bills or shipping invoices for fuels such as fuel oil or propane;

5. Documentation of energy consumed by the building in the prior year.

Annual reports shall be provided for either the first four years after project completion or for each year of the repayment period, whichever is longer.

C. If a schools district fails to submit the annual reports described in subsection (B) above, the Board may bar the district from eligibility for future loans from the Fund

D. Approximately one year after project completion, SEP staff will conduct a site visit to the location of the energy efficiency project to verify project completion and assess the success of the project. Additional site visits may also be conducted by SEP staff during the repayment period. Loan recipients will assist SEP with such site visits, including providing access to all components of the energy efficiency project.

**KEY: energy, efficiency, schools, loans**

**Date of Enactment or Last Substantive Amendment: 2007**

**Authorizing, and Implemented or Interpreted Law: 53A-20c-102**



Natural Resources, Parks and Recreation

**R651-611-2**

Day Use Entrance Fees

**NOTICE OF PROPOSED RULE  
(Amendment)**

DAR FILE No.: 30156  
FILED: 06/28/2007, 07:50

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to address the rising visitation and associated costs of full-time boaters and recreators at

Deer Creek and Jordanelle State Parks, by raising day-use entrance fees \$1 per park from \$9 to \$10.

SUMMARY OF THE RULE OR CHANGE: The majority of visitors to Jordanelle and Deer Creek State parks are day users, i.e., boaters, water skiing, wake boarding, fishing, and Personal Water Craft (PWC) users and whose use impacts the park facilities. Personnel costs and expenses increase proportionally with the number of recreators and the infrastructure and facilities are especially impacted by increased use. The park utilizes seasonal employees and volunteers, however, as full-time day use increases it is becoming more difficult to cover incremental costs. Part of the \$1 increase in day use fees would be used to help cover additional personnel, current expense, repair, and maintenance costs.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63-11-17(8)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be approximately \$120,000 increase in revenue to the state, Division of State Parks and Recreation, with this \$1 increase in fees at Jordanelle and Deer Creek State Parks, offsetting increasing costs for increased visitation, maintenance, and repair at these two parks.

❖ LOCAL GOVERNMENTS: This change will affect only the state park visitors to Jordanelle and Deer Creek State Parks, and therefore, there will be no anticipated cost or savings to local government.

❖ OTHER PERSONS: Persons visiting these two state parks will pay \$1 more for their entrance fee for use of the park facilities; the increase is from \$9 to \$10.

COMPLIANCE COSTS FOR AFFECTED PERSONS: If affected persons want to visit Jordanelle or Deer Creek they will pay \$1 more to enter the two parks. The daily use entrance fee will now be \$10 for the visiting public to utilize the facilities offered at these two state parks.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be negligible fiscal impact on businesses. Michael Styler, Executive Director

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

NATURAL RESOURCES  
PARKS AND RECREATION  
Room 116  
1594 W NORTH TEMPLE  
SALT LAKE CITY UT 84116-3154, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dee Guess at the above address, by phone at 801-538-7320, by FAX at 801-537-3144, or by Internet E-mail at deeguess@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 08/14/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2007

AUTHORIZED BY: Mark Forbes, Deputy Director (Legislation)

**R651. Natural Resources, Parks and Recreation.  
R651-611. Fee Schedule.**

**R651-611-2. Day Use Entrance Fees.**

Permits the use of all day activity areas in a state park. These fees do not include overnight camping facilities or special use fees.

A. Annual Permits

1. \$70.00 Multiple Park Permit (good for all parks)
2. \$35.00 Senior Multiple Park Permit (good for all parks)
3. \$200.00 Commercial Dealer Demonstration Pass

4. Duplicate Annual Permits may be purchased if originals are lost, destroyed, or stolen, upon payment of a \$10.00 fee and the submittal of a signed affidavit to the Division office. Only one duplicate is allowed.

B. Special Fun Tag - Available free to Utah residents, who are disabled, as defined by the Special Fun Tag permit affidavit.

C. Daily Permit - Allows access to a specific state park on the date of purchase.

1. \$10.00 per private motor vehicle

Table 1

Deer Creek                      Jordanelle - Hailstone

[4]2. \$9.00 (\$5.00 for seniors) per private motor vehicle or \$5.00 per person (\$3.00 for seniors), for pedestrians or bicycles at the following parks:

TABLE [4]2

[Deer Creek                      Jordanelle - Hailstone  
Utah Lake                      Willard Bay

[2]3. \$7.00 (\$4.00 for seniors) per private motor vehicle or \$4.00 per person (\$2.00 for seniors) for pedestrians or bicycles at the following parks:

TABLE [2]3

Bear Lake - Marina	Bear Lake - Rendezvous
Dead Horse Point	East Canyon
Jordanelle - Rockcliff	Quail Creek
Rockport	Sand Hollow
Yuba	

[3]4. \$6.00 (\$3.00 for seniors) per private motor vehicle or \$3.00 per person (\$2.00 for seniors), for pedestrians or bicycles at the following parks:

TABLE [3]4

Antelope Island	Goblin Valley
Hyrum	Kodachrome
Palisade	

[4]5. \$2.00 (\$1.00 for seniors) per private vehicle at the following park:

TABLE [4]5

Great Salt Lake

[5]6. \$6.00 per adult, \$3.00 per child (a child is defined as any person between the ages of six (6) and twelve (12) years old inclusively), and \$3.00 for seniors at Utah Field House State Park.

[6]7. \$2.00 per person (\$1.00 for seniors), or \$6.00 per family (up to eight (8) individuals (\$3.00 for seniors), at the following parks:

TABLE [5]6

Camp Floyd  
Territorial

[7]8. \$3.00 per person (\$1.50 for seniors), or \$6.00 per family (up to eight (8) individuals (\$3.00 for seniors), at the following parks:

TABLE [6]7

Anasazi	Edge of the Cedars
Fremont	Iron Mission

[8]9. \$5.00 (\$3.00 for seniors) per private motor vehicle or \$3.00 per person (\$2.00 for seniors), for pedestrians or bicycles at the parks not identified above, including the east side of Bear Lake.

[9]10. \$10.00 per OHV rider at the Jordan River OHV Center.

[40]11. \$2.00 per person for commercial groups or vehicles with nine (9) or more occupants (\$15.00 per group at Great Salt Lake).

D. Group Site Day Use Fee - Advance reservation only. \$2.00 per person, age six (6) and over, for sites with basic facilities. Minimum \$50.00 fee established for each facility.

E. Antelope Island Wildlife Management Program: A \$1.00 fee will be added to the entrance fee at Antelope Island. This additional fee will be used by the Division to fund the Wildlife Management Program on the Island.

**KEY: parks, fees**

**Date of Enactment or Last Substantive Amendment:** ~~May 22, 2007~~ **August 21, 2007**

**Notice of Continuation:** February 13, 2006

**Authorizing, and Implemented or Interpreted Law:** 63-11-17(8)



**Public Service Commission,  
Administration  
R746-420-2  
Requests for Waiver of a Solicitation  
Process**

**NOTICE OF PROPOSED RULE  
(Amendment)**

DAR FILE NO.: 30115  
FILED: 06/21/2007, 09:46

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Recent statutory changes to Section 54-17-501 have made changes to the Significant Energy Resource acquisition and approval process. Provisions in Section R746-420-2 are concurrently being moved to a proposed amendment to Rule R746-430 in order to consolidate provisions dealing with approval or waiver proceedings before the Public Service Commission into one area. (DAR NOTE: The proposed amendment to Rule R746-430 is under DAR No. 30114 in this issue, July 15, 2007, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: The proposed amendment will remove Section R746-420-2, which describes the information which is to be filed with a utility's request for a waiver of a solicitation process to acquire a Significant Energy Resource.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 54-17-201, 54-17-202, and 54-17-501

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--The section described the types of supporting information that were to be filed with a request for waiver. The informational need still exists, but the description of the information to be filed has been included in a proposed amendment to Rule R746-430. State agencies will still engage in the same activities in spite of the removal of this section.

❖ LOCAL GOVERNMENTS: None--The section provisions to be removed had no application to local government as they are not subject to Commission jurisdiction nor to the statutory provisions dealing with acquisition of Significant Energy Resources.

❖ OTHER PERSONS: SMALL BUSINESSES: None--The rule provisions to be repealed had no application to small businesses' operations. Significant energy resources are very large electric utility plant undertakings and are not known to be undertaken by any entity with fewer than 50 employees. Utah has no utilities with fewer than 50 employees that could be affected by the original rule. PERSONS OTHER THAN BUSINESSES: None--The rule provisions to be removed describe the information to be submitted to the Commission in support of a request for waiver of a solicitation process. Requests for waivers may still be filed, but supporting information will be as determined by the applicant and likely will be the same as what was prescribed in the rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Affected utilities subject to the statutory provisions and projects which fall within the statutory provisions remain the same. The rule simply identified the type of information that would be filed to support a request for waiver of a solicitation process.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact expected from the rule repeal. Requests for waivers may still be filed with the Commission and utilities will still need to support their requests with adequate information, although the specific information will no longer be described in Section R746-420-2. It is anticipated that affected utilities will make

no change in the information they supply to support their requests. Ted Boyer, Chairman

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:

Sheri Bintz or Sandy Mooy at the above address, by phone at 801-530-6714 or 801-530-6708, by FAX at 801-530-6796 or 801-530-6796, or by Internet E-mail at sbintz@utah.gov or smooy@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 08/14/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2007

AUTHORIZED BY: Sandy Mooy, Legal Counsel

**R746. Public Service Commission, Administration.****R746-420. Requests for Approval of a Solicitation Process.**~~**R746-420-2. Requests for Waiver of a Solicitation Process.**~~

~~— (1) A Soliciting Utility filing for waiver of the requirements of Section 54-17-201(2) shall file a request for waiver which shall include testimony and exhibits which provide:~~

~~— (a) An explanation of and the factual basis for the emergency, opportunity or other factors that support the requested waiver;~~

~~— (b) If the requested waiver is based upon an emergency, evidence establishing the nature and cause of the emergency and an explanation of why the proposed waiver is in the public interest;~~

~~— (c) If the requested waiver is based upon a time limited commercial or technical opportunity, evidence establishing the nature of the opportunity and an explanation of why the proposed waiver is in the public interest;~~

~~— (d) If the requested waiver is based upon other factors, evidence establishing the nature of those factors and an explanation of why the proposed waiver is in the public interest;~~

~~— (e) Evidence explaining and demonstrating when the Soliciting Utility first became aware of the claimed emergency, opportunity or other factors and how and when it pursued or responded to the same; and~~

~~— (f) Evidence showing that a waiver of the Solicitation Process is in the public interest.~~

~~— (2) A Commission order granting a requested waiver of a Solicitation Process shall not constitute and does not determine approval or disapproval of a significant energy resource decision including cost recovery. The Soliciting Utility retains the obligation to file for approval of a significant energy resource decision under Section 54-17-302.~~

~~— (3) Pursuant to Section 54-17-201(3)(c)(ii), the Commission may condition the granting of a waiver on such conditions as the Commission may determine to be just, reasonable and in the public~~

interest. If the Commission determines that insufficient ratepayer protections exist to warrant advance approval under Section 54-17-302, it may deny or condition approval pursuant to Section 54-17-302(6) in such manner as necessary to protect the public interest.

**KEY: significant energy resource, solicitation process, order to proceed, filing requirements**

**Date of Enactment or Last Substantive Amendment:** ~~May 17, 2007~~

**Authorizing, and Implemented or Interpreted Law:** 54-17-100 et seq.



Public Service Commission,  
Administration  
**R746-430**  
Procedural and Informational  
Requirements for Action Plans and  
Significant Energy Resource Review  
and Approval

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 30114

FILED: 06/21/2007, 09:43

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Recent enactment of Section 54-17-501 changed some of the procedural aspects of the regulatory processes for utility acquisition of Significant Energy Resources, particularly waivers for a solicitation process and approval of the resource. The proposed amendment provides direction on the information to be submitted to the Commission in proceedings dealing with such waivers.

**SUMMARY OF THE RULE OR CHANGE:** The amendment identifies the type of information or evidence that should be filed to support a utility's request for a waiver of a solicitation process or for a waiver of approval of a significant energy resource.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 54-17-501

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** None--The rule describes the information expected to be submitted by a utility in support of the requests that may be filed. State agency actions or activities will not be altered by the proposed change.

❖ **LOCAL GOVERNMENTS:** None--The rule has no application to any local government activity or operations.

❖ **OTHER PERSONS: SMALL BUSINESSES:** None--There are no small businesses in Utah that engage in any operations subject to the statutory provisions nor the activities covered by the proposed rule. **PERSONS OTHER THAN BUSINESSES:** None--The proposed rule has application only to utilities'

acquisition of Significant Energy Resources pursuant to statutory provisions and simply describes the type of information that is to be submitted in support of waiver requests.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Affected utilities are to comply with existing statutory requirements dealing with their acquisitions of Significant Energy Resources. The proposed amendment simply identifies the type of information that is to be submitted in support of a utility's request for waiver, which is governed by Section 54-17-501.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The proposed rule identifies the type of information that the Commission should receive in support of a utility's request for a waiver. Utilities are required to provide evidentiary support for all agency action requested and the proposed rule simply describes the type of information expected by the Commission in order assist an affected utility to prepare its filing. No fiscal impact is expected from the rule.  
Ted Boyer, Chairman

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](mailto:smooy@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 08/14/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2007

AUTHORIZED BY: Sandy Mooy, Legal Counsel

**R746. Public Service Commission, Administration. R746-430. Procedural and Informational Requirements for Action Plans~~and~~, for an Approval of a Significant Energy Resource ~~[Review and Approval]~~, for Determination of Whether to Proceed, and for Waivers of a Solicitation Process or of an Approval of a Significant Energy Resource.**

**R746-430-4. Requests for Waiver of a Solicitation Process for a Significant Energy Resource or Waiver of Approval of a Significant Energy Resource.**

(1) Filing requirements -- An Affected Electrical Utility filing for a waiver pursuant to Section 54-17-501 shall file a request for waiver which shall fulfill the requirements of Section 54-7-501 and which shall include testimony and exhibits which provide:

(a) An explanation of and the factual basis for the emergency, opportunity or other factors that support the requested waiver;

(b) If the requested waiver is based upon an emergency, evidence establishing the nature and cause of the emergency and an explanation of why the proposed waiver is in the public interest;

(c) If the requested waiver is based upon a time-limited commercial or technical opportunity, evidence establishing the nature of the opportunity and an explanation of why the proposed waiver is in the public interest;

(d) If the requested waiver is based upon other factors, evidence establishing the nature of those factors and an explanation of why the proposed waiver is in the public interest;

(e) Evidence explaining and demonstrating when the utility first became aware of the claimed emergency, opportunity or other factors and how and when it pursued or responded to the same;

(f) If the requested waiver is for a waiver of a solicitation process, evidence

(i) that the particular resource to be procured is consistent with the utility's current Integrated Resource Plan,

(ii) that the particular resource to be procured is consistent with any pending solicitation process(es) and what affect procurement of the particular resource will have on any pending solicitation process(es),

(iii) regarding how the particular resource to be procured compares in value to similar resources,

(iv) on how the particular resource will be connected to and will be integrated with the utility's system,

(v) of the costs which the utility anticipates it will recover from ratepayers, which shall include, but is not limited to, analysis of the affects upon the utility's power costs and revenue requirements, and

(vi) of any affect the proposed resource will have on future resource acquisitions;

(g) All information, data, models and analyses used by the utility to evaluate the proposed resource and associated waiver request; and

(h) Evidence showing that a requested waiver is in the public interest.

(2) The time periods for an act or proceeding process contained in Section 54-17-501 shall supercede any differing time periods for an act or proceeding process contained in any other Commission rule.

(3) A Commission order granting a waiver of a Solicitation Process or an Approval of an Energy Resource Decision shall not constitute and does not determine approval or disapproval of a significant energy resource decision including cost recovery.

(4) Pursuant to Section 54-17-501(7), the Commission may condition the granting of a waiver on such conditions as the Commission may determine to be just, reasonable and in the public interest.

**KEY: action plan, significant energy resource, order to proceed, utilities**

**Date of Enactment or Last Substantive Amendment: ~~May 17,~~ 2007**

**Authorizing, and Implemented or Interpreted Law: 54-17-100 et seq.; 54-17-501**

◆ ————— ◆

## Regents (Board Of), Administration **R765-607** Utah Higher Education Tuition Assistance Program

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 30165

FILED: 07/02/2007, 13:00

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: To comply with a statutory change passed by H.B 195 in the 2007 Utah State Legislative session, the Utah Higher Education Tuition Assistance Program (UTAP) is converted from matching endowment grants to need-based grants. This change will retain the original intent and benefit the same needy students and allow institutions to provide the allocated funds to more students each year besides freeing up the matching funds for other needs. This change helps needy students immediately. (DAR NOTE: H.B. 195 (2007) is found at Chapter 247, Laws of Utah 2007, and was effective 04/30/2007.)

SUMMARY OF THE RULE OR CHANGE: Created in 1998 by the Utah State Legislature, UTAP's original purpose was to establish a matching grant program to provide incentive for Utah community colleges and centers of Utah State University to raise money for scholarships. Funds were only to be used for matching grants for scholarship endowments. Only a small portion of allocated funds was used because of the endowment aspect so the Utah Legislature changed the entire fund to one of need-based grants, thus allowing schools the opportunity to utilize all funds for student use instead of establishing an endowment fund wherein only the interest could be used for needy students.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 53B, Chapter 7, Part 5; and Sections 53B-8-102 and 53B-8-106

#### ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated costs that affect the state budget. The UTAP allocation has not increased. This rule change only affects the nature and awarding of funds allocated for community colleges and centers of Utah State University.

❖ LOCAL GOVERNMENTS: There are no costs nor savings to local governments. Local governments are not and will not be affected by the proposed changes to this rule. This rule only applies to institutions of higher education and students.

❖ OTHER PERSONS: There are no anticipated costs nor savings to small businesses or individuals as a result of this rule change. It will provide greater access to grant funds for needy students at participating community colleges and centers of Utah State University. So, rather than savings, this rule change will allow more students to receive and benefit from financial aid for higher education.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated compliance costs that will adversely affect institutions of higher education. Associated costs, if any, would be offset by savings, if any, by awarding funds each year to needy students as opposed to establishing and maintaining an endowment fund in order to award a scholarship/grant as required under the current rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No businesses are currently impacted fiscally by this rule and none will be impacted by this proposed rule amendment. David A. Feitz, Executive Director UHEAA

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

REGENTS (BOARD OF)  
ADMINISTRATION  
BOARD OF REGENTS BUILDING, THE GATEWAY  
60 SOUTH 400 WEST  
SALT LAKE CITY UT 84101-1284, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ronell Crossley at the above address, by phone at 801-321-7291, by FAX at 801-321-7299, or by Internet E-mail at rccrossley@utahsbr.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 08/14/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2007

AUTHORIZED BY: David A Feitz, Executive Director, UHEAA

### **R765. Regents (Board of), Administration.**

#### **R765-607. Utah Higher Education Tuition Assistance Program.**

##### **R765-607-1. Purpose.**

To provide Utah Higher Education Assistance Authority ("UHEAA") policy and procedures for implementing the Utah Higher Education Tuition Assistance Program ("UTAP," or "program") [~~UCA Title 53B, Chapter 7, Part 5, enacted in H.B. 135 by the 1998 General Session of the Utah Legislature~~].

##### **R765-607-2. References.**

2.1. Utah Code. Title 53B, Utah System of Higher Education, Chapter 7, Part 5 (Utah Higher Education Tuition Assistance Program).

2.2. State Board of Regents Policy R6[40]01, Board of Directors of the Utah Higher Education Assistance Authority.

2.3. Utah Code Title 53B, Chapter 8-102, Definition of Resident Student.

2.4. Utah Code Title 53B, Chapter 8-106, Resident Tuition - Requirements - Rules.

2.5. State Board of Regents Policy R512, Determination of Resident Status.

##### **R765-607-3. Effective Date.**

These policies and procedures are effective [~~January 4, 1999~~] June 21, 2007.

##### **R765-607-4. Policy.**

4.1. Program Description - UTAP is a [~~matching~~] need-based grant program to provide [incentives for Utah System of Higher Education community colleges and Utah State University to raise money for scholarships] need-based grants at the community colleges and at centers of the Utah State University. [In UCA 53B-7-501, the Legislature] The Program recognizes "that tuition and general fee costs to students at Utah community colleges and established branch campuses and centers represent significant challenges for many of the students they serve" [and that additional scholarship moneys for financially needy students attending those institutions is needed to ensure financial access to higher education]. Program funds may be used only for [~~matching~~] need-based grants [for scholarship endowments] to students attending higher education institutions as provided herein.

4.2. Program Administration - The Board of Regents has delegated to the UHEAA Board of Directors the authority [~~for~~] to govern UTAP on behalf of the Board of Regents. The program is administered by the Associate Commissioner for Student Financial Aid as Executive Director of UHEAA, reporting to the Commissioner of Higher Education.

4.3. Institutions Eligible to Participate - Eligible institutions include Snow College, Dixie State College, the College of Eastern Utah, Utah Valley State College, Salt Lake Community College, and Utah State University on behalf of its off-campus centers.

4.4. Students Eligible to Receive UTAP [~~Scholarships~~] Grants - To be eligible to receive a [~~scholarship~~] need-based grant funded by [~~an institutional endowment fund established under~~] UTAP, a student must:

4.4.1. Be a resident student of the State Of Utah under Utah Code Section 53B-8-1-2 and Board Policy R512 or exempt from paying the nonresident portion of total tuition under Utah Code Section 53B-8-106. For purposes of this section, in addition to the qualification methods set forth in Policy R512, an institution may recognize a student, other than a nonimmigrant alien, as a resident student of the State of Utah if the student graduated from a Utah high school within 12 months of enrolling in the institution.

4.4.[4]2. Be unconditionally admitted and currently enrolled in a degree, diploma, or certificate program at the community college entity (specific campus or extension of the specific campus) for which the [~~scholarship endowment~~] UTAP grant fund is established, or at a branch campus or center of Utah State University for receipt of a [~~scholarship~~] grant from the University's UTAP [~~endowment~~] grant fund.

4.4.[2]3. Be in the first term of the student's enrollment at the institution or be maintaining satisfactory progress, as defined by the institution, toward the degree, diploma, or certificate objective in which enrolled.

4.4.[3]4. Meet all requirements of general eligibility for Federal Higher Education Act Part IV Student Financial Aid Programs, as defined in applicable U. S. Department of Education Regulations and the current edition of the Department of Education Student Aid Handbook.

4.4.[4]5. Have a demonstrated need for financial assistance based on the defined Cost of Attendance for the applicable student category at the institution and the expected family contribution as determined by the Federal need analysis process for Higher Education Act Title IV student financial assistance programs.

4.5. Initial Allocation of Appropriated Funds - Money appropriated to the program for a specific fiscal year, plus any remaining balance at the end of the preceding fiscal year, shall be allocated to eligible institutions as follows:

4.5.1. Fifty percent of the amount available for allocation each fiscal year shall be allocated in equal proportions to:

4.5.1.1. Snow College, for its main campus and extensions;

4.5.1.2. Dixie State College, for its main campus and extensions;

4.5.1.3. College of Eastern Utah, for its main campus and extensions of the main campus;

4.5.1.4. College of Eastern Utah, for its San Juan Campus and extensions of the San Juan Campus;

4.5.1.5. Utah Valley State College, for its main campus and extensions;

4.5.1.6. Salt Lake Community College, for its Taylorsville Campus and extensions of the Taylorsville Campus; and

4.5.1.7. Salt Lake Community College, for its South City Campus and extensions of the South City Campus.

4.5.2. Fifty percent of the amount available for allocation each fiscal year shall be allocated to the Utah State University for its instructional centers at Roosevelt, Blanding, Randolph, Price, Moab, Brigham City, Tooele, Richfield, and Ephraim, and such other centers as UHEAA may determine.

4.5.3. Individual Award Limits -- The total amount of any UTAP grant award to an eligible student in an award year will not exceed \$2,500, and the minimum UTAP grant award to an eligible student will be \$250, except that:

4.5.3.1. The minimum amount may be the amount of funds remaining in the institution's allotment for the award year in the case of the last eligible student receiving a UTAP grant award for the year; and

4.5.3.2. An eligible student whose period of enrollment is less than the normally-expected period of enrollment within the award year (such as two semesters, three quarters, nine months, or 900 clock hours) will be awarded a minimum or maximum amount in proportion to the portion of the normally-expected period of enrollment represented by the quarter(s), semester(s), or other defined term for which the student is enrolled.

~~[4.6. Submission of Proposals -- For each of the individual entities listed in section 4.5, the institution may submit to UHEAA proposals for one to one matching grants from the funds allocated pursuant to section 4.5:~~

~~4.6.1. An institution may submit a proposal only when it has raised, from nonappropriated sources other than federal funds or reimbursed overhead funds, the one to one match for the amount of program moneys requested in the proposal.~~

~~4.6.2. The proposal shall include the following information, certifications, and stipulations:~~

~~4.6.2.1. The amount of the UTAP matching grant requested, and a certification that the institutional matching amount is available and has been raised from nonappropriated sources other than federal funds or reimbursed overhead funds;~~

~~4.6.2.2. A statement that if the requested program grant is approved, the institution will establish a specific restricted institutional endowment fund, separate and distinct from any foundation funds, for scholarships for students who meet the requirements enumerated in section 4.4:~~

~~4.6.2.3. A statement that money in the specified endowment fund shall be invested in compliance with rules of the State Money Management Council applicable to gift funds.~~

~~4.6.2.4. A statement that principal of the specified endowment fund will not be expended and that up to 50% of the money earned on principal in the endowment fund in a fiscal year may, at the institution's option, be retained and added to principal, but at least 50% of the money earned on principal in the endowment fund in a fiscal year will be used for scholarships for qualifying students with demonstrated financial need in the following fiscal year.~~

~~4.6.2.5. A statement that the institution agrees to maintain appropriate financial records, and records regarding the determination of scholarship awards to qualifying students, verifying its compliance with the terms stated in its proposal, and to make such records available upon request for review by UHEAA or State Board of Regents officers or auditors for a period of five years after the applicable transaction dates.]4.6. Institution Participation Agreement -- Participating institutions shall provide a statement that the institution agrees to maintain appropriate financial records, and records regarding the determination of grant awards to qualifying students, and to make such records available upon request for review by UHEAA or State Board of Regents officers or auditors for a period of three years after the applicable transaction dates.~~

4.6.1. Program Rosters -- Each eligible institution shall, at the conclusion of the awarding cycle, no later than 30 days after the end of the fiscal year, provide UHEAA with a roster of the eligible students who received funds.

~~4.7. Three Years [Reservation of]to Use Allocations [and Reallocation of Allocations Not Used After Three Fiscal Years-- Money allocated for a specific eligible entity in a]-- An eligible institution which receives funds in a fiscal year shall [remain in reserve for proposals for the specific eligible entity for]have that fiscal year and the two following fiscal years[-, and any money reserved for which the institution does not submit an eligible proposal] to award the funds to eligible students. If, by the end of the three-year period, the funds from the first fiscal year have not been awarded to eligible students, the funds shall be returned to the pool of program money available for allocation for the following fiscal year.~~

4.8. Investment of Program Funds - Funds appropriated for the program shall be invested by UHEAA with the State Treasurer's Public Treasurer Investment Fund, and interest earned prior to disbursement for qualifying proposals shall be retained in the program fund and added to the pool available for allocation in the following fiscal year.

4.9. Disbursement of Funds [for Qualifying Proposals]--[When a qualifying proposal is received pursuant to section 4.6.] UHEAA shall promptly disburse the [matching grant]allocated funds to the institution as soon after July 1 of each Fiscal Year as the funds become available for disbursement.

**KEY: financial aid, higher education**

**Date of Enactment or Last Substantive Amendment: [January 4, 1999]August 7, 2007**

**Notice of Continuation: July 3, 2003**

**Authorizing, and Implemented or Interpreted Law: 53B-7-501; 53B-7-502**

◆ ————— ◆



Regents (Board Of), College of Eastern  
Utah  
**R767-1**  
Government Records Access and  
Management Act

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 30143

FILED: 06/27/2007, 12:56

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: After reviewing the rule, it was found that changes to the text needed to be made. Filing this amendment is in regards to the changing of titles of personnel and changing the locations of offices of where to file.

SUMMARY OF THE RULE OR CHANGE: The amendment is changing: 1) the Director of Admissions and Records to the Director of Academic Records/Registrar; 2) the location of the office from the Administration Building to the Jennifer Leavitt Student Center; and 3) the President's office from the Administration Building to the Reeves Building.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 63-2-204 and 63-2-904

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: Updating the information of where to file a request has no impact to state budgets.
- ❖ LOCAL GOVERNMENTS: Updating the information of where to file a request has no impact to local governments.
- ❖ OTHER PERSONS: Updating the information of where to file a request has no impact to small businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Updating the information of where to file a request will have no impact on affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The president of College of Eastern Utah has reviewed the fiscal impact that the changes of location of where to file a request would have to state, local, small businesses budgets and finds that there will be no impact. A copy of his review and signature are on file on the Academic Records Office. Ryan Thomas, President

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

REGENTS (BOARD OF)  
COLLEGE OF EASTERN UTAH  
ACADEMIC RECORDS/REGISTRAR  
451 E 400 N  
PRICE UT 84501, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jan L Young at the above address, by phone at 435-613-5205, by FAX at 435-613-5814, or by Internet E-mail at jan.young@ceu.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 08/14/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 08/21/2007

AUTHORIZED BY: Jan L Young, Director of Academic Records/Registrar

**R767. Regents (Board of), College of Eastern Utah.  
R767-1. Government Records Access and Management Act.  
R767-1-5. Records Officer.**

(1) The Director of ~~[Admissions and Records]~~Academic Records/Registrar is the Records Officer for purposes of satisfying GRAMA requirements and is responsible for:

- (a) Development and oversight of records management and access.
- (b) Serving as liaison with State Archives.
- (c) Receiving and processing requests for access of records for all campuses, centers and locations of Eastern Utah.
- (d) Preparing and maintaining information on records transferred to, and retrieved from the State Archives Division.
- (e) Overseeing retention and destruction schedules of various records and record series of the College.
- (f) Training of the campus personnel on the requirements of GRAMA.
- (g) Other activities consistent with records officer's duties including the designation of records or records series under Section 63-2-306 of GRAMA.

**R767-1-6. Request for Access.**

(1) Requests for access to government records of College of Eastern Utah shall be in writing and made to the Director of ~~[Admissions and Records]~~Academic Records/Registrar, Academic Records Office, ~~[Administration Building]~~Jennifer Leavitt Student Center.

(2) Response to a request submitted to other persons within College of Eastern Utah may be delayed in accordance with subsections 63-2-204 (2), (6).

(3) A person making a request for a record shall furnish the governmental entity with a request containing his name, mailing address, daytime telephone number, if available, and a description of the records requested that identifies the record with reasonable specificity in pursuant to section 63-2-204(1).

(4) Subpoenas are not considered written requests under GRAMA.

**R767-1-7. Appeals.**

(1) Appeals of denied requests will be adjudicated by the President of College of Eastern Utah, or designee.

(2) Requests for appeal should be written and made to the President, President's Office, ~~[Administration Building]~~Reeves Building in accordance with Section 63-2-401.

**R767-1-8. Fees.**

(1) A fee schedule of the direct and indirect costs of duplicating or compiling a record may be obtained from College of Eastern Utah by contacting the Academic Records Office, [Administration Building] Jennifer Leavitt Student Center.

(2) College of Eastern Utah may require payment of overdue fees and future estimated fees before beginning to process a request if fees are expected to exceed \$50.00.

**R767-1-9. Waiver of Fees.**

Fees for duplication and compilation of a record may be waived under certain circumstances described in Subsection 63-2-203 (3). Requests for this waiver of fees may be made through the Academic Records Office, [Administration Building] Jennifer Leavitt Student Center.

**R767-1-10. Request for Access for Research Purposes.**

Access to private or controlled records for research purposes is allowed under Subsection 63-2-202 (8). Requests for access to records for research purposes may be made to the Director of [Admissions and Records] Academic Records/Registrar, Academic Records Office, [Administration Building] Jennifer Leavitt Student Center.

**R767-1-11. Intellectual Property Rights.**

The College of Eastern Utah, which may own an intellectual property right may duplicate and distribute such materials in accordance with Subsection 63-2-201 (10). Decisions with regard to these rights will be made by the President, President's Office, [Administration Building] Reeves Building. Any questions regarding the duplication and distribution of such materials should be addressed to the President.

**R767-1-12. Requests to Amend a Record.**

(1) An individual may contest the accuracy or completeness of a document pertaining to him pursuant to Section 63-2-603. Such request should be made to the President, President's Office, [Administration Building] Reeves Building.

(2) Requests to amend a record shall be conducted in accordance with the steps outlined in Section 63-2-603 of the GRAMA Act.

**R767-1-13. Appeals of Requests to Amend a Record.**

Appeals of requests to amend a record shall be handled as informal hearings under the Utah Administrative Procedures Act. Appeals may be filed with the President, President's Office, [Administration Building] Reeves Building.

**KEY:** ~~[government documents, confidentiality of information, public records, records access]~~, GRAMA<sup>[\*]</sup>

**Date of Enactment or Last Substantive Amendment:** ~~[1994]~~ 2007

**Notice of Continuation:** July 18, 2002  
**Authorizing, and Implemented or Interpreted Law:** 63-2-204; 63-2-904



Tax Commission, Auditing  
**R865-19S-38**

Isolated and Occasional Sales Pursuant  
to Utah Code Ann. Section 59-12-104

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 30137

FILED: 06/26/2007, 14:38

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Section 59-12-104 requires the commission to promulgate a rule providing guidance to taxpayers regarding when the isolated or occasional sales tax exemption applies. The amendment further clarifies the rule that has been promulgated.

**SUMMARY OF THE RULE OR CHANGE:** The proposed amendment clarifies that the sales tax exemption for isolated or occasional sales applies: 1) regardless of the number of sales of the particular property by a person; and 2) to a series of sales that occur as part of a liquidation; the proposed amendment provides examples of sales that qualify for the exemption.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 59-12-104

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** No impact--The proposed amendments clarify current Tax Commission practice.

❖ **LOCAL GOVERNMENTS:** No impact--The proposed amendments clarify current Tax Commission practice.

❖ **OTHER PERSONS:** No impact--The proposed amendments clarify current Tax Commission practice.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** None--The proposed amendments clarify the current practice.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There are no anticipated impacts. D'Arcy Dixon, Commissioner

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

TAX COMMISSION  
AUDITING  
210 N 1950 W  
SALT LAKE CITY UT 84134, or  
at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 08/14/2007.**

**THIS RULE MAY BECOME EFFECTIVE ON:** 08/21/2007

**AUTHORIZED BY:** D'Arcy Dixon, Commissioner

**R865. Tax Commission, Auditing.****R865-19S. Sales and Use Tax.****R865-19S-38. Isolated ~~and~~ or Occasional Sales and Use Tax Exemption Pursuant to Utah Code Ann. Section 59-12-104.**

(1) "Isolated or occasional sales and use tax exemption" means a sale that qualifies for the sales and use tax exemption for the sale of tangible personal property by a person:

(a) regardless of the number of sales of that tangible personal property by that person; and

(b) not regularly engaged in the business of selling that type of property.

~~[A.1.](2)(a)~~ Except as provided in ~~[A.2.]~~Subsection (2)(b), sales made by officers of a court, pursuant to court orders, ~~[are]~~qualify for the isolated or occasional sales and use tax exemption.

~~[2.](b)~~ ~~[Notwithstanding A.1., sales]~~Sales made by trustees, receivers, or assignees in connection with the liquidation or conduct of a regularly established place of business ~~[are]~~do not qualify for the isolated or occasional sales and use tax exemption.

~~[3.](c)~~ Examples of ~~[occasional]~~sales made by officers of a court pursuant to court order, that qualify for the isolated or occasional sales and use tax exemption are ~~[those]~~sales made by sheriffs in foreclosing proceedings and sales of confiscated property.

~~[B.](3)~~ If a ~~[sale is an integral part of a business the primary function of which is not the sale of tangible personal property, the sale is]~~business regularly sells a type of property, sales of that type of property do not qualify for the isolated or occasional sales and use tax exemption, even if the primary purpose of the business is not the sale of that type of property. For example, the sale of repossessed radios or refrigerators by a finance company ~~[is]~~do not qualify for the isolated or occasional sales and use tax exemption.

~~[C.1.](4)(a)~~ Except as provided in ~~[C.2.]~~Subsection (4)(b), sales of vehicles required to be titled or registered under the laws of this state ~~[are]~~do not qualify for the isolated or occasional sales and use tax exemption.

~~[2.](b)~~ ~~[Notwithstanding C.1., a]~~The transfer of a vehicle where the ownership of the vehicle before and after the transfer is ~~[substantially]~~at least 80 percent the same ~~[is an]~~qualifies for the isolated or occasional ~~[sale]~~sales and use tax exemption.

~~[D.1. Isolated or occasional sales made by persons not regularly engaged in business are not subject to sales and use tax.~~

~~2. For purposes of D.1., "business" refers to an enterprise engaged in selling tangible personal property or taxable services notwithstanding the fact that the sales may be few or infrequent.~~

~~3. The sale of an entire business to a single buyer is an isolated or occasional sale.~~

~~— a) Except as provided in D.3.b), no tax applies to the sale of any assets that are part of a sale described in D.3.~~

~~— b) If a sale described in D.3. includes the sale of a vehicle subject to registration, that vehicle is subject to sales and use tax. (5) Sales that qualify for the isolated or occasional sales and use tax exemption include sales that occur as part of:~~

~~(a) the reorganization, sale, or liquidation of a business so long as those sales do not include items purchased exempt from sales tax as a sale for resale;~~

~~(b) a garage sale if:~~

~~(i) the person selling the items at the garage sale is not regularly engaged in selling that type of property; and~~

~~(ii) the items sold at the garage sale were not purchased exempt from sales tax as a sale for resale; and~~

~~(c) the sale of business assets that are:~~

~~(i) not purchased sales tax exempt by the business as a sale for resale; and~~

~~(ii) a type of property not regularly sold by the business.~~

~~(6) An example of a sale that qualifies for the sales and use tax exemption under Subsection (5)(a) is a sale, even if it is one of a series of sales, to liquidate the fixtures and equipment of a manufacturing company.~~

~~(7) Examples of sales that qualify for the sales and use tax exemption under Subsection (5)(c) include the sale by a:~~

~~(a) grocery store of its cash registers, shelves, and fixtures;~~

~~(b) law firm of its furniture; and~~

~~(c) manufacturer of its used manufacturing equipment.~~

~~[E. The sale of used fixtures, machinery, and equipment items is not an occasional sale if the sale is one of a series of sales sufficient in number, amount, and character to indicate that the seller deals in the sale of those items.~~

~~F.](7) Sales of items at public auctions generally do not qualify [as]for the isolated or occasional sales and use tax exemption. [~~

~~G. Wholesalers, manufacturers, and processors that primarily sell at other than retail are not making isolated or occasional sales when they sell tangible personal property for use or consumption.]~~

**KEY: charities, tax exemptions, religious activities, sales tax Date of Enactment or Last Substantive Amendment: [November 17, 2006]2007**

**Notice of Continuation: March 13, 2007**

**Authorizing, and Implemented or Interpreted Law: 59-12-104**

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**End of the Notices of Proposed Rules Section**

## NOTICES OF 120-DAY (EMERGENCY) RULES

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An agency may file a 120-DAY (EMERGENCY) RULE when it finds that the regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (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 Section 63-46a-7; and Section R15-4-8.

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### Administrative Services, Administrative Rules **R15-4-10**

#### Estimates of Anticipated Cost or Savings, and Compliance Cost

##### NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE No.: 30111  
FILED: 06/20/2007, 16:03

##### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Effective 07/01/2007, H.B. 64 (2007) amends the Utah Administrative Rulemaking Act. It changes the information an agency is required to provide related to anticipated cost or savings when it files a proposed rule, change in proposed rule, emergency rule, or expedited rule. This emergency rule makes the Division's rule related to the reporting of anticipated costs or savings consistent with the new provisions added by H.B. 64. (DAR NOTE: H.B. 64 is found at Chapter 102, Laws of Utah 2007, and was effective 07/01/2007.)

**SUMMARY OF THE RULE OR CHANGE:** This emergency rule requires an agency to provide the same level of specificity when it reports anticipated costs or savings for small businesses, and persons other than small businesses, businesses, or local government entities as it does when it reports anticipated costs or savings to state budgets and local governments. At Subsection R15-4-10(1)(d), the rule clarifies that an agency must report anticipated costs or savings accruing to small businesses or persons other than small

businesses, businesses, or local government as incremental, aggregated costs or savings. Similarly, at Subsection R15-4-10(5) an agency may indicate that there is no cost to small businesses or persons other than small businesses, businesses, or local government entities, but such a statement must be followed by an explanation of how the agency estimated that there would be no impact or how the rule does not apply to small businesses, or persons other than small businesses, businesses, or local government entities.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 63-46a-10, 63-46a-4, and 63-46a-6

##### ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** This rule imposes no costs to the state budget. Any costs related to this change were reflected in the fiscal note attached to H.B. 64.
- ❖ **LOCAL GOVERNMENTS:** The division does not regulate local government. This rule does not impose any costs or accrue any savings to local government.
- ❖ **OTHER PERSONS:** The division does not regulate other persons. This rule does not impose any costs or accrue any savings to other persons.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The division only regulates agencies. It does not regulate persons as defined by the rulemaking act. Therefore, there are no compliance costs for persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule is necessary to implement H.B. 64 and make the Division's rules consistent with the statute. It does not impose a fiscal impact on businesses. Kimberly K. Hood, Executive Director

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

H.B. 64 goes into effect on 07/01/2007. This change is necessary to make the Division's rule consistent with the amended statute.

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

ADMINISTRATIVE SERVICES  
ADMINISTRATIVE RULES  
Room 4120 STATE OFFICE BLDG  
450 N MAIN ST  
SALT LAKE CITY UT 84114-1201, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kenneth A. Hansen at the above address, by phone at 801-538-3777, by FAX at 801-538-1773, or by Internet E-mail at khansen@utah.gov

THIS RULE IS EFFECTIVE ON: 07/01/2007

AUTHORIZED BY: Kenneth A. Hansen, Director

#### R15. Administrative Services, Administrative Rules.

##### R15-4. Administrative Rulemaking Procedures.

##### R15-4-10. Estimates of Anticipated Cost or Savings, and Compliance Cost.

(1) Pursuant to Subsections 63-46a-4(3), 63-46a-6(1), 63-46a-7(2), and 53C-1-201(3), when an agency files a proposed rule, change in proposed rule, 120-day (emergency) rule, or expedited rule and provides anticipated cost or savings, and compliance cost information in the rule analysis, the agency shall:

(a) estimate the incremental cost or savings and incremental compliance cost associated with the changes proposed by the rule or change;

(b) estimate the incremental cost or savings and incremental compliance cost in dollars, except as otherwise provided in Subsections R15-4-10(4) and (5);

(c) indicate that the amount is either a cost or a savings; and

(d) estimate the incremental cost or savings expected to accrue to "state budgets," "local governments," [~~or "other persons,"~~] "small businesses," and "persons other than small businesses, businesses, or local governmental entities" as aggregated cost or savings;

(2) In addition, an agency may:

(a) provide a narrative description of anticipated cost or savings, and compliance cost;

(b) compare anticipated cost or savings, and compliance cost figures, for the rule or change to:

(i) current budgeted costs associated with the existing rule,

(ii) figures reported on a fiscal note attached to a related legislative bill, or

(iii) both (i) and (ii).

(3) If an agency chooses to provide comparison figures, it shall clearly distinguish comparison figures from the anticipated cost or savings, and compliance cost figures.

(4) If dollar estimates are unknown or not available, or the obtaining thereof would impose a substantial unbudgeted hardship on the agency, the agency may substitute a reasoned narrative description of cost-related actions required by the rule or change, and explain the reason or reasons for the substitution.

(5) If no cost, savings, or compliance cost is associated with the rule or change, an agency may enter "none," "no impact," or similar words in the rule analysis followed by a written explanation of how the agency estimated that there would be no impact, or how the proposed rule, or changes made to an existing rule does not apply to "state budgets," "local government," [~~"other persons,"~~] "small businesses," "persons other than small businesses, businesses, or local governmental entities," or any combination of these.

(6) If an agency does not provide an estimate of cost, savings, compliance cost, or a reasoned narrative description of cost information; or a written explanation as part of the rule analysis in compliance with this section, the Division may, after making an attempt to obtain the required information, refuse to register and publish the rule or change. If the Division refuses to register and publish a rule or change, it shall:

(a) return the rule or change to the agency with a notice indicating that the Division has refused to register and publish the rule or change;

(b) identify the reason or reasons why the Division refused to register and publish the rule or change; and

(c) indicate the filing deadlines for the next issue of the Bulletin.

#### KEY: administrative law

Date of Enactment or Last Substantive Amendment: July 1, 2007

Notice of Continuation: September 29, 2005

Authorizing, and Implemented or Interpreted Law: 63-46a-10; 63-46a-4; 63-46a-6

## Human Services, Services for People with Disabilities

### R539-9

## Supported Employment Pilot Program

#### NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 30116

FILED: 06/21/2007, 13:33

#### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to provide: procedures and standards for the determination of eligibility for the Division's pilot program to provide supported employment services for Persons on the Division's Waiting List.

SUMMARY OF THE RULE OR CHANGE: Deletes the requirement for a person to have a T-score of 50 or less to qualify for services. (DAR NOTE: A corresponding amendment is under DAR No. 30085 in the July 1, 2007, issue of the Bulletin.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-5-103.1

## ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The Supported Employment Pilot Program will be administered within the \$150,000 appropriation for this program and does not create an entitlement related to a Medicaid Waiver. This rule change will permit more individuals to be eligible, but will not affect the overall budget because the number of persons eligible will remain within the number originally anticipated for this program.

❖ **LOCAL GOVERNMENTS:** The Division has evaluated all local government agencies as they relate to employment services for persons with disabilities. The Supported Employment Pilot Program does not impact cost or savings to local governments. This program involves the Division and the persons who directly receive services. No agency of any local government provides support, or financial assistance to the persons eligible for this program.

❖ **OTHER PERSONS:** The Division has reviewed all possible other persons as they relate to employment services for persons with disabilities. The Supported Employment Pilot Program does not impact cost or savings for other persons. No other person provides support, or financial assistance to the persons eligible for this program.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There will be no compliance costs for affected persons. Affected persons are assisted by Division staff to apply for the services and if eligible for the program, are provided services. There are no costs to apply for the services or to receive services or to comply with the eligibility requirements for the services.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** Supported Employment services are provided by private businesses to persons who meet the eligibility standards for the pilot program. Services will be provided by businesses under contract with the Department of Human Services, Division of Services for People with Disabilities. Lisa-Michele Church, Executive Director

**EMERGENCY RULE REASON AND JUSTIFICATION:** REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

This change to the rule is required by the intent of Section 62A-5-103.1 to provide supported employment services to persons on the Division waiting list. The requirement for a person to have a T-score of less than 50 has proven to be too restrictive and has limited the number of persons anticipated to eligible by the funding of this program.

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

HUMAN SERVICES  
SERVICES FOR PEOPLE WITH DISABILITIES  
Room 411  
120 N 200 W  
SALT LAKE CITY UT 84103-1500, or  
at the Division of Administrative Rules.

## DIRECT QUESTIONS REGARDING THIS RULE TO:

Steven Bradford at the above address, by phone at 801-538-4197, by FAX at 801-538-4279, or by Internet E-mail at sbradford@utah.gov

THIS RULE IS EFFECTIVE ON: 07/01/2007

AUTHORIZED BY: George Kelner, Director

**R539. Human Services, Services for People with Disabilities.****R539-9. Supported Employment Pilot Program.****R539-9-1. Purpose and Authority.**

(1) The purpose of this rule is to provide:

(a) procedures and standards for the determination of eligibility for the Division's pilot program to provide supported employment services for Persons on the Division's Waiting List as specified in R539-2-4.

(2) This rule is authorized by Section 62A-5-103.1

**R539-9-2. Definitions.**

(1) Terms used in this rule are defined in Section 62A-5-101, and ~~[(2) "T score" means a standardized score used to determine a person's priority on the waiting list.~~

[(3)2] "Supported Employment" means "competitive work" in integrated work settings or employment in "integrated work" settings where individuals are working toward competitive employment, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals, for individuals with the most significant disabilities.

[(4)3] "Competitive Work" means employment in the competitive labor market that is performed on a full-time or part-time basis in an integrated setting; and for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled.

[(5)4] "Integrated Work" means job sites where most employees are not disabled, where a client interacts on a regular basis, in the performance of job duties, with employees who are not disabled. If a client is part of a distinct work group of only individuals with disabilities, the work group should consist of no more than eight individuals.

[(6)5] "Extended Services" means on-going support services and other appropriate services, needed to support and maintain an individual with a most significant disability in employment. They are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual in maintaining supported employment. Extended services are based on a determination of the needs of an eligible individual. Extended services may include natural supports, such as volunteers, family members, co-workers, employer, supervisors, students, and PASS or IRWE.

**R539-9-3 Eligibility.**

(1) A Person who meets the eligibility requirements listed in Section 62A-5-103.1 may participate in the supported employment pilot program provided that:

(2) the Person agrees to enter services under the conditions listed in Section 62A-5-103.1,

(3) the Person agrees not to use any other Home and Community Based Medicaid Waiver service operated by the Division while participating in the Supported Employment Pilot,

(4) if the person has a Medicaid Card the person may continue to access State Plan, E-Pass and other Medicaid services operated separately from the Division during participation in the pilot,

(5) the person agrees to move off the immediate needs waiting list for supported employment,

(6) the person is found eligible for Division of Rehabilitation Services, Supported Employment funding,

(7) the person agrees to use an approved provider,

(8) the person signs the Supported Employment Pilot Participant Agreement and agrees to follow through with instructions from rehabilitation counselors, services for people with disabilities support coordinators and service brokers and private provider staff,

(9) the person has an Office of Education, Rehabilitation Services, Referral and Services Report form 58 completed signed by a rehabilitation counselor and a support coordinator,

(10) the person agrees that the person's need for extended supported employment services will be met solely by the provision of supported employment services for the duration of the pilot program, and

(11) the person agrees to provide information needed by the person's employer to obtain the tax incentive through P.L. 104-188, Federal Welfare to Work, Internal Revenue Service, IRS Form 8850 or Section 59-7-608 or Credit for Employers Who Hire Persons with Disabilities, Form TC-40HD, ~~and~~

~~—(12) the person has a T score below 50.5.]~~

**R539-9-4 Priority.**

(1) First priority will be given to Persons on the waiting list for supported employment services who currently receive Division of Rehabilitation Services funding.

(2) Second priority will be given to Persons on the waiting list for supported employment services and no other services.

(3) Third priority will be given to Persons waiting for supported employment and other services.

**KEY: disabilities, supported employment**

**Date of Enactment or Last Substantive Amendment: July 1, 2007**

**Authorizing, and Implemented or Interpreted Law: 62A-5-103.1**

◆ ————— ◆

**End of the Notices of 120-Day (Emergency) Rules Section**

# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1998).

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## Commerce, Consumer Protection **R152-6** Utah Administrative Procedures Act Rules

### FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 30118  
FILED: 06/22/2007, 10:41

### 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: This rule is adopted pursuant to the rulewriting authority granted to the Division pursuant to Section 13-2-5, which provides that the Division may issue rules to administer and enforce the chapters listed in Section 13-2-1.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was last reviewed, the Division has received no written comments with respect to the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule designates administrative proceedings before the Division of Consumer Protection as informal administrative proceedings. The rule also designates the Division's presiding officer at those hearings. The Division continues to bring administrative proceedings that need a presiding officer and that need to be designated as informal. Therefore, this rule should be continued.

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](mailto:tcopeland@utah.gov)

AUTHORIZED BY: Kevin V Olsen, Director

EFFECTIVE: 06/22/2007



## Commerce, Consumer Protection **R152-15** Business Opportunity Disclosure Act Rules

### FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 30119  
FILED: 06/22/2007, 10:43

### NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is adopted pursuant to Section 13-2-5, which provides that the Division may issue rules to administer and enforce the chapters listed in Section 13-2-1, including the Business Opportunity Disclosure 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: Since this rule was last reviewed, the Division has received no written comments with respect to the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule sets forth the rules necessary for the administration of the Business Opportunity Disclosure Act. Therefore, this rule should be continued.

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](mailto:tcopeland@utah.gov)

AUTHORIZED BY: Kevin V Olsen, Director

EFFECTIVE: 06/22/2007

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Commerce, Consumer Protection  
**R152-22**  
Charitable Solicitations Act

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE NO.: 30120  
FILED: 06/22/2007, 10:45

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is adopted pursuant to the rulewriting authority granted to the Division pursuant to Section 13-2-5, which provides that the Division may issue rules to administer and enforce the chapters listed in Section 13-2-1, including the Charitable Solicitations 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: Since this rule was last reviewed, the Division has received no written comments with respect to the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule provides, among other things, the definition of terms, the requirements for registration, and the procedure for denial, suspension and revocation of permits. The need for these provisions continues to exist. Therefore, the rule should be continued.

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](mailto:tcopeland@utah.gov)

AUTHORIZED BY: Kevin V Olsen, Director

EFFECTIVE: 06/22/2007

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Commerce, Consumer Protection  
**R152-23**  
Utah Health Spa Services

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE NO.: 30121  
FILED: 06/22/2007, 10:47

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is adopted pursuant to the rulewriting authority granted to the Division pursuant to Section 13-2-5, which provides that the Division may issue rules to administer and enforce the chapters listed in Section 13-2-1, including the Health Spa Services Protection 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: In January 2007, the Division received one written comment opposing a proposed rule change which would require, among other things, that health spas place the three-day right of rescission on the first page of the contract. No other written comments have been received since this rule was last reviewed.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is promulgated by the Division to help in the administration of the Health Spa Services Protection Act. The rule provides, among other things, definitions to terms, requirements for registration, and information concerning rescission. The need for the rule continues to exist. Therefore, the rule should be continued.

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](mailto:tcopeland@utah.gov)

AUTHORIZED BY: Kevin V Olsen, Director

EFFECTIVE: 06/22/2007



**Community and Culture, Home Energy Assistance Target (HEAT)  
 R195-2  
 Energy Assistance Program Standards**

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR File No.: 30124  
 FILED: 06/22/2007, 15:57

**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: Sections 9-12-101 to 9-12-204 authorize and promulgate provisions of the state Home Energy Assistance Target (HEAT) Program which provides home energy assistance to low income households. This rule sets the program standards for HEAT.

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 were 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 is required to define the program standards of the HEAT Program. Therefore, this rule should be continued.

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

COMMUNITY AND CULTURE  
 HOME ENERGY ASSISTANCE TARGET (HEAT)  
 Room 500  
 324 S STATE ST  
 SALT LAKE CITY UT 84111-2388, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sherm Roquero at the above address, by phone at 801-538-8644, by FAX at 801-538-8888, or by Internet E-mail at [shermr@utah.gov](mailto:shermr@utah.gov)

AUTHORIZED BY: Palmer DePaulis, Executive Director

EFFECTIVE: 06/22/2007



**Community and Culture, Home Energy Assistance Target (HEAT)  
 R195-3  
 Energy Assistance Income Standards, Income Eligibility, and Payment Determination**

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR File No.: 30125  
 FILED: 06/22/2007, 16:11

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 9-12-101 to 9-12-204 authorize and promulgate provisions of the state Home Energy Assistance (HEAT) Program which provides home energy assistance to low income households. This rule sets the standards for income, eligibility, and payment determination guidelines for the HEAT Program.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written 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: The rule is required to define the program standards for income eligibility and payment determination for the HEAT Program. Therefore, this rule should be continued.

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

COMMUNITY AND CULTURE  
HOME ENERGY ASSISTANCE TARGET (HEAT)  
Room 500  
324 S STATE ST  
SALT LAKE CITY UT 84111-2388, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Sherm Roquero at the above address, by phone at 801-538-8644, by FAX at 801-538-8888, or by Internet E-mail at [shermr@utah.gov](mailto:shermr@utah.gov)

AUTHORIZED BY: Palmer DePaulis, Executive Director

EFFECTIVE: 06/22/2007



Community and Culture, Home Energy  
Assistance Target (HEAT)  
**R195-4**  
Energy Assistance: Asset Standards

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 30126  
FILED: 06/22/2007, 16:19

**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: Sections 9-12-101 to 9-12-204 authorize and promulgate provisions of the state Home Energy Assistance (HEAT) Program which provides home energy assistance to low income households. This rule sets the asset standards for the HEAT Program.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written 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: The rule is required to define asset standards for the HEAT Program. Therefore, this rule should be continued.

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

COMMUNITY AND CULTURE  
HOME ENERGY ASSISTANCE TARGET (HEAT)  
Room 500  
324 S STATE ST  
SALT LAKE CITY UT 84111-2388, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Sherm Roquero at the above address, by phone at 801-538-8644, by FAX at 801-538-8888, or by Internet E-mail at [shermr@utah.gov](mailto:shermr@utah.gov)

AUTHORIZED BY: Palmer DePaulis, Executive Director

EFFECTIVE: 06/22/2007



Community and Culture, Home Energy  
Assistance Target (HEAT)  
**R195-5**  
Energy Assistance: Program Benefits

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 30127  
FILED: 06/22/2007, 16:35

**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 9-12-101 to 9-12-204 authorize and promulgate provisions of the state Home Energy Assistance Target (HEAT) Program which provides energy assistance to low income households. The rule sets the guidelines for the program benefits of the HEAT Program.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written 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: The rule is required to define program benefits guidelines for the HEAT Program. Therefore, this rule should be continued.

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

COMMUNITY AND CULTURE  
HOME ENERGY ASSISTANCE TARGET (HEAT)  
Room 500  
324 S STATE ST  
SALT LAKE CITY UT 84111-2388, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Sherm Roquero at the above address, by phone at 801-538-8644, by FAX at 801-538-8888, or by Internet E-mail at [shermr@utah.gov](mailto:shermr@utah.gov)

AUTHORIZED BY: Palmer DePaulis, Executive Director

EFFECTIVE: 06/22/2007

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**Community and Culture, Home Energy Assistance Target (HEAT)**  
**R195-6**  
**Energy Assistance: Eligibility Determination**

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE No.: 30128  
 FILED: 06/25/2007, 10:45

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 9-12-101 to 9-12-204 authorize and promulgate provisions of the state Home Energy Assistance (HEAT) Program which provides home energy assistance to low income households. This rule sets the standards for eligibility determination for the HEAT Program.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written 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: The rule is required to define eligibility determination for the HEAT Program. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 COMMUNITY AND CULTURE  
 HOME ENERGY ASSISTANCE TARGET (HEAT)  
 Room 500  
 324 S STATE ST  
 SALT LAKE CITY UT 84111-2388, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 Sherm Roquero at the above address, by phone at 801-538-8644, by FAX at 801-538-8888, or by Internet E-mail at [shermr@utah.gov](mailto:shermr@utah.gov)

AUTHORIZED BY: Palmer DePaulis, Executive Director

EFFECTIVE: 06/25/2007

◆ ————— ◆  
**Community and Culture, Home Energy Assistance Target (HEAT)**  
**R195-7**  
**Energy Assistance: Records and Benefit Management**

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE No.: 30130  
 FILED: 06/25/2007, 10:53

**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: Sections 9-12-101 to 9-12-204 authorizes and promulgates provisions of the state Home Energy Assistance (HEAT) Program which provides home energy assistance to low income households. This rule sets the guidelines for records and benefit management for the HEAT Program.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written 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: The rule is required to define records and benefit management policy and procedures for the HEAT Program. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 COMMUNITY AND CULTURE  
 HOME ENERGY ASSISTANCE TARGET (HEAT)  
 Room 500  
 324 S STATE ST  
 SALT LAKE CITY UT 84111-2388, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 Sherm Roquero at the above address, by phone at 801-538-8644, by FAX at 801-538-8888, or by Internet E-mail at [shermr@utah.gov](mailto:shermr@utah.gov)

AUTHORIZED BY: Palmer DePaulis, Executive Director

EFFECTIVE: 06/25/2007



Community and Culture, Home Energy  
Assistance Target (HEAT)

**R195-8**

Energy Assistance: Special State  
Programs

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE NO.: 30131  
FILED: 06/25/2007, 10:59

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 9-12-101 to 9-12-204 authorize and promulgate provisions of the state Home Energy Assistance (HEAT) Program which provides home energy assistance to low income households. This rule defines certain special state programs for the HEAT Program.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written 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: The rule is required to define certain special state programs, e.g., moratorium program, for the HEAT Program. Therefore, this rule should be continued.

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

COMMUNITY AND CULTURE  
HOME ENERGY ASSISTANCE TARGET (HEAT)  
Room 500  
324 S STATE ST  
SALT LAKE CITY UT 84111-2388, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sherm Roquero at the above address, by phone at 801-538-8644, by FAX at 801-538-8888, or by Internet E-mail at [shermr@utah.gov](mailto:shermr@utah.gov)

AUTHORIZED BY: Palmer DePaulis, Executive Director

EFFECTIVE: 06/25/2007



Human Resource Management,  
Administration

**R477-7**

Leave

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE NO.: 30161  
FILED: 06/29/2007, 13:16

**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: This rule addresses numerous state and federal laws that require implementation through rule or clarification for administrative purposes. These include the federal Family Medical Leave Act (FMLA) and the regulations associated with it in 29 USC 2601, and the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA). Each of these acts require conformance by employers and provide for certain degrees of flexibility that must be addressed in rule. Numerous sections of the Utah Code must also be addressed in rule. These include: Title 34, Chapter 43, that provides for disaster service volunteer leave; Title 34A, Chapter 2, that provides the Workers' Compensation benefit for state employees; Section 39-3-1 that provides for time off for state employees for military purposes; Title 49, Chapter 9, that provides the Long Term Disability benefits for state employees; Section 63-13-2 that provides for official state holidays; Section 67-19-6 that provides broad rulemaking authority for the Department of Human Resource Management (DHRM) and is the legal provision for the annual leave, sick leave, jury leave, funeral leave, and furlough provisions; Section 67-19-12.9 that provides for annual leave conversion to the deferred compensation program; Section 67-19-14.5 that provides for organ donor leave; and Section 67-19-14 that establishes the legal foundation for the converted sick leave and sick leave retirement programs.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Almost all comments concerning this section came from the operational agencies that have to administer the rules on leave; only two were received from employees. Their concerns focused on seven areas. Annual Leave: Agency Human Resource (HR) staff had asked for clarification on two points to assist in the administration of this benefit. One was to make clear that the amount of annual leave accrued was in proportion to the number of hours worked in a pay period which was accepted and implemented. The second was to clarify how the personal preference day was to be counted in the recording of

annual leave used. This suggestion was also accepted and implemented. Two suggestions were not accepted; one to set the maximum accrual rate at eight hours per pay period, the other was to not pay employees for compensatory time if they were receiving the maximum accrual rate. Sick Leave: Over the previous five-year period, DHRM has received numerous requests from agencies to amend the rule on sick leave in order to clarify eligible dependents for whom an employee may use this benefit. This issue is made more complex by the federal FMLA. DHRM accepted all of this input and either implemented the changes or modified the recommendations before implementing them. FMLA: All input for the FMLA benefit came from agency HR offices. Early in these FMLA discussions, an agency asked that spouses who worked for the state only be granted the 12-week entitlement to be shared between them. Except for this one request, all other input was concerned with the use of the calendar year or a rolling year to calculate eligibility for FMLA benefits. A calendar year approach simply gives 12 weeks of eligibility to an employee in the period of January to December. In the next calendar year, the employee is eligible for 12 weeks again. In this system, an employee could possibly be absent under FMLA entitlement for 24 weeks; the last 12 weeks of one calendar year and the first 12 weeks of the next calendar year. This possibility for abuse is the reason for many requests from agencies to adopt a rolling year. Under this approach the amount of FMLA-entitlement used in the previous 12 months is subtracted from the 12-week entitlement to calculate the amount of entitlement available to an employee. In the initial implementation of FMLA, DHRM used the calendar year. Long Term Disability (LTD): The rule for long term disability benefits had been rewritten in the previous five year period and agencies had asked DHRM to clarify what was meant by the term "reasonable accommodation". DHRM accepted or modified their recommendations and incorporated these into the rule. Leave Bank: The Utah Public Employees' Association (UPEA) asked for a rule amendment to require a report of the status of the leave bank be provided upon request from an employee. They argued that an employee needs this information in order to anticipate and plan for the use of the leave. DHRM did not accept this recommendation. The Department of Human Services (DHS) pushed for many years to include compensatory among the categories of leave that an employee can donate to a leave bank. DHRM resisted this request for many years but in 2006 agreed to accept this recommendation. Funeral Leave: As agencies administered this part, they would encounter unusual situations that would prompt a request to amend the definition of who qualifies for this benefit. DHRM typically accepted this input and with modifications made appropriate amendments. Leave Without Pay (LWOP): The Department of Health requested that DHRM amend this rule to require a written statement from health care professionals specifying when an employee would likely be able to return to work. This would help the agency anticipate the need to fill the position permanently or temporarily. DHRM did not accept this recommendation.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule sets parameters and limits on the granting of the various kinds of leave offered to employees. Some of the leave is defined in state code and some is defined in rule. Leave is considered a benefit and some, such as annual and holiday leave, are part of the employee compensation system and thus a property right. It is a well established legal precedent that benefits and compensation must be administered consistently or the employer is exposed to considerable liability. This rule is critical and necessary to the proper management of the state HR system as long as leave is offered to employees. Since this is part of employee compensation, cost is also an issue. This rule helps contain the cost of the leave benefit. Therefore, this rule should be continued. Potential liability and cost are the main reasons why DHRM did not accept many of the recommendations for amendments to this rule. Annual Leave: Two suggestions were not accepted. One of these suggestions came from an employee who wanted to set the maximum accrual rate at eight hours per pay period. DHRM had conducted some market research on this matter just a few years prior to this recommendation and discovered that the annual leave benefit was just slightly richer than the market provides in Utah and slightly below average for this benefit on a national comparison. The second was a request from an agency not to pay employees for compensatory time if they were receiving the maximum accrual rate. It was determined that this policy would be in violation of the Federal Fair Labor Standards Act and expose the state to serious legal liability. FMLA: The suggestion that spouses who both work for the state share the 12-week entitlement was not accepted because it is simply a violation of the FMLA. Each employee is entitled to the 12 weeks of FMLA leave. DHRM did initially accept the recommendation to shift to a rolling year from the calendar year and drafted appropriate rules. After a couple of years, agencies began to comment that the rolling year approach was more difficult to monitor and administer. Many of these agencies began to press for a return to the calendar year and DHRM consented and reverted back to the calendar year in 2006. Leave Bank: The recommendation from UPEA to provide a report of the status of a leave bank was not accepted because it was felt that this was covered adequately in the rule and that the Government Records Access Management Act dealt with this issue and therefore, there is no need to place it in DHRM rules. LWOP: DHRM did not accept the request from the Department of Health because the federal Health Insurance Portability and Accountability Act (HIPAA) would make this very difficult to administer and there was not sufficient evidence to show that this is a serious problem of abuse.

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

HUMAN RESOURCE MANAGEMENT  
ADMINISTRATION  
Room 2120 STATE OFFICE BLDG  
450 N MAIN ST  
SALT LAKE CITY UT 84114-1201, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Lyle Almond at the above address, by phone at 801-538-3391, by FAX at 801538-3081, or by Internet E-mail at lalmond@utah.gov

AUTHORIZED BY: Jeff Herring, Executive Director

EFFECTIVE: 06/29/2007



**Human Services, Substance Abuse and  
Mental Health  
R523-22**

**Utah Standards for Approval of Alcohol  
and Drug Educational Programs for  
Court-Referred DUI Offenders**

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE NO.: 30123  
FILED: 06/22/2007, 11:24

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-15-105 establishes the Division of Substance Abuse and Mental Health Board. The Board is given authority to establish necessary rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No public comments have been received by the Division since the last time this rule was reviewed.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: In Section 62A-15-103, The Division of Substance Abuse and Mental Health is mandated to provide education for persons who are convicted of driving under the influence of alcohol, drugs, or a controlled substance. This rule sets forth the policies and procedures for certifying organizations and trainers who provide education to a person convicted of driving under the influence, recertification requirements for trainers, and corrective action proceedings. This rule needs to continue to assure quality implementation of this statutory mandate. The education course offered through this rule is currently being reviewed, and depending on the outcome of that review, future amendments may be forthcoming. During this review, it was noted that several of the Code references cited in Sections R532-22-1 and R523-22-2 need to be updated so a nonsubstantive change will follow in the near future.

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

AUTHORIZED BY: Mark I Payne, Director

EFFECTIVE: 06/22/2007



**Human Services, Substance Abuse and  
Mental Health  
R523-23**

**On-Premise Alcohol Training and  
Education Seminar Rules of  
Administration**

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE NO.: 30122  
FILED: 06/22/2007, 11:22

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-15-105 establishes the Division of Substance Abuse and Mental Health Board. The Board is given authority to establish necessary rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Division amended this rule in 2006. The original amendment added language that would require all participants in alcohol server-training courses 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 online 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 online for convenience sake, and an online 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. Prior to this latest amendment, no comments had been received by the Division concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Under Section 62A-15-401 the Division of Substance Abuse and Mental Health is required to provide a training course and certification for all employees who serve alcohol to consumers on the premises of the business or establishment for which they work such as a bar, restaurant, or social club. This rule sets forth the policies and procedures for certifying organizations that provide on-premise alcohol server training courses, standards for training materials, and certification requirements for trainees. This rule needs to continue to assure quality implementation of this statutory mandate.

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

AUTHORIZED BY: Mark I Payne, Director

EFFECTIVE: 06/22/2007

## Insurance, Administration **R590-122**

### Permissible Arbitration Provisions

#### FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 30135  
FILED: 06/26/2007, 12:11

#### NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-2-201(3) allows the commissioner to make rules to implement the provisions of Title 31A. The purpose of the rule is to define the term "permissible arbitration" and to set guidelines upon which disclosure of a contract arbitration provision is to be made. This is done in the Sections R590-122-3 and R590-122-4.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received by this department in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is important that this rule be continued in force to provide guidance to insurance companies about the type of arbitration provisions they may put into their policies. These provisions provide steps to be taken by insureds who disagree with the settlement of their claims and would like to involve a third party in the settlement of their claims. The rule gives the department the authority to make sure these provision are fair and nondiscriminatory.

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: 06/26/2007

## Insurance, Administration **R590-149** ADA Complaint Procedure Rule

#### FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 30134  
FILED: 06/26/2007, 11:54

#### NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule implements the provisions of Title II of the Americans with Disabilities Act, 42 U.S.C. 12201. The rule defines and publishes complaint procedures providing for prompt and equitable resolution of complaints filed in accordance with Title II.

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 regarding this rule within the past five years.



REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is important that this rule be continued in effect to provide that no qualified individual with a disability, by reason of such disability, be excluded from participation in or the benefits of the services, programs and activities of the Insurance Department. The rule needs to remain in force so that the department will remain in compliance with the federal Americans with Disabilities Act.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 06/26/2007

Insurance, Administration  
**R590-173**  
Credit for Reinsurance

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 30160  
FILED: 06/29/2007, 11:18

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 31A-2-201 provides the commissioner with the authority to make rules to implement the provisions of Title 31A. In this case, it is to set forth requirements the commissioner feels are necessary to carry out the provisions of Section 31A-17-404.

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 written comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Credit for reinsurance has relevance for many Utah insurance companies, and may be a

significant factor in establishing their solvency position. The rule lays out the detailed requirements in this important area. It provides protection to the ceding insurers within the State of Utah and to the individuals insured. 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](mailto:jwhitby@utah.gov)

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 06/29/2007

Natural Resources, Wildlife Resources  
**R657-44**  
Big Game Depredation

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 30109  
FILED: 06/20/2007, 06:45

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Sections 23-16-2, 23-16-3, 23-16-3.5, and 23-16-4, the Wildlife Board is authorized and required to regulate and prescribe the means for assessing big game depredation, and provide mitigation procedures for big game depredation.

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 supporting or opposing the rule were received since 07/03/2002, when the rule was last reviewed.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-44 provides the procedures, standards, requirements, and limits for assessing big game depredation and mitigation procedures for big game depredation. The procedures adopted in this rule have provided an effective and efficient process. Continuation of

this rule is necessary for continued success of the big game depredation program.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Staci Coons at the above address, by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

AUTHORIZED BY: James F Karpowitz, Director

EFFECTIVE: 06/20/2007

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**Public Service Commission,  
Administration  
R746-400  
Public Utility Reports**

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE NO.: 30107  
FILED: 06/19/2007, 11:08

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 54-1-10 requires the Public Service Commission to make long-range planning regarding public utility regulation and provide reports to the Governor and Legislature. Section 54-3-2 requires utilities to file with the Commission their schedules, rules, regulations, contracts and agreements. Sections 54-3-21 and 54-3-22 require utilities to provided to the Commission any information or reports requested by the Commission. Section 54-3-26 requires telecommunication carriers to provide information regarding special purpose districts. Section 54-4-16 requires utilities to provide information and reports regarding accidents. Section 54-4-22 requires utilities to provide information regarding asset valuations. Section 54-5-1.5 requires utilities to provide information needed to assess the special regulation fee imposed by Chapter 5. Section 54-8b-10 requires telecommunication carriers to provide information relating to the hearing and speech impaired surcharge. Section 54-8b-15 requires telecommunications carriers to provide information regarding the Universal Public Telecommunications Service Support Fund. Section 54-12-2 permits the Commission to promulgate rules for its development of small power production and cogeneration. Section 54-13-3 permits the Commission to promulgate rules for its pipeline safety

responsibilities. The rule provides direction on how utilities should provide the information required to comply with 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: The Commission amended the rule after its initial enactment in June of 2002, but no comments were received in the 2002 rule clarification amendment process. No comments of any nature were received since 06/20/2002, the effective date of the original rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule needs to remain in effect in order for utilities to provide information and for the Public Service Commission and the Division of Public Utilities to continue to receive information needed for utility regulation. 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:

Sheri Bintz at the above address, by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at sbintz@utah.gov

AUTHORIZED BY: Sandy Mooy, Legal Counsel

EFFECTIVE: 06/19/2007

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**Regents (Board Of), College of Eastern  
Utah  
R767-1  
Government Records Access and  
Management Act**

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE NO.: 30108  
FILED: 06/19/2007, 16:01

**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: Section 63-2-204 allows state agencies to specify, by rule, those in the agencies to

whom requests for access to records should be addressed. Section 63-2-904 allows a governmental entity to determine, by rule, at what level within the entity the requirements of Title 63, Chapter 2, shall be undertaken.

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 rule is enacted according to Sections 63-2-204 and 63-2-904. As a public institution of higher learning, the College is required to comply with the law. Therefore, this rule should be continued.

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

REGENTS (BOARD OF)  
COLLEGE OF EASTERN UTAH  
ACADEMIC RECORDS/REGISTRAR  
451 E 400 N  
PRICE UT 84501, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Jan L Young at the above address, by phone at 435-613-5205, by FAX at 435-613-5814, or by Internet E-mail at jan.young@ceu.edu

AUTHORIZED BY: Jan L Young, Director of Academic Records/Registrar

EFFECTIVE: 06/19/2007



School and Institutional Trust Lands,  
Administration  
**R850-1**

Definition of Terms

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE No.: 30147  
FILED: 06/27/2007, 15:26

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53C-1-302(1)(a)(ii) authorizes the director of the School and Institutional Trust Lands Administration to provide definitions which apply to all rules promulgated by the director and agency.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule enables the School and Institutional Trust Lands Administration to clarify terminology used throughout the agency's rules. Without this rule, each individual program rule would need to contain definitions for program-related terms and there would be a substantial amount of repetition. Therefore, this rule should be continued.

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

SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION  
Room 500  
675 E 500 S  
SALT LAKE CITY UT 84102-2818, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
John W. Andrews at the above address, by phone at 801-538-5180, by FAX at 801-355-0922, or by Internet E-mail at jandrews@utah.gov

AUTHORIZED BY: Kevin S. Carter, Director

EFFECTIVE: 06/27/2007



School and Institutional Trust Lands,  
Administration  
**R850-2**  
Trust Land Management Objectives

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE No.: 30145  
FILED: 06/27/2007, 15:25

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53C-1-204(1) and Section 53C-1-302 authorize the director of the School and Institutional Trust Lands Administration to prescribe the general land management objectives for school and institutional trust lands.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received by the agency for 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 outlines the objectives of the agency in fulfilling its fiduciary duty to the trust beneficiaries with regard to the use and disposition of these trust lands. It helps to clarify for the general public and other governmental entities the purpose for which these trust lands were designated. Therefore, this rule should be continued.

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

SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION  
Room 500  
675 E 500 S  
SALT LAKE CITY UT 84102-2818, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
John W. Andrews at the above address, by phone at 801-538-5180, by FAX at 801-355-0922, or by Internet E-mail at jandrews@utah.gov

AUTHORIZED BY: Kevin S. Carter, Director

EFFECTIVE: 06/27/2007



School and Institutional Trust Lands,  
Administration  
**R850-3**  
Applicant Qualifications, Application  
Forms, and Application Processing

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 30146  
FILED: 06/27/2007, 15:26

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53C-1-302(1)(a)(ii) and Section 53C-2-404 authorize the director of the School and Institutional Trust Lands Administration to prescribe the applicant requirements and the form of application.

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 by the agency concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule sets forth the requirements that an applicant must meet in order to be qualified as a user of trust lands. It also enables the agency to be consistent in its acceptance or rejection of applications. Therefore, this rule should be continued.

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

SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION  
Room 500  
675 E 500 S  
SALT LAKE CITY UT 84102-2818, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
John W. Andrews at the above address, by phone at 801-538-5180, by FAX at 801-355-0922, or by Internet E-mail at jandrews@utah.gov

AUTHORIZED BY: Kevin S. Carter, Director

EFFECTIVE: 06/27/2007



School and Institutional Trust Lands,  
Administration  
**R850-4**  
Application Fees and Assessments

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 30149  
FILED: 06/27/2007, 15:27

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53C-1-302(1)(a)(ii) authorizes the director of the School and Institutional Trust Lands Administration to adopt rules necessary to fulfill the purposes of Title 53C.

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 by the agency concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule allows the agency to establish a list of fees that are charged in order to recoup

some of the costs of doing business. The assessment of these fees is established pursuant to policy set by the Board of Trustees and assists the agency in fulfilling its fiduciary responsibility in behalf of the various trusts. Therefore, this rule should be continued.

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

SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION  
Room 500  
675 E 500 S  
SALT LAKE CITY UT 84102-2818, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kim S. Christy at the above address, by phone at 801-538-5183, by FAX at 801-355-0922, or by Internet E-mail at kimchristy@utah.gov

AUTHORIZED BY: Kevin S. Carter, Director

EFFECTIVE: 06/27/2007

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**School and Institutional Trust Lands,  
Administration  
R850-5  
Payments, Royalties, Audits, and  
Reinstatements**

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 30144  
FILED: 06/27/2007, 15:24

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53C-1-301(1)(a)(ii) entitles the director of the School and Institutional Trust Lands Administration to establish fees, procedures, and rules for management of the agency.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received by the agency for this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is needed in order to set forth the guidelines and procedures necessary for protecting the assets of the various beneficiaries in the course of leasing and selling trust assets. Guidelines for the audit of

leases ensures that the trust assets are being protected and the trust beneficiaries are receiving full value. Therefore, this rule should be continued.

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

SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION  
Room 500  
675 E 500 S  
SALT LAKE CITY UT 84102-2818, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Ron Carlson at the above address, by phone at 801-538-5131, by FAX at 801-538-5118, or by Internet E-mail at rcarlson@utah.gov

AUTHORIZED BY: Kevin S. Carter, Director

EFFECTIVE: 06/27/2007

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**School and Institutional Trust Lands,  
Administration  
R850-6  
Government Records Access and  
Management**

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 30148  
FILED: 06/27/2007, 15:27

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsections 63-2-204, 63-2-603, and 63-2-904; Subsection 53C-1-201(3)(a)(i)(A); and Section 53C-2-102 authorize the director of the School and Institutional Trust Lands Administration to adopt rules that protect confidential information provided to the agency regarding business proposals submitted for consideration.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received by the agency 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: Statute requires that the agency provide guidelines for access by the public to Agency records. This rule provides those guidelines. Therefore, this rule should be continued.

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

SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION  
Room 500  
675 E 500 S  
SALT LAKE CITY UT 84102-2818, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

John W. Andrews at the above address, by phone at 801-538-5180, by FAX at 801-355-0922, or by Internet E-mail at jandrews@utah.gov

AUTHORIZED BY: Kevin S. Carter, Director

EFFECTIVE: 06/27/2007

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

SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION  
Room 500  
675 E 500 S  
SALT LAKE CITY UT 84102-2818, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kim S. Christy at the above address, by phone at 801-538-5183, by FAX at 801-355-0922, or by Internet E-mail at kimchristy@utah.gov

AUTHORIZED BY: Kevin S. Carter, Director

EFFECTIVE: 06/27/2007

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School and Institutional Trust Lands,  
Administration  
**R850-30**  
Special Use Leases

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 30150  
FILED: 06/27/2007, 16:12

**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: Subsections 53C-1-302(1)(a)(ii) and 53C-4-101(1) authorize the director of the School and Institutional Trust Lands Administration to prescribe standards and conditions for the leasing and development of surface resources on trust lands.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Statute requires agency rules outlining procedures for the issuance of special use leases on trust lands. The agency manages a vast surface estate for the benefit of the trust beneficiaries and these guidelines are crucial to the successful management of that estate. Therefore, this rule should be continued.

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School and Institutional Trust Lands,  
Administration  
**R850-40**  
Easements

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 30151  
FILED: 06/27/2007, 16:13

**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 53C-1-302 and 53C-4-203 authorize the director of the School and Institutional Trust Lands Administration to establish rules for the issuance of easements on, through, and over any trust lands and to establish price schedules for this use.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The agency manages a vast surface estate for the benefit of the trust beneficiaries. Easements are one of the many uses for the surface estate and statute specifically requires the agency to provide rules for the issuance of easements and establish price schedules at fair market value. This rule provides the guidelines for the issuance of easements. Therefore, this rule should be continued.

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

SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION  
Room 500  
675 E 500 S  
SALT LAKE CITY UT 84102-2818, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kim S. Christy at the above address, by phone at 801-538-5183, by FAX at 801-355-0922, or by Internet E-mail at kimchristy@utah.gov

AUTHORIZED BY: Kevin S. Carter, Director

EFFECTIVE: 06/27/2007

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

SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION  
Room 500  
675 E 500 S  
SALT LAKE CITY UT 84102-2818, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kim S. Christy at the above address, by phone at 801-538-5183, by FAX at 801-355-0922, or by Internet E-mail at kimchristy@utah.gov

AUTHORIZED BY: Kevin S. Carter, Director

EFFECTIVE: 06/27/2007

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**School and Institutional Trust Lands,  
Administration  
R850-50  
Range Management**

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 30152  
FILED: 06/27/2007, 16:13

**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: Subsection 53C-1-302(1)(a)(ii) and Section 53C-5-102 authorize the director of the School and Institutional Trust Lands Administration to establish rules prescribing standards and conditions for the utilization of forage and related development of range resources on trust lands.

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 by the agency 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 the guidelines for the grazing of livestock on trust lands. This use provides a resource for local ranchers to utilize in their agricultural operations, as well as an additional source of revenue for the trust beneficiaries. Therefore, this rule should be continued.

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**School and Institutional Trust Lands,  
Administration  
R850-60  
Cultural Resources**

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 30153  
FILED: 06/27/2007, 16:14

**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: Sections 9-8-3 and 9-8-4 mandate the preservation and protection of all antiquities, historic and prehistoric ruins, historic sites, buildings, and objects. Subsections 53C-1-302(1)(a)(ii) and 53C-2-201(1)(a) authorize the director of the School and Institutional Trust Lands Administration to prescribe the management of cultural resources on trust lands.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule provides the guidelines whereby the School and Institutional Trust Lands Administration manages the cultural resources on trust lands in compliance with Subsection 9-8-305(2) and Section 9-8-404. Therefore, this rule should be continued.

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

SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION  
Room 500  
675 E 500 S  
SALT LAKE CITY UT 84102-2818, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kim S. Christy at the above address, by phone at 801-538-5183, by FAX at 801-355-0922, or by Internet E-mail at kimchristy@utah.gov

AUTHORIZED BY: Kevin S. Carter, Director

EFFECTIVE: 06/27/2007

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

SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION  
Room 500  
675 E 500 S  
SALT LAKE CITY UT 84102-2818, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kim S. Christy at the above address, by phone at 801-538-5183, by FAX at 801-355-0922, or by Internet E-mail at kimchristy@utah.gov

AUTHORIZED BY: Kevin S. Carter, Director

EFFECTIVE: 06/27/2007

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School and Institutional Trust Lands,  
Administration  
**R850-80**  
Sale of Trust Lands

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 30154  
FILED: 06/27/2007, 16:14

**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: Subsections 53C-1-302(1)(a)(ii) and 53C-4-101(1) authorize the director of the School and Institutional Trust Lands Administration to prescribe the terms and conditions for the sale of trust land. Subsection 72-5-203(2)(a) directs the agency to enact rules establishing a process where responsible authorities may apply to convert permissive temporary easements or rights-of-entry to permanent easements or rights-of-entry.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received by the agency 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 sets forth the procedures and guidelines for determining if/when it is in the best interests of the trust beneficiaries to sell portions of the surface estate and for establishing and receiving fair market value for those lands. Therefore, this rule should be continued.

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Workforce Services, Administration  
**R982-101**  
Americans with Disabilities Complaint  
Procedure

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 30136  
FILED: 06/26/2007, 13:20

**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 has legal authority to make rules pursuant to Section 35A-1-104 and Subsection 63-46a-3(3). Title II of the Americans with Disabilities Act (ADA) requires the Department to have a complaint procedure in place for handling disability complaints.

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 comments since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is essential to establish a procedure for filing and resolving disability complaints. The Department is required to have such a procedure under the Americans with Disabilities Act. Therefore, this rule should be continued.



THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
**WORKFORCE SERVICES  
 ADMINISTRATION**  
 140 E BROADWAY  
 SALT LAKE CITY UT 84111-2333, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Kristen Cox, Executive Director

EFFECTIVE: 06/26/2007



**Workforce Services, Administration**  
**R982-201**  
**Government Records Access and Management Act**

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 30138  
 FILED: 06/26/2007, 15:43

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 63, Chapter 2 authorizes and directs the Department to make rules in accordance with Title 63, Chapter 46a, and Section 35A-1-104 to regulate access to government records in our possession including allowing the Department to specify to where and to whom requests for information shall be directed.

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 comments since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary to implement the provisions of the Government Records Access and Management Act (Title 63, Chapter 2). Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
**WORKFORCE SERVICES  
 ADMINISTRATION**  
 140 E BROADWAY  
 SALT LAKE CITY UT 84111-2333, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Kristen Cox, Executive Director

EFFECTIVE: 06/26/2007



**Workforce Services, Administration**  
**R982-301**  
**Councils**

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 30139  
 FILED: 06/26/2007, 15:59

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 35A-1-206 creates the State Council on Workforce Services and requires the Department to define certain terms, like "small employer", by rule. Section 35A-2-103 creates regional councils and requires the Department to define those same terms by rule. Title 63, Chapter 46a, and Section 35A-1-104 give the Department authority to make rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any comments since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary as required by the statutes cited above. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
**WORKFORCE SERVICES  
 ADMINISTRATION**  
 140 E BROADWAY  
 SALT LAKE CITY UT 84111-2333, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Kristen Cox, Executive Director

EFFECTIVE: 06/26/2007



**Workforce Services, Administration  
R982-601  
Provider Code of Conduct**

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 30140  
FILED: 06/26/2007, 16:35

**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 62A-4a-403 requires all persons report child abuse. Sections 63-46a-3 and 35A-1-104 authorize the Department to make rules. This rule prohibits providers from abusing, neglecting, or exploiting any Department client who is a vulnerable adult or child. Those providers are acting on behalf of or paid by the Department.

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 comments since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Without this provision, it would be more difficult to end a contract with a provider who is clearly in violation of the law and explains to providers what is considered exploitation, abuse, and neglect under the code. Therefore, this rule should be continued.

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

WORKFORCE SERVICES  
ADMINISTRATION  
140 E BROADWAY  
SALT LAKE CITY UT 84111-2333, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Kristen Cox, Executive Director

EFFECTIVE: 06/26/2007



**Workforce Services, Unemployment  
Insurance  
R994-403  
Claim for Benefits**

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 30141  
FILED: 06/26/2007, 18:33

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 35A-4-403 states the Department may prescribe by rule how and when claims are made and what information has to be provided. That same section provides when benefits can be paid on an ongoing basis. Section 35A-1-104 authorizes the Department to enact rules. Section 35A-4-502 authorizes the Department to make rules for the administration of the Employment Security Act (Title 35A, Chapter 4)

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 since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is essential to describe and define when and how claims are filed and what a claimant has to do to remain eligible like be able and available for full-time work and be seeking work. It also provides for sanctions to both employers and claimants for failure to provide information. The Department cannot administer the program within the state and federal requirements without this rule. Therefore, this rule should be continued.

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

WORKFORCE SERVICES  
UNEMPLOYMENT INSURANCE  
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

AUTHORIZED BY: Kristen Cox, Executive Director

EFFECTIVE: 06/26/2007



Workforce Services, Unemployment  
Insurance  
**R994-405**  
Ineligibility for Benefits

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE NO.: 30142  
FILED: 06/26/2007, 18:47

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 35A-4-405 allows benefits under certain circumstances. Section 35A-4-502 allows the Department to pass rules to implement the Employment Security Act (Title 35A, Chapter 4). Subsection 35A-4-502(8) mandates that the Department adopt rules as necessary to secure for Utah citizens all of the advantages available under certain federal laws. Section 35A-1-104 allows the Department to adopt rules. This rule is necessary to secure for Utah citizens and employers all of the benefits and advantages of the Social Security Act and the Federal Unemployment Tax Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is essential to determine what constitutes good cause for quitting and just cause in a discharge which establishes eligibility for unemployment. The rule also establishes rules for when benefits are allowed in the event of a strike and for aliens. Without this rule, it would be impossible to administer the unemployment trust fund fairly for all eligible claimants. Therefore, this rule should be continued.

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

WORKFORCE SERVICES  
UNEMPLOYMENT INSURANCE  
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

AUTHORIZED BY: Kristen Cox, Executive Director

EFFECTIVE: 06/26/2007



**End of the Five-Year Notices of Review and Statements of Continuation Section**

## NOTICES OF RULE EFFECTIVE DATES

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These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. 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).

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### Abbreviations

AMD = Amendment  
CPR = Change in Proposed Rule  
NEW = New Rule  
R&R = Repeal and Reenact  
REP = Repeal

### Alcoholic Beverage Control

#### Administration

No. 29881 (AMD): R81-1-3. General Policies.  
Published: May 15, 2007  
Effective: June 29, 2007

No. 29898 (AMD): R81-1-25. Sexually-Oriented Entertainers and Stage Approvals.  
Published: May 15, 2007  
Effective: June 29, 2007

### Commerce

#### Occupational and Professional Licensing

No. 29866 (AMD): R156-56. Utah Uniform Building Standard Act Rules.  
Published: May 15, 2007  
Effective: July 1, 2007

No. 29863 (AMD): R156-56. Utah Uniform Building Standard Act Rules.  
Published: May 15, 2007  
Effective: July 1, 2007

No. 29865 (AMD): R156-56-704. Statewide Amendments to the IBC.  
Published: May 15, 2007  
Effective: July 1, 2007

### Health

#### Children's Health Insurance Program

No. 29872 (AMD): R382-1. Benefits and Administration.  
Published: May 15, 2007  
Effective: July 1, 2007

No. 29873 (AMD): R382-10. Eligibility.  
Published: May 15, 2007  
Effective: July 1, 2007

#### Health Care Financing, Coverage and Reimbursement Policy

No. 29868 (AMD): R414-2A-7. Limitations.  
Published: May 15, 2007  
Effective: June 26, 2007

No. 29869 (AMD): R414-3A-6. Services.  
Published: May 15, 2007  
Effective: June 26, 2007

No. 29674 (AMD): R414-61-2. Incorporation by Reference.  
Published: April 1, 2007  
Effective: June 26, 2007

No. 29908 (AMD): R414-401-3. Assessment.  
Published: May 15, 2007  
Effective: July 1, 2007

No. 29907 (AMD): R414-504. Nursing Facility Payments.  
Published: May 15, 2007  
Effective: July 1, 2007

#### Health Care Financing, Medical Assistance Program

No. 29909 (REP): R420-1. Utah Medical Assistance Program.  
Published: May 15, 2007  
Effective: July 1, 2007

### Human Resource Management

#### Administration

No. 29882 (AMD): R477-1. Definitions.  
Published: May 15, 2007  
Effective: July 1, 2007

No. 29883 (AMD): R477-2. Administration.  
Published: May 15, 2007  
Effective: July 1, 2007

No. 29884 (AMD): R477-3. Classification.  
Published: May 15, 2007  
Effective: July 1, 2007

No. 29885 (AMD): R477-4. Filling Positions.  
Published: May 15, 2007  
Effective: July 1, 2007

No. 29886 (AMD): R477-5. Employee Status and Probation.  
Published: May 15, 2007  
Effective: July 1, 2007

No. 29887 (AMD): R477-6. Compensation.  
Published: May 15, 2007  
Effective: July 1, 2007

No. 29888 (AMD): R477-7. Leave.  
Published: May 15, 2007  
Effective: July 1, 2007

No. 29889 (AMD): R477-8. Working Conditions.  
Published: May 15, 2007  
Effective: July 1, 2007

No. 29890 (AMD): R477-9. Employee Conduct.  
Published: May 15, 2007  
Effective: July 1, 2007

No. 29891 (AMD): R477-10. Employee Development.  
Published: May 15, 2007  
Effective: July 1, 2007

No. 29892 (AMD): R477-12. Separations.  
Published: May 15, 2007  
Effective: July 1, 2007

#### Labor Commission

##### Occupational Safety and Health

No. 29857 (AMD): R614-1-4. Incorporation of Federal Standards.  
Published: May 15, 2007  
Effective: June 22, 2007

#### Money Management Council

##### Administration

No. 29906 (AMD): R628-15. Certification as an Investment Adviser.  
Published: May 15, 2007  
Effective: June 21, 2007

#### School and Institutional Trust Lands

No. 29904 (AMD): R850-5. Payments, Royalties, Audits, and Reinstatements.  
Published: May 15, 2007  
Effective: June 21, 2007

#### Workforce Services

##### Employment Development

No. 29853 (AMD): R986-200. Family Employment Program.  
Published: May 15, 2007  
Effective: July 1, 2007

No. 29854 (AMD): R986-400. General Assistance and Working Toward Employment.  
Published: May 15, 2007  
Effective: July 1, 2007

No. 29852 (AMD): R986-700. Child Care Assistance.  
Published: May 15, 2007  
Effective: July 1, 2007

##### Unemployment Insurance

No. 29678 (R&R): R994-202. Employing Units.  
Published: April 1, 2007  
Effective: July 1, 2007

No. 29680 (R&R): R994-204. Included Employment.  
Published: April 1, 2007  
Effective: July 1, 2007

No. 29681 (R&R): R994-205. Exempt Employment.  
Published: April 1, 2007  
Effective: July 1, 2007

No. 29682 (R&R): R994-206. Agricultural Labor.  
Published: April 1, 2007  
Effective: July 1, 2007

No. 29685 (R&R): R994-208. Definition of Wages.  
Published: April 1, 2007  
Effective: July 1, 2007

No. 29686 (R&R): R994-302. Payment by Employer.  
Published: April 1, 2007  
Effective: July 1, 2007

No. 29687 (R&R): R994-303. Contribution Rates and Relief of Charges.  
Published: April 1, 2007  
Effective: July 1, 2007

No. 29688 (R&R): R994-305. Collection of Contributions.  
Published: April 1, 2007  
Effective: July 1, 2007

No. 29689 (R&R): R994-308. Bond or Security Requirement.  
Published: April 1, 2007  
Effective: July 1, 2007

No. 29697 (AMD): R994-309. Nonprofit Organizations.  
Published: April 1, 2007  
Effective: July 1, 2007

No. 29695 (R&R): R994-310. Coverage.  
Published: April 1, 2007  
Effective: July 1, 2007

No. 29698 (AMD): R994-311. Governmental Units and Indian Tribes.  
Published: April 1, 2007  
Effective: July 1, 2007

No. 29699 (AMD): R994-312. Employing Unit Records - Confidential.  
Published: April 1, 2007  
Effective: July 1, 2007

# RULES INDEX BY AGENCY (CODE NUMBER) AND BY KEYWORD (SUBJECT)

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The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2007, including notices of effective date received through July 2, 2007, the effective dates of which are no later than July 15, 2007. 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/>).

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## 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	

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**ABBREVIATIONS**

AMD = Amendment  
 CPR = Change in proposed rule  
 EMR = Emergency rule (120 day)  
 NEW = New rule  
 EXD = Expired

NSC = Nonsubstantive rule change  
 REP = Repeal  
 R&R = Repeal and reenact  
 5YR = Five-Year Review

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	29595	R313-35	5YR	03/05/2007	2007-7/169
<b><u>veterinary medicine</u></b>					
Commerce, Occupational and Professional Licensing	29472	R156-28	5YR	02/01/2007	2007-4/57
<b><u>victim compensation</u></b>					
Crime Victim Reparations, Administration	29753	R270-1	AMD	05/22/2007	2007-8/41
	29220	R270-1-26	AMD	01/10/2007	2006-23/6
<b><u>victims of crime</u></b>					
Crime Victim Reparations, Administration	29753	R270-1	AMD	05/22/2007	2007-8/41



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<b><u>visitation</u></b> Corrections, Administration	29462	R251-305	5YR	01/31/2007	2007-4/58
<b><u>wages</u></b> Workforce Services, Unemployment Insurance	29685	R994-208	R&R	07/01/2007	2007-7/111
<b><u>waiver of basic training</u></b> Public Safety, Peace Officer Standards and Training	29561	R728-407	5YR	02/26/2007	2007-6/44
<b><u>waivers</u></b> Health, Health Care Financing, Coverage and Reimbursement Policy	29676	R414-307	NEW	05/15/2007	2007-7/65
<b><u>waste disposal</u></b> Environmental Quality, Solid and Hazardous Waste	29202	R315-301	AMD	02/01/2007	2006-23/17
	29509	R315-301-5	NSC	02/28/2007	Not Printed
	29203	R315-302	AMD	02/01/2007	2006-23/22
	29204	R315-303	AMD	02/01/2007	2006-23/28
	29205	R315-304	AMD	02/01/2007	2006-23/33
	29754	R315-304	5YR	03/30/2007	2007-8/128
	29206	R315-305-4	AMD	02/01/2007	2006-23/35
	29566	R315-305-4	NSC	03/09/2007	Not Printed
	29207	R315-306-2	AMD	02/01/2007	2006-23/37
	29208	R315-308	AMD	02/01/2007	2006-23/38
	29716	R315-308-2	NSC	04/12/2007	Not Printed
	29209	R315-309	AMD	02/01/2007	2006-23/43
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	29511	R315-311-1	NSC	02/28/2007	Not Printed
	29212	R315-312	AMD	02/01/2007	2006-23/52
	29768	R315-312-3	NSC	04/12/2007	Not Printed
	29213	R315-313-2	AMD	02/01/2007	2006-23/54
	29214	R315-314-3	AMD	02/01/2007	2006-23/56
	29425	R315-315-2	NSC	02/13/2007	Not Printed
	29215	R315-316	AMD	02/01/2007	2006-23/58
	29216	R315-317	AMD	02/01/2007	2006-23/60
	29217	R315-318-1	AMD	02/01/2007	2006-23/61
	29218	R315-320	AMD	02/01/2007	2006-23/62
	29510	R315-320-4	NSC	02/28/2007	Not Printed
Environmental Quality, Water Quality	29186	R317-1-2	AMD	01/19/2007	2006-22/21
	29098	R317-1-7	AMD	01/19/2007	2006-20/54
<b><u>waste to energy plant</u></b> Environmental Quality, Air Quality	29658	R307-223	5YR	03/15/2007	2007-7/158

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<b><u>water conservation</u></b> Environmental Quality, Drinking Water	29776	R309-510	5YR	04/02/2007	2007-8/123
<b><u>water hauling</u></b> Environmental Quality, Drinking Water	29783	R309-550	5YR	04/02/2007	2007-8/126
<b><u>water policy</u></b> Natural Resources, Oil, Gas and Mining; Abandoned Mine Reclamation	29602	R643-879	5YR	03/07/2007	2007-7/173
<b><u>water pollution</u></b> Environmental Quality, Water Quality	29186	R317-1-2	AMD	01/19/2007	2006-22/21
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<b><u>water pollution equipment</u></b> Environmental Quality, Water Quality	29326	R317-12	NEW	03/09/2007	2007-1/21
<b><u>water quality</u></b> Environmental Quality, Drinking Water	29368	R309-225	AMD	03/06/2007	2007-2/89
	29650	R309-225	NSC	03/29/2007	Not Printed
Environmental Quality, Water Quality	29294	R317-6	AMD	01/23/2007	2006-24/23
	29185	R317-6-6	AMD	01/19/2007	2006-22/23
<b><u>water slides</u></b> Health, Epidemiology and Laboratory Services, Environmental Services	29720	R392-302	5YR	03/22/2007	2007-8/130
	29717	R392-302	AMD	05/31/2007	2007-8/55
<b><u>water system rating</u></b> Environmental Quality, Drinking Water	29363	R309-150	AMD	03/06/2007	2007-2/31
<b><u>watershed management</u></b> Environmental Quality, Drinking Water	29369	R309-105	AMD	03/06/2007	2007-2/15
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	29036	R309-105-9	AMD	01/01/2007	2006-19/68
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	29170	R652-122-300	AMD	01/03/2007	2006-22/40
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	29996	R657-4	5YR	05/31/2007	2007-12/66
	29351	R657-5	AMD	02/07/2007	2007-1/25
	29923	R657-5	AMD	07/09/2007	2007-11/75
	29502	R657-5-43	AMD	04/09/2007	2007-5/17
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	29636	R657-27	AMD	05/08/2007	2007-7/76
	29794	R657-27	5YR	04/04/2007	2007-9/45
	29920	R657-30	5YR	05/07/2007	2007-11/88
	29402	R657-33	AMD	03/12/2007	2007-3/24
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	29330	R657-42	AMD	02/07/2007	2007-1/37
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	29580	R657-43	NSC	03/13/2007	Not Printed
	29639	R657-43	5YR	03/13/2007	2007-7/183
	30109	R657-44	5YR	06/20/2007	2007-14/52
	29638	R657-44-6	AMD	05/08/2007	2007-7/79
	29165	R657-49	NSC	02/07/2007	Not Printed
	29349	R657-49	REP	02/07/2007	2007-1/39
	29703	R657-50	NSC	04/12/2007	Not Printed
	29795	R657-50	5YR	04/04/2007	2007-9/45
	29530	R657-51	REP	04/23/2007	2007-6/27
	29536	R657-51	NSC	04/23/2007	Not Printed
	29751	R657-53	AMD	05/22/2007	2007-8/92
<b><u>wildlife conservation</u></b>					
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<b><u>wildlife law</u></b>					
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	29635	R657-22-3	AMD	05/08/2007	2007-7/75
	29636	R657-27	AMD	05/08/2007	2007-7/76
	29794	R657-27	5YR	04/04/2007	2007-9/45
<b><u>wildlife permits</u></b>					
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<b><u>women</u></b>					
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	29880	R406-201	5YR	04/27/2007	2007-10/126
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<b><u>wood furniture</u></b>					
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	29672	R307-343	5YR	03/15/2007	2007-7/167
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<b><u>workers' compensation</u></b>					
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