

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed October 2, 2007, 12:00 a.m. through October 15, 2007, 11:59 p.m.

Number 2007-21
November 1, 2007

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

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

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

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

Division of Administrative Rules, Salt Lake City 84114

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Printed in the United States of America

Library of Congress Cataloging-in-Publication Data

Utah state bulletin.

Semimonthly.

1. Delegated legislation--Utah--Periodicals. 2. Administrative procedure--Utah--Periodicals.

I. Utah. Office of Administrative Rules.

KFU440.A73S7

348.792'025--DDC

85-643197

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EDITOR'S NOTES

CORRECTIONS TO FIVE-YEAR REVIEW NOTICES FROM FINANCIAL INSTITUTIONS IN THE OCTOBER 15, 2007, BULLETIN

The five-year review for Rule R331-17 was filed on 09/24/2007, and was assigned DAR No. 30484. Due to a software error in the eRules filing system, the five-year review information for Rule R331-17 was replaced by the five-year review information for Rule R335-1. The five-year information for Rule R335-1 should have been published under DAR No. 30480 but was not. Instead, due to the same software error, the five-year review information for Rule R335-2 was published twice, under DAR Nos. 30480 and 30486. The five-year review information for Rule R335-2 should only have been published under DAR No. 30486.

A table that shows the correct association of DAR numbers and rule numbers and the five-year review information for R331-17 that should have been published is reproduced below.

CORRECTION TABLE:

<u>Rule Number</u>	<u>Was Published as</u>	<u>Should Have Been</u>
R335-1	30484	30480
R335-2 (duplicate)	30480	30486
R335-2	30486	Correct
R331-17	(was not published)	30484

Financial Institutions, Administration

R331-17

Publication and Disclosure of Acquisition of Control, Merger, or Consolidation Applications to the Department of Financial Institutions

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 30484

FILED: 09/24/2007, 15:49

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 7-1-301(5) authorizes the commissioner to grant applications of approval for new institutions, branches, relocations, mergers, consolidations, changes of control, and other applications. Section 7-1-703 places restrictions on acquisition of institutions and holding companies. Section 7-1-704 states that an institution subject to the jurisdiction of the department may maintain an office in this state or engage in activities of a financial institution in this state only if it is authorized to do so by the department. Section 7-1-705 lists the criteria necessary to file an application with the department as well as what is required for approval and grounds for disapproval.

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 supporting or opposing 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 rule applies to all applicants to the department for change of control, acquisition of, merger, or consolidation with any financial institution chartered by the state and should be continued.

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

FINANCIAL INSTITUTIONS
CREDIT UNIONS
Room 201
324 S STATE ST
SALT LAKE CITY UT 84111-2393, or

EDITOR'S NOTES

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Paul Allred at the above address, by phone at 801-538-8854, by FAX at 801-538-8894, or by Internet E-mail at PALLRED@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 09/24/2007

If you have any questions regarding this correction, please contact Nancy Lancaster, Publications Editor, Division of Administrative Rules, PO Box 141007, Salt Lake City, UT 84114-1007, phone: (801) 538-3218, FAX: (801) 538-1773, or Internet E-mail: nllancaster@utah.gov.

CORRECTION TO EXPIRED NOTICE IN OCTOBER 15, 2007, BULLETIN

In the October 15, 2007, issue of the *Utah State Bulletin* (2007-20, page 81), the DAR No. was incorrectly listed for the expiration notice for Rule R203-4 from Community and Culture, Energy Services. The number published was 304 (it was missing the last two digits). The correct DAR No. for the expiration notice for Rule R203-4 is 30477. The rest of the notice was correct.

Questions regarding this error may be directed to: Nancy L. Lancaster, Publications Editor, Division of Administrative Rules, PO Box 141007, Salt Lake City UT 84114-1007; Phone: (801) 538-3218; FAX: (801) 538-1773; or E-mail: nllancaster@utah.gov.

End of the Editor's Notes Section

SPECIAL NOTICES

Governor's Executive Order 2007-0012: Wildland Fire Management

EXECUTIVE ORDER

Wildland Fire Management

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

WHEREAS, 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; and,

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 October 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. Done in Salt Lake City, Utah, this 10th day of October 2007.

(State Seal)

Jon M. Huntsman, Jr.
Governor

ATTEST:

Gary R. Herbert
Lieutenant Governor

2007/0012

Governor's Executive Order 2007-0013: Designating the Intent of Utah State Government to Be the Model Employer of People with Disabilities

EXECUTIVE ORDER

Designating the Intent of Utah State Government to Be the Model Employer of People with Disabilities

WHEREAS, Federal government estimates indicate 70,000 working age Utahns with disabilities are not engaged in the workforce;

WHEREAS, people with disabilities experience unemployment and underemployment at a rate far above the state average;

WHEREAS, many people with disabilities have expressed the desire to participate fully in the economic and social aspects of this great state;

WHEREAS, Utah's people with disabilities represent a large and underutilized human resource pool of educated, qualified, talented, and experienced individuals;

WHEREAS, Utah state government, including higher education and all other State of Utah components, employs more individuals than any other employer in the state,

WHEREAS, Utah state government has the opportunity and responsibility to demonstrate leadership and provide a role model for all Utah employers seeking to improve their workforce and raise the skills and income of Utah's people;

NOW, THEREFORE, I, Jon M. Huntsman Jr., Governor of the State of Utah, by the authority vested in me, do hereby order that Utah state government will strive to become the model employer of qualified people with disabilities through the following initiatives:

1. The Utah Department of Human Resource Management, in cooperation with the Governor's Committee for Employment of People with Disabilities, will implement a promotional outreach campaign targeting qualified people with disabilities emphasizing the benefits of working for Utah state government, including statewide job recruitments and career fairs that elevate recruitment efforts toward qualified persons with disabilities.

2. The Utah Department of Human Resource Management shall, in cooperation with all executive branch state agencies:

a. Periodically conduct a survey of hard to fill state employment positions, defined as positions with high turnover, multiple unsuccessful recruitments, and difficulty locating and retaining qualified personnel; and

b. Shall develop and implement strategies to specifically encourage the recruitment of qualified people with disabilities for these positions, which may include development of internships, on the job training programs, or other innovative strategies.

3. A Task Force consisting of representatives of the Utah Department of Human Resource Management, the Utah State Office of Rehabilitation, The Governor's Committee for Employment of People with Disabilities, the Department of Workforce Services, and the Division of Risk Management shall be formed until August 30, 2008, and charged with reviewing and proposing additional strategies to put Utah state government on the cutting edge of employing qualified people with disabilities, and will develop training curricula designed to assist Utah's state agencies in following applicable employment laws including the Americans with Disabilities Act, Section 504, and other applicable regulations.

4. The Governor's Committee for Employment of People with Disabilities, in cooperation with the Utah Department of Human Resource Management, shall report these efforts to the Governor by September 1, 2008.

The implementation costs associated with this Executive Order shall be covered by existing resources within participating agencies.

The provisions of this Executive Order are not intended to supersede existing collective bargaining agreements or State and Federal Law.

IN WITNESS, WHEREOF, I have hereunto set my hand and cause to be affixed the Great Seal of the State of Utah. Done at the State Capitol Complex in Salt Lake City, Utah, this 12th day of October 2007.

(State Seal)

Jon M. Huntsman, Jr.
Governor

Attest:

Gary R. Herbert
Lieutenant Governor

2007/0013

End of the Special Notices Section

NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between October 2, 2007, 12:00 a.m., and October 15, 2007, 11:59 p.m. are included in this, the November 1, 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 December 3, 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 February 29, 2008, the agency may notify the Division of Administrative Rules that it wants to make the PROPOSED RULE effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a CHANGE IN PROPOSED RULE in response to comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

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

PROPOSED RULES are governed by Section 63-46a-4; and Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page.

**Agriculture and Food, Regulatory
Services
R70-330
Raw Milk for Retail**

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 30528
FILED: 10/03/2007, 13:19

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These amendments are proposed in response to comments received from the public from 07/01/2007 through 07/31/2007.

SUMMARY OF THE RULE OR CHANGE: This amendment deals with: 1) a few housekeeping items such as spelling; 2) allowing existing bulk milk tanks to have a daily temperature log instead of being retrofitted with a temperature recording device; 3) changing the minimum raw milk cheese holding temperature to 35 degrees F instead of 55 degrees F; 4) allowing the dairy to conspicuously post the probation letter instead of automatically wasting milk when the dairy is placed on probation; 5) allowing the use of existing glass bottles which meet the warning statement requirements in the rule prior to 08/07/2007; and 6) modification of labeling guidelines for raw for retail milk.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: H.B. 311 (2007) and Section 4-3-2

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** There are no cost or savings to the state budget. Our compliance costs do not go up nor down due to these changes as compared to the rule that went into effect on 08/08/2007.
- ❖ **LOCAL GOVERNMENTS:** The rule places no responsibilities on local government. There should be no cost or savings to local government.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The rule will reduce the costs of temperature monitoring by \$1,000 for each raw milk dairy. It will reduce their losses due to milk not meeting the standards.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs are reduced by approximately \$1,000 per dairy. One dairy will now be able to use their existing supply of glass milk bottles. The compliance cost for their containers will not increase immediately as originally thought, but will be spread out over 5 years. There are no additional costs in these amendments.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will impose additional testing and equipment purchase requirements on those affected by this rule. These requirements are being implemented as per the legislative mandate of H.B. 311 (2007) and to minimize public health risks associated with consuming raw milk. The department's analysis of the fiscal impacts are covered in the accompanying comments for this

rule and are reflective of our cost estimates associated with implementation. Leonard M. Blackham, Commissioner (DAR NOTE: H.B. 311 (2007) is found at Chapter 165, Laws of Utah 2007, and was effective 04/30/2007.)

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

AGRICULTURE AND FOOD
REGULATORY SERVICES
350 N REDWOOD RD
SALT LAKE CITY UT 84116-3034, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Richard W Clark, Kathleen Mathews, or Don McClellan at the above address, by phone at 801-538-7150, 801-538-7103, or 801-538-7145, by FAX at 801-538-7126, 801-538-7126, or 801-538-7126, or by Internet E-mail at RICHARDWCLARK@utah.gov, kmathews@utah.gov, or dmcclellan@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 12/03/2007

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2007

AUTHORIZED BY: Leonard M. Blackham, Commissioner

**R70. Agriculture and Food, Regulatory Services.
R70-330. Raw Milk for Retail.
R70-330-1. Authority.**

A. Promulgated under the authority of Section 4-3-2.

B. Scope: This rule establishes the requirements for the production, distribution, and sale of raw milk for retail.

C. History: The Utah Department of Agriculture and Food, with the concurrence of the U.S. Food and Drug Administration (FDA) strongly advises against the consumption of raw milk. There are numerous documented outbreaks of milkborne disease involving Salmonella and Campylobacter infections directly linked to the consumption of un-pasteurized milk. Cases of raw milk associated campylobacteriosis have been reported in the states of Arizona, California, Colorado, Georgia, Kansas, Maine, Montana, New Mexico, Oregon, Pennsylvania, and Utah. An outbreak of salmonellosis, involving 50 cases was confirmed in Ohio in 2002. Recent cases of Escherichia coli (E. coli) 0157:H7, Listeria monocytogenes, and Yersinia enterocolitica infections have also been attributed to raw milk consumption.

R70-330-5. Sanitation and Operating Requirements.

A. Sanitation and operating requirements of all raw milk facilities shall be the same as that required on a Grade A dairy farm producing milk for pasteurization. Milk packaging areas and container washing areas at the raw milk facilities shall meet the requirements for Grade A pasteurized milk processing plants.

B. All milk shall be cooled to 50 degrees F. or less within one hour of the commencement of milking and to 41 degrees F. or less within two hours after the completion of milking.

C. The blend temperature after the first milking and subsequent milkings shall not exceed 50 degrees. Milk not handled in the manner required in this subsection and subsection "B" above shall be deemed adulterated and shall not be sold.

1. All raw for retail farm bulk milk tanks put into use on or after August 7, 2007 shall be equipped with an approved temperature-recording device, in addition to the indicating thermometer. Daily temperature logs shall be maintained for bulk milk tanks in use prior to August 7, 2007.

2. The recording device shall be operated continuously and be maintained in a properly functioning manner. Circular recording charts shall not overlap.

3. The recording device shall be verified as accurate every six (6) months and documented in a manner acceptable to the department.

4. Recording thermometer charts shall be maintained on the premises for a minimum of six (6) months and available to the department.

5. The recording thermometer shall be installed near the milk storage tank and accessible to the department.

6. The recording thermometer shall comply with the current technical specifications in the Pasteurized Milk Ordinance (PMO) for tank recording thermometers.

7. The recording thermometer charts shall properly identify the producer, date, and signature of the person removing the chart.

D. The temperature of the milk at the time of bottling shall not exceed 41 degrees F.

E. The sale and delivery of raw milk shall be made on the premise where the milk is produced and packaged, or at a self owned, properly staffed, retail store. Sanitation and construction requirements of the facilities used as self owned, retail stores shall be the same as those contained in the Wholesome Food Act, Title 4, Chapter 5. Transportation shall be done by the producer with no intervening storage, change of ownership, or loss of physical control. The temperature of the milk shall be maintained at 41 degrees F or below. Each display case shall have a properly calibrated thermometer, and a daily temperature log shall be maintained and made accessible to the Department.

F. Raw ~~[M]milk [block]brick~~ cheese, when held at no less than [5]5 degrees F. for 60 days or longer, may be sold at retail stores or for wholesale distribution, at locations other than the premise where the milk was produced.

G. Except as provided in part (F) above, all products made from raw milk including, but not limited to, cottage cheese, buttermilk, sour cream, yogurt, heavy whipping cream, half and half, butter, and ice cream shall not be allowed for sale in Utah.

H. Milk that has been heat treated, shall not be labeled as "Raw Milk" for retail sale.

I. Inspections of the self owned retail store shall be performed no less than four times per year to insure compliance with the sanitation, construction, and cooling requirements as set forth in the Wholesome Food Act, Title 4, Chapter 5.

R70-330-6. Testing.

A. Raw Milk for Retail Testing.

1. Unpackaged Raw Milk

a. The Department shall collect a representative sample of milk from each Raw for Retail farm bulk tank once each month. All samples shall be delivered to the State Dairy Testing Laboratory. Tests shall include those prescribed for Raw Milk for Pasteurization as found in the PMO, and in addition shall include added water, and/or other adulterants. Whenever a sample result fails to meet a standard in any of

the prescribed categories, a warning and probation letter shall be issued. The letter shall be prominently displayed at the dairy, so that customers will read it, until the next official sample results are received by the Department. Upon receipt of the official sample results, the dairy shall be taken off of probation or suspended. ~~[‡]The Raw for Retail permit shall be suspended until [such time as a compliant sample can be obtained]~~satisfactory sample results are received by the Department or a contracted approved independent laboratory, meeting PMO/Department standards, and until an inspection can be performed at the facility by the Department. All expenses for the re-sampling, re-testing, and re-inspecting shall be born by the producer as per the Department's fee schedule. At such time as the above criteria are met, the Raw for Retail permit shall be fully reinstated.

b. The standards for testing Somatic Cell Count (SCC) in raw milk for retail shall be, the Somatic Cell Count shall not exceed 350,000 cells per milliliter (ml) for cows, and not to exceed 1,000,000 ml for goats. The requirements for sampling, and the enforcement procedures for SCC shall be the same as those set forth in 1.a. above.

c. The bacterial standards shall be a Standard Plate Count (SPC) of no more than 20,000 per ml. and a coliform count of no more than 10 per ml.

2. Packaged Raw Milk sold on Premise

a. It shall be the responsibility of the Department to collect a representative sample of packaged raw milk once each month. All samples shall be delivered to the State Dairy Testing Laboratory. Tests shall include those prescribed for Grade "A" Pasteurized milk as found in the PMO. Whenever a sample result fails to meet a standard in any of the prescribed categories, a warning and probation letter shall be issued. The letter shall be prominently displayed at the dairy, so that customers will read it, until the next official sample results are received by the Department. Upon receipt of the official sample results, the dairy shall be taken off of probation or suspended. ~~[‡]The Raw for Retail permit shall be suspended until [such time as a compliant sample can be obtained]~~satisfactory sample results are received by the Department ~~[or a contracted approved independent laboratory]~~, meeting PMO/Department standards, and until an inspection can be performed at the facility by the Department. All expenses for the re-sampling, re-testing, and re-inspecting shall be born by the producer as per the Department's fee schedule. At such time as the above criteria are met, the Raw for Retail permit shall be fully reinstated. When a sample produces a violative Coliform count of more than 10 per mL, the count shall be enumerated and the sample transferred to appropriate laboratory facilities for pathogen testing.

3. Packaged Raw Milk sold at Self-Owned Retail Stores

a. It shall be the responsibility of the producer to have a third party sampler certified by the Department to collect a sample from each batch of milk delivered to the retail store by obtaining one container of milk at the store and submitting it to a certified third party laboratory to be tested for Antibiotic Drug Residue, Standard Plate Count (SPC) and Coliform Count. All containers of milk from the sampled batch shall be withheld from sale until the results of the tests are known. Whenever a sample result exceeds the standard in any of the prescribed categories, the producer shall not allow the milk to enter into commerce and shall dispose of the milk in a manner agreeable to the Department.

b. It shall be the responsibility of the Department to collect at the operator's expense or oversee collection of a representative sample of packaged raw milk once each month for screening for the presence of *Listeria monocytogenes*, *Salmonella*, *Campylobacter jejuni*, and *E. Coli* 0157:H7. All samples shall be delivered to the State Dairy Testing Laboratory or other laboratories approved by the department. Test results showing any growth or activity shall be considered positive. If

any of the screening test results are positive, then a confirmation test shall be performed.

Whenever any of the test results for any the prescribed pathogens are positive, the Raw for Retail permit shall be suspended until such time as a compliant sample can be obtained by the Department or contracted approved independent laboratory, meeting PMO/Department standards, and until an inspection can be performed at the facility by the Department. All expenses for the re-sampling, re-testing, and re-inspecting shall be born by the producer as per the Department's fee schedule. At such time as the above criteria are met, the Raw for Retail permit shall be fully reinstated.

c. A hazard analysis and critical control point (HACCP) System including a milk testing procedure for specified pathogens shall be required, and approved by the department, for all raw for retail dairies.

d. The HACCP System shall include plans and policies for initiating and conducting a recall in the event of a positive pathogen test result.

e. The HACCP System shall include the seven following principles:

- (i) Conduct hazard analysis
- (ii) Determine the critical control points
- (iii) Establish critical limits
- (iv) Establish monitoring procedures
- (v) Establish corrective actions
- (vi) Establish verification procedures
- (vii) Establish record-keeping and documentation procedures.

f. Prior to the implementation of a HACCP plan, develop, document and implement written Prerequisite Programs (PPs). The HACCP Plan, along with the PPs becomes the HACCP System. Steps to producing the HACCP Plan and System are found in the U.S. National Advisory Committee on Microbiological Criteria for Food (NACMCF) document.

g. The HACCP plan shall identify and address points in the production, distribution, transportation and retail display system where the milk may become contaminated or held in conditions that support the growth of pathogens.

(i) When tests are performed by an independent laboratory, quarterly pathogen testing verification shall be conducted by the Department.

(ii) Independent laboratories shall participate in an annual split sampling program testing the capacity of the pathogen methodology directed by this rule, and results sent to the Department.

h. The producer shall recall all milk from the failed batch that is already in commerce.

i. A database shall be kept and made available for review by both the Utah Department of Agriculture and Food and the Utah Department of Health of all customers, which shall include names, addresses, and telephone numbers of customers, dates of purchases and amounts of milk purchased.

j. If another agency's epidemiological investigation finds probable cause to implicate a raw for retail dairy in a ~~[milk-born]~~ milkborne illness outbreak, the Raw for Retail Permit ~~[shall]~~ may be suspended by the Department until such time as milk samples are pathogen free when analyzed by the Department or other Department approved testing laboratories, and until an inspection can be performed at the facility by a Compliance Officer from the Department.

B. Animal Health Tests.

1. General herd health examination. Prior to inclusion in a raw milk supply, and each six months thereafter, all animals shall be examined by a veterinarian. Each animal in the herd must be positively identified as an individual. This examination shall include an

examination of the milk by a method recommended by the PMO, shall include a statement of the udder health of each animal, and a general systemic health evaluation.

2. Tuberculosis testing. Prior to inclusion in a raw milk supply, each animal shall have been tested for tuberculosis within 60 days prior to the beginning of milk production and shall be retested for tuberculosis once each year thereafter. All positively reacting animals shall be sent to slaughter in accordance with R58-10 and R58-11.

3. Brucellosis testing. Each animal from which raw milk for retail is produced shall be positively identified as a properly vaccinated animal or shall be negative to the official blood test for brucellosis within 30 days prior to the beginning of each lactation. All positively reacting animals shall be sent to slaughter in accordance with R58-10 and R58-11. Goats and sheep shall be tested once each year for brucellosis with the official blood test and all positively reacting animals shall be sent to slaughter in accordance with R58-10 and R58-11.

4. Bulk tank milk testing. All raw milk for retail shall be bulk tank tested at least four times yearly with the brucella milk ring test. If such brucella ring test is positive for brucellosis, then each animal in the herd shall be tested with the official blood test and any reactors found shall be immediately sent to slaughter in accordance with R58-10 and R58-11.

C. Personnel Health.

Each employee of the dairy working in the milk handling operation shall obtain a valid medical examination health card signed by a physician and approved by the department once each year and shall hold a valid food handler's permit. No person shall work in a milk handling operation if infected from any contagious illness or if they have on their hands or arms any exposed infected cut or lesion. If there is any question in this regard, the department may ask for an additional certification from a physician that this person is free from disease which may be transmitted by milk.

R70-330-7. Packaging and Labeling.

A. Label Requirements.

The consumer containers for raw milk for retail shall be furnished by the permittee and shall be labeled with the following information:

1. The common or usual name of the product without grade designation. The common name for raw milk is "Raw Milk". If it is other than cow's milk, the word "milk" shall be preceded with the name of the animal, i.e., "Raw Goat Milk".

2. The name, address, and zip code of the place of production and packaging.

3. Proper indication of the volume of the product either on the container itself or on the label.

4. Nutritional labeling information when applicable.

5. The phrase: "Raw milk, no matter how carefully produced, may be unsafe.", shall appear on the label in a conspicuous place. The height of the smallest letter shall be no less than one ~~[half]~~ eighth inch.

6. The phrase: "Keep Refrigerated", shall also appear on the label with the height of the smallest letter no less than one eighth inch.

~~[6]~~7. The shelf life labeling of bottled raw milk shall include a pull date, expiration date, or best-if-used-by date, and shall be displayed and clearly visible on raw milk. Raw milk shall not be sold after the pull date, expiration date, or best-if-used-by date has expired, and the date shall not be more than nine days after packaging.

~~[7]~~8. Other provisions of labeling laws in effect in Utah [as they apply] relative to dairy/food products also apply. On the primary panel the words "raw" and "milk" shall be the same size lettering.

9. Glass bottles embossed, printed, or otherwise permanently labeled in accordance with this rule prior to August 7, 2007 and in use on or before August 7, 2007 shall be exempt from R-70-330-7-A(5).

B. Products not labeled as required shall be deemed misbranded.

KEY: dairy inspection, raw milk

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

Notice of Continuation: March 16, 2006

Authorizing, and Implemented or Interpreted Law: 4-3-2

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Agriculture and Food, Regulatory Services **R70-540** Food Establishment Registration

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 30527
FILED: 10/03/2007, 12:51

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These amendments are proposed in response to legislation (H.B. 145) passed by the 2007 Utah Legislature defining farmers markets. (DAR NOTE: H.B. 145 (2007) is found at Chapter 146, Laws of Utah 2007, and was effective 04/30/2007.)

SUMMARY OF THE RULE OR CHANGE: The definition of farmers markets promulgated by the legislature is added to the rule. Farmers markets are exempted from the registration fee, per the new legislation.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: H.B. 145 (2007), and Subsections 4-5-9(1)(a), 4-5-2(5), and 4-5-2(9)(b)(ii)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** Reduced revenue of approximately \$2,000 annually to the state. Savings from not having to inspect these facilities will be around \$700 annually.

❖ **LOCAL GOVERNMENTS:** The rule places no responsibilities on local government. There should be no cost or savings to them.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** There will be a \$20 per year savings to operators of farmers markets and fruit and vegetable stands, totaling about \$2,000 annually.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance costs are reduced. There are no additional costs in these amendments.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These changes provide some clarification to the existing rule regarding "Farmers Markets". The statutory change reduced or eliminated the fees for

registration of Farmers Markets and therefore results in a cost savings to those businesses. Leonard Blackham, Commissioner

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

AGRICULTURE AND FOOD
REGULATORY SERVICES
350 N REDWOOD RD
SALT LAKE CITY UT 84116-3034, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kathleen Mathews, Richard W Clark, or Doug Pearson at the above address, by phone at 801-538-7103, 801-538-7150, or 801-538-7144, by FAX at 801-538-7126, 801-538-7126, or 801-538-7169, or by Internet E-mail at kmathews@utah.gov, RICHARDWCLARK@utah.gov, or dpearson@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 12/03/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2007

AUTHORIZED BY: Leonard M. Blackham, Commissioner

R70. Agriculture and Food, Regulatory Services. R70-540. Food Establishment Registration.

R70-540-3. Scope.

(1) This rule provides procedures to register grocery stores, warehouses, and food processors and any other establishment meeting the definition of a food establishment as per Section 4-5-2([&]9).

(2) This rule:

(a) establishes definitions;

(b) requires an owner or operator of a food establishment to annually register with the department;

(c) categorizes food establishments;

(d) requires an inspection to determine compliance with R70-530 prior to granting a registration for new food establishments;

(e) establishes the requirements for: issuance, denial, conditional denial, revocation, suspension, and reinstatement for food establishments.

R70-540-4. Definitions.

For the purpose of this rule, the following words and phrases shall have the meanings indicated:

(a) "Department" means the Utah Department of Agriculture and Food, Division of Regulatory Services, or its representatives.

(b) "Farmer's Market" means ~~[a temporary or seasonal event at a specified location with multiple businesses that sell raw agricultural products and packaged processed foods.]~~ a market where producers of food products sell only fresh, raw, whole, unprocessed, and unprepared food items directly to the final consumer.

(c) "Food processing" means blending, mixing, packaging, acidifying, curing, drying or dehydrating, dry packing, thermal processing, reduced-oxygen packaging, cooking, baking, heating, grinding, churning, separating, distilling, extracting, slaughtering,

cutting, fermenting, eviscerating, preserving, freezing, chilling, or otherwise manufacturing food products.

(d) "Food Processor" means an establishment that uses food processes indicated in R70-540-4(b). Examples include, but are not limited to, scratch bakery, dietary supplement manufacturer, candy factory, bottling plant, cannery, retail meat department, flour mill, ice plant, and low acid food processing establishment.

(e) "Inspection" means an on-site review of a food establishment conducted by the Utah Department of Agriculture and Food to ensure compliance with all applicable laws and rules.

(f) "Letter of Authorization" is a written document from the owner of an inspected food establishment that states that another entity, that is a separate business, is using their food establishment to process a food product. This letter of authorization is valid for one calendar year.

This does not include employees of the food establishment or other businesses subcontracted by the food establishment that may temporarily use their facility for food processing activities.

(g) "Warehouse" means a business whose primary purpose is to store or hold food.

R70-540-5. Registration Categories.

(1) Each food establishment shall belong to only one of the four categories that have been established.

(2) A food establishment with multiple processing areas at the same physical address and under the same ownership will be evaluated and placed in a single category.

(3) A separate registration is required for each business owner operating under a letter of authorization.

(4) Grocery stores offering food as defined in Section 4-5-2(6) to consumers shall be categorized based on the following schedule:

TABLE I

	Inspectable Square Footage	Process Areas/Employees	Category
(a)	less than 1000	4 or fewer employees	small
(b)	1000-5000	limited food processing	medium
(c)	1000-50,000	2 or fewer food processing areas	large
(d)	greater than 50,000	more than 2 food processing areas	super

(5) Food or beverage manufacturing, processing, or packaging plants shall be categorized based on the following schedule:

TABLE II

	Inspectable Square Footage	Process Areas/Employees	Category
(a)	less than 1000	4 or fewer employees	small
(b)	1000-5000	limited food processing	medium
(c)	1000-20,000	2 or fewer food processing areas	large
(d)	greater than 20,000	more than 2 food processing areas	super

(6) Cold or dry storage warehouses or other types of food storage facilities shall be categorized based on the following schedule:

TABLE III

	Inspectable Square Footage	Category
(a)	Less than 1000	small
(b)	1000-5000	medium

(c)	1000-50,000	large
(d)	greater than 50,000	super

(7) A water vending machine owner or company shall be categorized as follows:

TABLE IV

	Number of Water Vending	Category
(a)	ten or fewer	small
(b)	eleven or more	medium

(c) as a grocery store as indicated in R70-540-5(4), Table I, (a)-(d) when their primary purpose is to vend water.

(8) For mobile vendors, each vehicle or truck that sells prepackaged, potentially hazardous food items shall be categorized as a small.

(9) A temporary or seasonal business at an individual location shall be typed as a grocery store as indicated in R70-540-5(4), Table I, (a)-(d).

(10) A farmer's market ~~[shall be typed as one grocery store as indicated in R70-540-5(4), Table I, (a)-(d)]~~ shall be exempt from the registration fee pursuant to Title 4-5(2)(9)(b).

(11) An establishment or operation calling itself a farmer's market, but which does not meet the definition of farmer's market in R70-540-4(b) shall be typed as one grocery store as indicated in R70-540-5(4), Table I, (a)-(d).

KEY: food inspection

Date of Enactment or Last Substantive Amendment: ~~[March 18, 2005]~~ **December 10, 2007**

Authorizing, and Implemented or Interpreted Law: 4-5-2(5); 4-5-2(9)(b)(ii); 4-5-9(1)(a)

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**Capitol Preservation Board (State),
Administration
R131-1
Procurement of Architectural and
Engineering Services**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 30591
FILED: 10/15/2007, 21:11

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is promulgated pursuant to Section 63C-9-301 which directs the board, except as provided in Subsection 63C-9-301(2), to exercise complete jurisdiction over the Capitol Hill complex, which includes establishing procedures for procurement of architectural and engineering services by the State Capitol Preservation Board.

SUMMARY OF THE RULE OR CHANGE: Section 63C-9-301 provides for and authorizes the State Capitol Preservation Board to adopt rules governing, administering, and regulating the State

Capitol Hill facilities and grounds. This rule was changed to meet the Government Records Access and Management Act (GRAMA) requirements.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63C-9-301

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There is no impact to the state budget. The changes in this rule are to make it consistent with the GRAMA requirements.
- ❖ LOCAL GOVERNMENTS: There is no impact to local government. The changes in this rule are to make it consistent with the GRAMA requirements.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There is no impact to small businesses or other persons. The changes in this rule are to make it consistent with the GRAMA requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no impact to persons. The changes in this rule are to make it consistent with the GRAMA requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The actions of the Capitol Preservation Board does not affect businesses. David Hart, AIA, Executive Director

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

CAPITOL PRESERVATION BOARD (STATE)
ADMINISTRATION
Room E110 EAST BUILDING
420 N STATE ST
SALT LAKE CITY UT 84114-2110, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sarah Whitney at the above address, by phone at 801-538-3074, by FAX at 801-538-3221, or by Internet E-mail at whitney@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 12/03/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2007

AUTHORIZED BY: David H. Hart, AIA, Executive Director

R131. Capitol Preservation Board (State), Administration.
R131-1. Procurement of Architectural and Engineering Services.

R131-1-2. Definitions.

- (1) Terms used in this rule are defined in Section 63-56-5.
- (2) In addition:
 - (a) "Executive Director" means the Executive Director of the Capitol Preservation Board or authorized designee.

(b) "Office" means the staff and facilities of the executive-director to the Board pursuant to Sections 63C-9-401, and 402.

(c) "Record" shall have the same meaning as defined in Section 63-2-103 of the Government Records Access and Management Act (GRAMA).

(d) "State" means the State of Utah.

R131-1-10. Disclosure of Submittals, Performance [Evaluation] Evaluations, References and Award.

(1) After the date established for the first submittal of information, a register of submitting architects and engineers shall be prepared and open to public inspection. Prior to award, submittals and modifications shall be shown only to procurement officials and other persons involved with the review and selection process who shall adhere to the requirements of GRAMA and this rule.

(2) The Executive Director shall, throughout the course of, and at the end of the contract, evaluate the performance of the architectural/engineering firm; verbally and in writing. There shall be at least one verbal review of the architectural/ engineering firm's performance on each project, prior to the project's completion. The Executive Director shall also advise the architectural/engineering firm, in writing, about their performance at the end of the project. If the firm wishes to respond to those evaluation(s), it may enter its response(s) in the file.

(3) Except as provided in this rule, submittals shall be open to public inspection after notice of the selection results.

(4) The classification of records as protected and the treatment of such records shall be as provided in Section R131-4-411.5.

(5) The Board finds that it is necessary to maintain the confidentiality of performance evaluations and reference information in order to avoid competitive injury and to encourage those persons providing the information to respond in an open and honest manner without fear of retribution. Accordingly, records containing performance evaluations and reference information are classified as protected records under the provisions of Subsection 63-2-304(6) and shall be disclosed only to those persons involved with the performance evaluation, the architect-engineer that the information addresses and persons involved with the review and selection of submittals. The Board or Executive Director may, however, provide reference information to other governmental entities for use in their procurement activities and to other parties when requested by the architect-engineer that is the subject of the information. Any other disclosure of such performance evaluations and reference information shall only be as required by applicable law.

(6) Notice. After the selection of the successful firm, notice of the selection shall be available in the principal office of the Executive Director in Salt Lake City, Utah and may be available on the Internet.

(7) Information Disclosed. The following shall be disclosed with the notice of selection:

- (a) the ranking of the firms;
 - (b) the names of the selection committee members;
 - (c) the final scores used by the selection committee to make the selection, except that the names of the individual scorers shall not be associated with their individual scores; and
 - (d) the written justification statement supporting the selection.
- (8) Information Classified as Protected. After due consideration, the following has been determined by the Board to impair governmental procurement proceedings or give an unfair

advantage to any person proposing to enter into a contract with the Board or Executive Director and shall be classified as protected records:

(a) the names of individual selection committee scorers in relation to their individual scores or rankings; and

(b) non-public financial statements.

R131-1-14. Performance Evaluations.

(1) The Executive Director shall evaluate the performance of the architectural/engineering firm.

(2) This evaluation shall become a part of the record of that architectural/engineering firm with the Board and the State. The architectural/engineering firm shall be provided a copy of its evaluation at the end of the project and may enter its response in the file.

(3) Confidentiality of the evaluation information shall be addressed as provided in Subsection R131-1-10(5).

[R131-1-14;R131-1-15. Alternative Procedures.

(1) The Board may revise or enhance the procurement process whenever the Executive Director determines that it would be in the best interest of the State. Examples of enhancements or changes which may be made include design competitions and outside representation on selection committees.

(2) Any exceptions to this rule shall be justified to and approved by the Board.

KEY: architects, capitol-preservation, engineers, procurement
Date of Enactment or Last Substantive Amendment: [~~March 13, 2000~~2007]

Notice of Continuation: February 16, 2005

Authorizing, and Implemented or Interpreted Law: 63C-9-101 et seq.

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**Capitol Preservation Board (State),
Administration
R131-4
Procurement of Construction**

NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE NO.: 30590

FILED: 10/15/2007, 20:43

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is promulgated pursuant to Subsection 63C-9-301(4) which directs the board to adopt procurement rules substantially similar to the requirements of the Utah Procurement Code, Title 63, Chapter 56.

SUMMARY OF THE RULE OR CHANGE: Section 63C-9-301 provides for and authorizes the State Capitol Preservation Board to adopt rules governing, administering, and regulating the State Capitol Hill facilities and grounds. This rewritten rule retains the information for the procurement of construction rule and incorporates substantially similar requirements of the Utah

Procurement Code, meets the Government Records Access and Management Act (GRAMA) requirements, provides increased economy in Capitol Preservation Board procurement activities, and fosters effective broad-based competition within the free enterprise system.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63C-9-301

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: Pursuant to state statute, the board is implementing regulatory requirements that currently exist. The other changes in the rule have no fiscal impact because they relate to how items are procured and not the actual cost of the items.

❖ LOCAL GOVERNMENTS: Pursuant to state statute, the board is implementing regulatory requirements that currently exist. The other changes in the rule have no fiscal impact because they relate to how items are procured and not the actual cost of the items.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Pursuant to state statute, the board is implementing regulatory requirements that currently exist. The other changes in the rule have no fiscal impact because they relate to how items are procured and not the actual cost of the items.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Pursuant to state statute, the board is implementing regulatory requirements that currently exist. The other changes in the rule have no fiscal impact because they relate to how items are procured and not the actual cost of the items.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The actions of the Capitol Preservation Board do not affect businesses. David Hart, AIA, Executive Director

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

CAPITOL PRESERVATION BOARD (STATE)
ADMINISTRATION
Room E110 EAST BUILDING
420 N STATE ST
SALT LAKE CITY UT 84114-2110, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sarah Whitney at the above address, by phone at 801-538-3074, by FAX at 801-538-3221, or by Internet E-mail at swhitney@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 12/03/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2007

AUTHORIZED BY: David H. Hart, AIA, Executive Director

R131. Capitol Preservation Board (State), Administration.**[R131-4. Procurement of Construction.****R131-4.1. Purpose and Authority.**

— In accordance with the Utah procurement code, this rule establishes procedures for the procurement of construction by the Capitol Preservation Board (Board).

R131-4.2. Definitions.

— (1) In addition to terms defined in the Utah procurement code:

— (a) "Acceptable Bid Security" means either:

— (i) A bid bond which meets the requirements of this rule; or

— (ii) A cashier's or certified check.

— (b) "Cost Data" means factual information concerning details; including expected monetary values for labor, material, overhead, and other pricing components which the contractor has included, or will include as part of performing the contract.

— (c) "Executive Director" means the Executive Director of the Board, including, unless otherwise stated, his duly authorized designee.

— (d) "Emergency Condition" means a situation which creates a threat to public safety, health, or welfare that is caused by flood, epidemic, riot, natural disaster, war, etc. that results in or has the likely potential to result in destruction of property, building or equipment failures; or any other urgent condition proclaimed by an authorized government official.

— (e) "Established Market Price" means a current price, resulting from the usual and ordinary course of trade between buyers and sellers, which can be substantiated from sources independent of the manufacturer or supplier.

— (f) "Price Data" means factual information concerning prices for supplies, services, or construction substantially identical to those being procured. Prices in this definition refer to offered or proposed selling prices and includes data relevant to both prime and subcontract prices.

— (g) "Procuring Agencies" means, individually or collectively, the state, the Board, the owner and a using agency, if any.

— (h) "Products" means and includes materials, systems and equipment that are components of a construction project.

— (i) "Proprietary Specification" means a specification which uses a brand name to describe the standard of quality, performance, and other characteristics needed to meet the procuring agencies' requirements.

— (j) "Specification" means terms that describe the physical, functional or performance characteristics, of a supply or construction item. It may include requirements for inspecting, testing, or the preparation of supply or construction items for delivery or use in the construction process.

— (k) "State" means the State of Utah.

— (l) "Subcontractor" means any person who has a contract with any person other than the procuring agency to perform any portion of the work on a project.

— (m) "Work" means the furnishing of labor or materials, or both.

R131-4.3. Competitive Sealed Bidding.

— (1) General. Competitive sealed bidding, including multi-step sealed bidding, shall be an allowable method for the procurement of construction when a single prime contractor is used. Other methods may be considered as extenuating circumstances occur.

— (2) Public Notice to Contractors of Invitations For Bids.

— (a) Public notice to contractors of Invitations For Bids shall be publicized in a newspaper having general circulation in the state; and may be publicized in any or all of the following as determined appropriate:

— (i) In a newspaper having general circulation in the area in which the project is located;

— (ii) In appropriate trade publications;

— (iii) By electronic means; or

— (iv) By any other method determined appropriate.

— (b) A copy of the public notice shall be available for public inspection at the principal office of the Board in Salt Lake City, Utah.

— (3) Content of the Public Notice to Contractors for Invitation For Bids. The public notice to Contractors for Invitation For Bids (herein referred to as the "Notice") shall include the following:

— (a) The closing time and date for the submission of bids;

— (b) The address of the office to which bids are to be delivered;

— (c) The address where the bidding documents may be obtained;

— (d) A brief description of the project;

— (e) Notice of any mandatory pre-bid meetings.

— (4) Bidding Time. Bidding time is the period of time between the date of the first publication of the notice and the final date and time set for the receipt of bids by the Board. Bidding time shall be set to provide bidders with reasonable time to prepare their bids, and shall be not less than ten calendar days, unless a shorter time is deemed necessary for a particular project as determined in writing by the Executive Director.

— (5) Proposal Form. The bidding documents for an Invitation For Bids shall include a proposal form having a space in which the bid prices shall be inserted and which the bidder shall sign and submit along with all other required documents and materials.

— (6) Addenda to the Bidding Documents.

— (a) Addenda shall be provided to all entities known to have obtained bidding documents for a project.

— (b) Addenda shall be distributed within a reasonable time to allow all prospective bidders to consider them in preparing bids. If the time set for the final receipt of bids will not permit appropriate consideration, the bidding time shall be extended to allow proper consideration of the addenda. The person responsible for the issuance of bidding documents shall confirm in writing, any addenda communicated to bidders by telephone.

— (7) Pre-Opening Modification or Withdrawal of Bids.

— (a) Bids may be modified or withdrawn by the bidder by written notice delivered to the place designated in the notice when bids are to be delivered prior to the time set for the opening of bids.

— (b) Bid security, if any, shall be returned to the bidder when withdrawal of the bid is permitted.

— (c) All documents relating to the modification or withdrawal of bids shall be made a part of the appropriate project file.

— (8) Late Bids, Late Withdrawals, and Late Modifications. Any bid, withdrawal of bid, or modification of bid received after the time and date set for the submission of bids at the place designated in the notice shall be deemed to be late and shall not be considered, unless it is the only bid received in which case it may be considered.

— (9) Receipt, Opening, and Recording of Bids.

— (a) Upon receipt, all bids and modifications shall be stored in a secure place until the time for bid opening.

— (b) Bids and modifications shall be opened publicly, in the presence of one or more witnesses, at times and places designated in the notice. The names of the bidders, the bid price, and other information deemed appropriate by the Executive Director shall be read aloud or otherwise made available to the public. After the bid opening, the bids shall be tabulated or a bid abstract made. The name and address of at least one witness shall be recorded in the official minutes of the bid opening meeting. The opened bids shall be available for public inspection.

—(10) Mistakes in Bids:

—(a) If a mistake is attributable to an error in judgment, the bid may not be corrected. Bid correction or withdrawal by reason of an inadvertent, nonjudgmental mistake is permissible but only at the discretion of the Executive Director and only to the extent it is not contrary to the interest of the Board or the fair treatment of other bidders.

—(b) When it appears from a review of the bid that a mistake may have been made, the Executive Director may request the bidder to confirm the bid in writing. Situations in which confirmation may be requested include obvious, apparent errors on the face of the bid or a bid lower than the other bids submitted that appears to have neglected some part of the project.

—(c) Mistakes at Bid Opening: The Director shall weigh the types of factors described below in which mistakes in bids are discovered after opening but before award. After the bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the procuring agencies or fair competition shall be permitted. These include:

—(i) Minor formalities are matters which, at the discretion of the Board or Executive Director, are found to be of form rather than substance evident from the bid document, or are insignificant mistakes that can be waived or corrected without prejudice to other bidders and with respect to which, in the Executive Director's discretion, the effect on price, quantity, quality, delivery, or contractual conditions is not or will not be significant. The Executive Director may waive minor formalities or allow the bidder to correct them depending on which is in the best interest of the procuring agencies. Examples include the failure of a bidder to:

—(A) Sign the bid, but only if the unsigned bid is accompanied by other material indicating the bidder's intent to be bound;

—(B) Acknowledge receipt of any addenda to the Invitation For Bids, but only if it is clear from the bid that the bidder received the addenda and intended to be bound by its terms; the addenda involved had a negligible effect on price, quantity, quality, or delivery; or the bidder acknowledged receipt of the addenda at the bid opening.

—(ii) A determination by the Executive Director that the mistake and the intended bid are clearly evident on the face of the bid document. The bid shall be corrected to reflect the intent of the bidder, and may not be withdrawn. Examples of mistakes that may be clearly evident on the face of the bid document are typographical errors, errors in extending unit prices, transposition errors, and arithmetical errors.

—(iii) Approval to withdraw a low bid if the Executive Director determines a mistake is clearly evident on the face of the bid document but the intended amount of the bid is not similarly evident, or if the bidder submits to the Board proof of evidentiary value which, in the Executive Director's best judgment, clearly and convincingly demonstrates that a mistake in calculation or estimation was made.

—(d) No bidder shall be allowed to correct a mistake or withdraw a bid because of a mistake discovered after award of the contract; provided, that mistakes of the types described in this rule may be corrected or the award of the contract canceled if the Executive Director determines that correction or cancellation will not prejudice the interests of the procuring agencies or fair competition.

—(e) The Executive Director shall approve in writing, all requests to correct or withdraw a bid, which may be finalized after the receipt of the bidder's written request for correction or withdrawal.

—(11) Bid Evaluation and Award. Except as provided below, the contract may be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the bidding documents.

—(12) Cancellation of Invitations For Bids; Rejection Of Bids in Whole or In Part.

—(a) Although issuance of an Invitation For Bids does not compel award of a contract, the Board may cancel an Invitation For Bids or reject bids received in whole or in part when the Executive Director determines that it is in the best interests of the state to do so.

—(b) The reasons for cancellation or rejection shall be documented and made a part of the project file and available for public inspection. Any determination of nonresponsibility of a bidder or offeror shall be made by the Executive Director in writing. An unreasonable failure of the bidder or offeror to promptly supply information regarding responsibility may be grounds for a determination of nonresponsibility. Any bidder or offeror determined to be nonresponsible shall be provided with a copy of the written determination within a reasonable time. Information furnished by a bidder or offeror pursuant to any inquiry concerning responsibility shall not be disclosed to the public by the Board without the prior written consent of the bidder or offeror.

R131-4.4. Multi-Step Sealed Bidding.

—(1) Description. Multi step sealed bidding is a two phase process. In the first phase, bidders shall submit unpriced technical offers to be evaluated. In the second phase, bidders whose technical offers are determined to be acceptable during the first phase shall be invited to submit price bids.

—(2) Use. Multi step sealed bidding may be used:

—(a) to invite and evaluate technical offers or statements of qualifications to determine their acceptability to fulfill the purchase description requirements;

—(b) to conduct discussions of the technical offer, obtain supplemental information or amend technical offers or the purchase description prior to soliciting priced bids; or

—(c) to award the contract to the lowest responsive and responsible bidder in accordance with the competitive sealed bidding procedures.

—(3) Pre Bid Conferences In Multi-Step Sealed Bidding. The Board of Executive Director may hold one or more pre bid conferences prior to the submission of unpriced technical offers or at any time during the evaluation of the unpriced technical offers.

—(4) Procedure for Phase One of Multi-Step Sealed Bidding.

—(a) Public Notice. Multi step sealed bidding shall be initiated by a Public Notice to Contractors for Invitation for Bids.

—(b) Invitation for Bids. The multi step Invitation for Bids shall state:

—(i) that unpriced technical offers are requested;

—(ii) that either price bids are to be submitted at the same time as unpriced technical offers; or in a separate sealed envelope;

—(iii) that it is a multi step sealed bid procurement, and priced bids will be considered only in the second phase and only from those bidders whose unpriced technical offers are found acceptable in the first phase;

—(iv) the criteria to be used in the evaluation of the unpriced technical offers;

—(v) that the Executive Director may conduct oral or written discussions of the unpriced technical offers; or

—(vi) that bidders may designate those portions of the unpriced technical offers which contain trade secrets or other proprietary data which are to remain confidential. If the Offeror selected for award has requested in writing the non disclosure of trade secrets and other proprietary data so identified, the Executive Director shall examine the request in the proposal to determine its validity prior to award of the contract. If the parties do not agree as to the disclosure of data in the contract, the Executive Director shall inform the offeror in writing what

portion of the proposal will be disclosed and that, unless the offeror withdraws the proposal, it will be disclosed.

— (c) Amendments to the Invitation for Bids. After receipt of unpriced technical offers, amendments to the Invitation for Bids shall be distributed only to bidders who submitted unpriced technical offers and they shall be allowed to submit new unpriced technical offers or to amend those submitted. The Executive Director may amend the proposed procurement, cancel the Invitation for Bids in accordance with this rule, and may issue a new Invitation for Bids.

— (d) Receipt and Handling of Unpriced Technical Offers. Proposals shall be opened publicly, identifying only the names of the offerors. After the date established for receipt of proposals, a register of proposals shall be open to public inspection and shall include for all proposals the name of each offeror, the number of addenda received, if any, and a description sufficient to identify the item offered. Proposals of the successful offeror shall be open to public inspection for a period of 90 days after award of the contract. Proposals of offerors who are not awarded contracts shall not be open to public inspection.

— (e) Evaluation of Unpriced Technical Offers. The unpriced technical offers submitted by contractors interested in bidding shall be evaluated by an Evaluation Committee selected by the Board, which shall determine a short list of contractors for participation in the second phase. Contractors will be selected according to formula scores of the technical offers, using board criteria. If in the Evaluation Committee's opinion, the variation in scores are so great that the lower scored contractor's qualifications are inferior to those who scored higher, the Evaluation Committee may choose to select a short list of less than eight, but no less than three.

— (f) Discussion of Unpriced Technical Offers. Discussion of technical offer may be conducted with the bidder. During the course of discussions, any information derived from one unpriced technical offer shall not be disclosed to any other bidder. Once discussions are begun, only a bidder who has been notified that its technical offer is acceptable and has been short listed may submit supplemental information modifying or otherwise amending its technical offer until the closing date established by the Executive Director at the request of the Executive Director or upon the bidder's own initiative.

— (g) Notice of Unacceptable Unpriced Technical Offer. When the Executive Director determines a bidder's unpriced technical offer to be unacceptable, he shall notify the bidder, who shall not be given an additional opportunity to supplement technical offers.

— (5) Mistakes During Multi-Step Sealed Bidding. Mistakes may be corrected or bids may be withdrawn during phase one:

— (a) before unpriced technical offers are considered;

— (b) after any discussions have commenced under this rule, or

— (c) when responding to any amendment of the Invitation for Bids. Otherwise mistakes may be corrected or withdrawal permitted in accordance with this rule.

— (6) Carrying Out Phase Two.

— (a) Initiation. Upon the completion of phase one, the Executive Director shall either:

— (i) open price bids submitted in phase one (if price bids were required to be submitted) from bidders whose unpriced technical offers were found to be acceptable; provided, however, that the offers have remained unchanged, and the Invitation for Bids has not been amended subsequent to the submittal of the bids; or

— (ii) invite each acceptable bidder to submit a price bid in accordance to schedule set by the Executive Director.

— (b) Conduct. Phase two shall be conducted as any other competitive sealed bid procurement except:

— (i) as specifically set forth in this rule; and

— (ii) no public notice will be provided about this invitation to submit.

R131-4.5. Competitive Sealed Proposals.

— (1) Considerations for Use. Competitive sealed proposals may be used, if:

— (a) there may be a need for price and service negotiation;

— (b) there may be a need for negotiation during performance of the contract;

— (c) the relative skills or expertise of the offerors should be evaluated;

— (d) cost is secondary to the characteristics of the product or service sought; or

— (e) the conditions of the service, product or delivery conditions are unable to be sufficiently described in the invitation for Bids.

— (2) Determinations.

— (a) Except as provided in the Utah procurement code, before a contract may be entered into by competitive sealed proposals, the Executive Director shall determine in writing that the use of competitive sealed proposals is more advantageous for state purposes than competitive sealed bidding.

— (b) Determinations may be by category of service or construction items. The Executive Director may modify or revoke a determination and may review previous determinations for current applicability at any time.

— (3) Public Notice. Public notice of the Request for Proposals shall be given in the same manner provided for giving public notice of an Invitation for Bids, as provided by this rule.

— (4) Proposal Preparation Time. Proposal preparation time is the period of time between the date of first publication of the notice and the date and time set for the receipt of proposals by the Board. For each project, a proposal preparation time frame shall be included to provide offerors a reasonable time to prepare their proposals, not less than ten calendar days, unless a shorter time is deemed necessary.

— (5) Form of Proposal. The Request for Proposals may state the manner in which proposals are to be submitted, including any forms for that purpose.

— (6) Addenda to Requests for Proposals. Addenda to the requests for proposals may be made in the same manner provided for addenda to the bidding documents in connection with Invitations for Bids by this rule. Addenda may also be issued to qualified proposers after the deadline for proposals and prior to the deadline for best and final offers.

— (7) Modification or Withdrawal of Proposals. Proposals may be modified or withdrawn prior to the established due date. For the purposes of this rule, the established due date will be either the date and time announced for receipt of proposals or receipt of modifications to proposals, if any; or if discussions have begun, it is the date and time by which best and final offers must be submitted, provided that only offerors who submitted proposals by the time announced for receipt of proposals may submit best and final offers.

— (8) Late Proposals, Late Withdrawals, or Late Modifications: Except for modifications allowed pursuant to negotiation, any proposal, withdrawal, or modification received at the place designated for receipt of proposals after the established due date as defined in this rule shall be deemed to be late and shall not be considered unless there are no other offerors.

— (9) Receipt and Registration of Proposals.

— (a) Proposals shall be opened publicly, and shall only identify the names of the offerors in public. Proposals and modifications shall be held in a secure place until the established due date. After the date established for receipt of proposals, a register of proposals shall be open

to public inspection and shall include for all proposals the name of each offeror, the number of addenda received, if any, and a description sufficient to identify the supply, service, or construction item offered. Prior to award, proposals and modifications shall be shown only to procurement and other officials involved with the review and selection of proposals.

— (b) Proposals of the successful offeror shall be open to public inspection after award of the contract. Proposals of offerors who are not awarded contracts shall not be open to public inspection.

— (c) If the offeror selected for award has requested in writing the non-disclosure of trade secrets and other proprietary data so identified, the Executive Director shall examine the request in the proposal to determine its validity prior to award of the contract. If the parties do not agree as to the disclosure of data in the contract, the Executive Director shall inform the offeror in writing what portion of the proposal will be disclosed and that, unless the offeror withdraws the proposal, it will be disclosed.

— (10) Evaluation of Proposals.

— (a) Evaluation Factors in the Request for Proposals. The Request for Proposals shall state all of the evaluation factors and their relative importance including price.

— (b) Evaluation. The evaluation shall be based on the evaluation factors set forth in the request for proposals. Numerical rating systems may be used but are not required.

— (c) Classifying Proposals. Proposals shall be initially classified as:

— (i) Acceptable;

— (ii) Potentially acceptable, that is, having the possibility of being made acceptable; or

— (iii) Unacceptable. Offerors whose proposals are unacceptable shall be so notified.

— (11) Proposal Discussions with Individual Offerors.

— (a) "Offerors" means only those persons submitting proposals that are acceptable or potentially acceptable, the number of which may be limited to no less than the two best proposals. This shall not include persons who submitted unacceptable proposals.

— (b) Purposes of Discussions. Discussions may be held in order to:

— (i) review the procuring agency's requirements and the offerors' proposals; and

— (ii) Facilitate the development of a contract that will be most advantageous to the board, taking into consideration price and other evaluation factors listed in the request for proposals.

— (c) Conduct of Discussions. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussions and revisions of proposals. There shall be no disclosure of any information derived from proposals submitted by competing offerors. Any oral clarification or change of a proposal shall be reduced to writing by the offeror.

— (12) Best and Final Offers. The Executive Director shall establish a common time and date to submit best and final offers. These shall be submitted only once unless the Executive Director makes a written determination before each subsequent round of best and final offers that another round is in the best interest of the state, and additional discussions will be conducted or the requirements may be changed. Otherwise, no discussion of, or changes in the best and final offers shall be allowed prior to award. If offerors do not submit a notice of withdrawal or another best and final offer, their immediate previous offer will be construed as their best and final offer.

— (13) Mistakes in Proposals.

— (a) Mistakes discovered before the established due date. An offeror may correct mistakes discovered before the time and date

established for receipt of proposals by withdrawing or correcting the proposal as provided in this rule.

— (b) Confirmation of proposal. When it appears from a review of the proposal before an award is made, that a mistake has been made, the offeror shall be asked to confirm the proposal. If the offeror alleges that a mistake occurred, the proposal may be corrected or withdrawn during any discussions that are held or the conditions listed below, by this rule, are met.

— (c) Mistakes discovered after receipt but before award. This subsection defines procedures to be applied in four situations in which mistakes in proposals may be discovered after receipt of proposals but before award.

— (i) During discussions, prior to best and final offers. Once discussions are commenced with any offeror or after best and final offers are requested, any offeror may freely correct any mistake by modifying or withdrawing the proposal until the time and date set for receipt of best and final offers.

— (ii) Minor formalities. Minor formalities, unless otherwise corrected by an offeror as provided in this section, shall be treated in accordance with this rule.

— (iii) Corrections of mistakes. If discussions are not held or if the best and final offers upon which award will be made have been received, mistakes may be corrected and the correct offer considered only if:

— (A) the mistakes and the correct offer are clearly evident on the face of the proposal in which event the proposal may not be withdrawn;

— (B) the mistake is not clearly evident on the face of the proposal, but the offeror submits proof of evidentiary value which clearly and convincingly demonstrates both the existence of a mistake and the correct offer, and the correction of the mistake would not be contrary to the fair and equal treatment of other offerors.

— (iv) Withdrawals of proposals. If discussions are not held, or if the best and final offers upon which award will be made have been received, offeror may be permitted to withdraw a proposal if:

— (A) a mistake was made that is clearly evident on the face of the proposal and the intended amount of the offer is not evident; or

— (B) the offeror submits proof of evidentiary value which clearly and convincingly demonstrates that a mistake was made that it does not demonstrate the correct offer or, if the correct offer is also demonstrated, to allow correction on the basis the proof provided would not be contrary to the fair and equal treatment of other offerors.

— (d) Mistakes discovered after award. A offeror shall be bound to all terms, conditions and statements in offeror's proposal after award of the contract.

— (14) Award.

— (a) Award Documentation. A written determination shall be made showing the basis on which the award was found to be most advantageous to the state based on the factors set forth in the Request for Proposals.

— (b) One proposal received. If only one proposal is received in response to a Request for Proposals, the Executive Director may make an award or, if time permits, resolicit for the purpose of obtaining additional competitive sealed proposals.

— (15) Publicizing Awards. After a contract is entered into, notice of award shall be available in the principal office of the Board.

R131-4-6. Bids Over Budget.

— (1) In the event all bids for a construction project exceed available funds as certified by the appropriate fiscal officer, and the low responsive and responsible bid does not exceed those funds by more than 5%, the Executive Director may, where time or economic

considerations preclude resolicitation of work of a reduced scope, negotiate an adjustment of the bid price, including changes in the bid requirements, with the low responsive and responsible bidder in order to bring the bid within the amount of available funds.

—(2) As an alternative to the procedure authorized in (1) above, when all bids for a construction project exceed available funds as certified by the Executive Director, and the Executive Director finds that due to time or economic considerations the re-solicitation of a reduced scope of work would not be in the interest of the state, the Executive Director may negotiate an adjustment in the bid price using one of the following methods:

—(a) reducing the scope of work in specific subcontract areas and supervising the re-bid of those subcontracts by the low responsive and responsible bidder;

—(b) negotiating with the low responsive and responsible bidder for a reduction in scope and cost with the value of those reductions validated in accordance with this rule; or

—(c) revising the contract documents and soliciting new bids only from bidders who submitted a responsive bid on the original solicitation. This re-solicitation may have a shorter bid response time than may have been otherwise required.

—(3) The use of one of the alternative procedures provided for in subsection (2) must provide for the fair and equitable treatment of bidders.

—(4) The Executive Director's written determination, including a brief explanation of the basis for the decision shall be included in the contact file.

—(5) This rule does not restrict in any way, the right of the Executive Director to use any emergency or sole source procurement provisions, or any other applicable provisions of State law or rule which may be used to award the construction project.

R131-4-7. Small Purchases.

—(1) Procurements of \$100,000 or Less.

—(a) The Executive Director may make procurements of construction estimated to cost \$100,000 or less by soliciting at least two firms to submit written quotations.

—(b) The names of the persons submitting quotations and the date and amount of each quotation shall be recorded and maintained as a public record by the Board.

—(2) Procurements of \$25,000 or Less. The Executive Director may make small purchases of construction of \$25,000 or less in any manner that he shall deem to be adequate and reasonable.

R131-4-8. Sole Source Procurement.

—(1) Conditions for Sole Source Procurement.

The procedures concerning sole source procurement in this rule may be undertaken if, in the discretion of the Executive Director, a product or service is more reasonably available only from a single source. Examples of circumstances which could also necessitate sole source procurement are:

—(a) compatibility of product design, equipment, accessories, or replacement parts is of paramount consideration;

—(b) trial use or testing; and

—(c) procurement of public utility services.

—(2) Written Determination. The determination as to whether a procurement shall be a sole source shall be made by the Executive Director and shall be in writing.

—(3) Negotiation in Sole Source Procurement. The Executive Director shall negotiate with the sole source vendor for considerations of price, delivery, and other terms.

R131-4-9. Emergency Procurements.

—(1) Authority to Make Emergency Procurements.

—(a) The Board Executive Director shall make emergency procurements of construction when, in the Executive Director's determination, an emergency condition exists or will exist and the need cannot be met through normal procurement methods.

—(b) The competitive sealed bidding process or the request for proposal process shall be considered unsuccessful when all bids received pursuant to an Invitation For Bids are nonresponsive, unreasonable, noncompetitive, or when the low bid exceeds available funds as certified by the appropriate fiscal officer, and time or other circumstances will not permit the delay required to resolicit competitive sealed bids. If an unsuccessful attempt to use competitive sealed bidding occurs, an emergency procurement may be made.

—(3) An emergency procurement process may be used to assure that required goods and services are available to meet a given need, and the Executive Director may employ such competitive methods as are practicable and in the best interest of the state.

—(6) Specifications. For emergency procurements, the Executive Director may use any appropriate specifications without being subject to the requirements of this rule.

—(7) Required Construction Contract Clauses. For emergency procurements, the Executive Director may modify or exclude construction contract clauses otherwise required by this rule.

—(8) Written Determination. The Executive Director shall make a written determination stating the basis for each emergency procurement and for the selection of the particular source. This determination shall be included in the project file.

R131-4-10. Qualifications of Contractors.

—(1) Pre-Bidding Requirements. The following documents must be on file with the Board before the bidding documents for a project may be issued to prospective bidders.

—(a) If the type of work involved with the project requires a contractor's license, a photocopy of the bidder's current Utah contractor's license showing date issued, expiration date, bid limit amount or similar restriction, and the class of work for which licensed;

—(b) A statement from the bidder's surety stating that it will bond the bidder for an amount at least equal to the estimated cost of the contract as determined by the Executive Director. This requirement can be met by having the surety file an annual statement with the Board showing the bonding limit it has established for the bidder.

—(2) A form of surety statement and, when applicable, a form for prequalification, are available at the principal office of the Board.

—(3) Project Specific Requirements. The Board may include additional qualification requirements in the bidding documents as may be appropriate for a specific project.

R131-4-11. Acceptable Bid Security; Performance and Payment Bonds.

—(1) Application. This section shall govern bonding and bid security requirements for the award of construction contracts by the Board in excess of \$50,000; although acceptable bid security and performance and payment bonds may be required on any construction contract regardless of size. Bidding Documents shall state whether acceptable bid security, performance bonds or payment bonds are required.

—(2) Acceptable Bid Security.

—(a) Invitations for Bids on construction contracts shall require the submission of acceptable bid security in an amount equal to at least five percent of the bid, at the time the bid is submitted. If a contractor fails

to accompany its bid with acceptable bid security, the bid shall be deemed nonresponsive, unless this failure is found to be nonsubstantial as hereinafter provided.

—(b) If acceptable bid security is not furnished, the bid shall be rejected as nonresponsive, unless the failure to the comply is determined by the Executive Director to be nonsubstantial. Failure to submit an acceptable bid security in connection with an Invitation For Bids shall be deemed nonsubstantial where only one bid is received, and there is not sufficient time to rebid the contract.

—(3) Payment and Performance Bonds. Payment and performance bonds are required for all contracts in excess of \$50,000, in the amount of 100% of the contract price. These bonds shall cover the procuring agencies and shall be delivered by the contractor to the Board at the same time the contract is executed. If a contractor fails to deliver the required bonds, the contractor's bid shall be found nonresponsive and its bid security shall be forfeited.

—(4) Forms of Bonds. Bid Bonds, Payment Bonds and Performance Bonds must be from sureties meeting the requirements of this rule and must be on the exact bond forms most recently adopted by the Board and on file with the Board.

—(5) Surety firm requirements. All surety firms must be authorized to do business in the State of Utah and be listed in the U.S. Department of the Treasury Circular 570, Companies Holding Certificates of Authority as Acceptable Securities on Federal Bonds and as Acceptable Reinsuring Companies for an amount not less than the amount of the bond to be issued. A co-surety may be utilized to satisfy this requirement.

—(6) Waiver. The Executive Director may waive the bonding requirement if he finds that bonds cannot be reasonably obtained for the work involved, which finding shall be documented in the project files.

R131-4-12. Methods of Construction Contract Management.

—(1) Application. This section contains provisions applicable to the selection of the appropriate type of construction contract management.

—(2) Flexibility. The Executive Director may devise an appropriate construction contract management method for a particular project that will best meet the needs of the Board. The methods outlined in this rule are not an exclusive list.

—(3) Selection. The Executive Director shall be expected to consider the results achieved on similar projects in the past and the methods used, other appropriate and effective methods, and how a method could be adapted or combined to meet the needs of the state.

—(4) Criteria. Before choosing the construction contracting method, some factors that may be considered include:

- (a) when the facility must be ready for occupancy;
 - (b) the type of project, for example, housing, offices, labs, heavy or specialized construction;
 - (c) the extent to which the requirements of the occupants are known;
 - (d) the location of the project;
 - (e) the size, scope, complexity, and economics of the project;
 - (f) the amount and type of financing available for the project, including whether the budget is fixed, the source of funding, general or special appropriation, federal assistance moneys, general obligation bonds or revenue bonds;
 - (g) the availability, qualification, experience, and available time of assigned State personnel to the project;
 - (h) the availability, experience and qualifications of outside consultants and contractors.
- (5) General Descriptions.

—(a) Application of Descriptions. The following descriptions are provided for the more common contracting methods. The methods described are not mutually exclusive and may be combined on a project. These descriptions are not intended to be fixed for all construction projects of the State. In each project, these descriptions may be adapted to fit the circumstances of that project.

—(b) Single Prime Contractor. The single prime contractor method is typified by one business entity acting as a general contractor with the state to complete an entire construction project in accordance with drawings and specifications provided by the state within a defined time period. Generally the drawings and specifications are prepared by an architectural or engineering firm under contract with the state. Further, while the general contractor may take responsibility for successful completion of the project, much of the work may be performed by specialty contractors with whom the prime contractor has entered into subcontracts.

—(c) Multiple Prime Contractors. Under this method, the Board or the Board's agent shall contract directly with a number of specialty contractors to complete portions of the project in accordance with the Board's drawings and specifications. The Board or its agent may have primary responsibility for successful completion of the entire project, or the contracts may provide that one of the multiple prime contractors shall have this responsibility.

—(d) Design Build. In a design build project, a business entity shall contract directly with the Board to meet requirements described in a set of performance specifications. Both the design and construction responsibilities are assumed by the design build contractor. This method can include instances where the design build contractor supplies the site as part of the package.

—(e) Construction Manager. A Construction Manager, including a Construction Manager/General Contractor, shall be selected in accordance with the Utah Procurement Code. A construction manager shall be experienced in construction, have the ability to evaluate and to implement drawings and specifications as they affect time, cost, and quality of construction and the ability to coordinate the construction of the project, including the addition of change orders. A contract with a construction manager may be issued early in a project to assist in the development of a cost effective design. The construction manager may be appointed the single prime contractor, or may be required to guarantee that the project will be completed by a specified time, and not to exceed a specified maximum price. The procurement of a construction manager may be based, among other criteria, on proposals for a management fee which is either a lump sum or a percentage of construction costs with a guaranteed maximum cost or, on proposals for a lump sum or guaranteed maximum cost for the construction of the project. The contract with the construction manager may also provide for a sharing of any savings which are achieved below the guaranteed maximum cost. When entering into any subcontract that was not specifically included in the Construction Manager/General Contractor's cost proposal, the Construction Manager/General Contractor shall procure that subcontractor in accordance with the Utah Procurement Code in the same manner as if the subcontract work was procured directly by the Board.

—(f) Sequential Design and Construction. Sequential design and construction is a method whereby design of substantially the entire structure is completed prior to beginning the construction process.

—(g) Phased Design and Construction. Phased design and construction is a method whereby construction is begun when appropriate portions have been designed but before design of the entire structure has been completed. This method is also known as fast track construction.

R131-4-13. Cost or Pricing Data and Analysis; Audits.

—(1) ~~Applicability.~~ Cost or pricing data shall be required when negotiating contracts and adjustments to contracts if:

—(a) ~~adequate price competition is not obtained as provided in this rule; and~~

—(b) ~~the amounts listed in (3) below are exceeded.~~

—(2) ~~Adequate Price Competition.~~ Adequate price competition for portions of, or entire contracts, occurs when:

—(a) ~~a contract is awarded based on competitive sealed bidding;~~

—(b) ~~a contractor is selected from competitive sealed proposals and cost was one of the selection criteria;~~

—(c) ~~a portion of a contract is awarded for a lump sum amount or a fixed percentage of other costs, and the cost of the lump sum or percentage amount is one of the selection criteria, and when contractor selection is made from competitive sealed proposals;~~

—(d) ~~a portion of a contract is awarded for which adequate price competition that was not otherwise obtained when competitive bids were obtained and documented by either the Board or the contractor;~~

—(e) ~~costs are based upon established catalogue prices or market prices;~~

—(f) ~~costs are set by law or rule; or~~

—(g) ~~the Executive Director makes a written determination that other circumstances have resulted in adequate price competition.~~

—(3) ~~Amounts.~~ This section does not apply to:

—(a) ~~Contracts or portions of contracts costing less than \$100,000, and~~

—(b) ~~Change orders or other price adjustments of less than \$25,000.~~

—(4) ~~Other Applications:~~ This section may apply to any contract or price adjustment when it is found by the Executive Director to be in the best interest of the state.

—(5) ~~Submission of Cost or Pricing Data and Certification.~~ When cost or pricing data is required, the data shall be submitted prior to beginning price negotiation. The offeror or contractor shall keep the data current throughout the negotiations and certify as soon as practicable after agreement is reached on price that the cost or pricing data submitted are accurate, complete, and current as of a mutually determined date.

—(6) ~~Refusal to Submit.~~ If the offeror fails to submit the required data, the Executive Director may disqualify the noncomplying offeror, to defer award pending further investigation, or to enter into the contract. If the matter involves a price adjustment, the Executive Director may further investigate the price adjustment, disallow any price adjustment, or set the amount of the price adjustment.

—(7) ~~Defective Cost or Pricing Data.~~ If certified cost or pricing data are subsequently found to have been inaccurate, incomplete, or noncurrent as of the date stated in the certificate, the Board shall be entitled to an adjustment of the contract price to exclude any significant sum, including profit or fee, to the extent the contract sum was increased because of the defective data. It shall be assumed that overstated cost or pricing data resulted in an increase of the contract price in the amount of the defect plus any related overhead and profit or fee; therefore, unless documentation can show that the defective data were not used or relied upon, the price may be reduced by a requisite amount. In establishing that defective data caused an increase in the contract price, the Executive Director shall not be required to reconstruct the negotiation or speculate on the mental attitudes of the negotiating parties if correct data had been submitted at the time of agreement on price.

—(8) ~~Audit.~~ The Executive Director may, at his discretion, and at reasonable times and places, audit or cause to be audited the books and records of a contractor, prospective contractor, subcontractor, or

prospective subcontractor which are related to the cost or pricing data submitted.

—(9) ~~Retention of Books and Records.~~ Any contractor who receives a contract or price adjustment for which cost or pricing data is required shall maintain all books and records that relate to the cost or pricing data for three years from the date of final payment under the contract. This requirement shall also extend to any subcontractors of the contractor.

R131-4-14. Specifications.

—(1) ~~General Provisions:~~

—(a) ~~Purpose.~~ Specifications shall permit maximum practicable competition and accurately describe the project requirements.

—(b) ~~Preference for Commercially Available Products.~~ Recognized, commercially available products shall be procured wherever practicable. In developing specifications, accepted commercial standards shall be used and unique products shall be avoided where practicable.

—(c) ~~Nonrestrictiveness Requirements.~~ All specifications shall describe the requirements to be met, without having the effect of exclusively requiring a proprietary supply, or construction item, or procurement from a sole source, unless no other manner of description will meet the need. If needed, a written determination shall justify the use of restrictive specifications over non-restrictive specifications.

—(2) ~~Executive Director's Responsibilities:~~

—(a) ~~The Executive Director shall prepare all project specifications, or~~

—(b) ~~The Board may enter into contracts with others to prepare construction specifications when there will not be a substantial conflict of interest. In the latter instance, the Executive Director shall retain the authority to approve all specifications.~~

—(c) ~~Whenever specifications are prepared by persons other than the Board and Executive Director's staff, the contract for the preparation of specifications shall adhere to the requirements of this rule.~~

—(3) ~~Types of Specifications.~~ The Executive Director may use any method of specifying construction items, including:

—(a) ~~a performance specification stating the results to be achieved with the contractor choosing the means, or~~

—(b) ~~a prescriptive specification describing a means for achieving desired, but normally unstated, ends. Prescriptive specifications shall include the following:~~

—(i) ~~Descriptive specifications, providing detailed written descriptions of the required properties of products, or the workmanship required to fabricate, erect and install without using trade names; or~~

—(ii) ~~Proprietary specifications, identifying desired products by using manufacturers, brand names, model or type designation or important characteristics. This shall consist of:~~

—(A) ~~Base Bid, where a rigid standard is specified and there are no allowed substitutions due to the nature of the conditions to be met. This may only be used when very restrictive standards are necessary and there are only definite proprietary products known that will meet the rigid standards needed; and~~

—(B) ~~Or Equal, which allows substitutions if properly approved;~~

—(c) ~~a reference standard specification where documents or publications are incorporated by reference as though they were included in their entirety; or,~~

—(d) ~~a nonrestrictive specification which may describe elements of prescriptive or performance specifications, or both, in order to describe the end result, thereby giving the contractor latitude in methods,~~

~~materials, delivery, conditions, cost or other characteristics or considerations to be satisfied.~~

~~— (4) Procedures for the Development of Specifications.~~

~~— (a) Specifications may designate alternate supplies or construction items where two or more design, functional, or proprietary performance criteria will satisfactorily meet the procuring agencies' requirements.~~

~~— (b) Specifications shall contain a nontechnical section to include any solicitation or contract terms or conditions such as requirements for the time and place of bid opening, time of delivery, payment, liquidated damages, and similar contract matters.~~

~~— (c) Use of Proprietary Specifications.~~

~~— (i) The Executive Director shall designate one or more brands as a standard reference and shall state that substantially equivalent products will be considered for award, with particular conditions of approval being described in the specification.~~

~~— (ii) Unless the Executive Director determines that the essential characteristics of the brand names included in the proprietary specifications are commonly known in the industry or trade, proprietary specifications shall include a description of the particular design, functional, or performance characteristics which are required.~~

~~— (iii) Where a proprietary specification is used, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition.~~

~~— (iv) The Board shall solicit sources to achieve whatever degree of competition is practicable. If only one source can supply the requirement, the procurement shall be made in accordance with this rule.~~

R131-4-15. Construction Contract Clauses.

~~— (1) Required Contract Clauses. Pursuant to Section 63-56-40, the document entitled "Required Construction Contract Clauses", dated March 28, 2001 and on file with the Executive Director, is hereby incorporated by reference. Except as provided in this rule, the Executive Director shall include some or all of these clauses in all construction contracts for more than \$50,000.~~

~~— (2) Revisions to Contract Clauses. The clauses required by this section may be modified for use in any particular contract when, pursuant to this rule, the Executive Director makes a written determination describing the circumstances justifying the variation or variations. Notice of any material variations from the contract clauses required by this section shall be included in any invitation for bids or request for proposals.]~~

R131-4. Capitol Preservation Board General Procurement Rule.

R131-4-101. Purpose.

~~The underlying purposes and policies of R131-4 are:~~

~~(1) to comply with the Capitol Preservation Board statute which requires the board to adopt rules that are substantially similar to the requirements of the Utah Procurement Code, Title 63, Chapter 56;~~

~~(2) to ensure the fair and equitable treatment of all persons who deal with the Capitol Preservation Board;~~

~~(3) to provide increased economy in Capitol Preservation Board procurement activities; and~~

~~(4) to foster effective broad-based competition within the free enterprise system.~~

R131-4-102. Application of this Rule.

~~(1) R131-4 applies only to contracts solicited or entered into after the effective date of this rule unless the parties agree to its~~

application to a contract solicited or entered into prior to the effective date.

(2) Except as provided in R131-4-103, this rule shall apply to every expenditure of public funds irrespective of their source, including federal assistance, by the Capitol Preservation Board under any contract.

(3) Unless otherwise provided by statute, R131-4 does not apply to procurement of real property.

R131-4-103. Exemptions from this Rule.

(1) R131-4 is not applicable to funds administered under the Percent-for-Art Program of the Utah Percent-for-Art Act.

(2) R131-4 is not applicable to grants awarded by the state or contracts between the state and local public procurement units except as provided in R131-4-901, Intergovernmental Relations.

(3) R131-4 shall not prevent the Capitol Preservation Board from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law.

(4) When a procurement involves the expenditure of federal assistance or contract funds, the chief procurement officer, executive director of the Capitol Preservation Board, shall comply with mandatory applicable federal law and regulations not reflected in R131-4.

(5) R131-4 may not supersede the requirements for retention or withholding of construction proceeds and release of construction proceeds as provided in Section 13-8-5.

R131-4-104. Records.

(1) All procurement records shall be retained and disposed of in accordance with Title 63, Chapter 2, Government Records Access and Management Act.

(2) Written determinations required by R131-4 shall also be retained in the appropriate official contract file of the Division of Purchasing and General Services or the Capitol Preservation Board.

R131-4-105. Definitions.

As used in R131-4:

(1) "Acceptable bid security" means a bid bond which meets the requirements of this rule.

(2) "Architect-engineer services" are those professional services within the scope of the practice of architecture as defined in Section 58-3a-102, or professional engineering as defined in Section 58-22-102.

(3) "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.

(4) "Board" means the state of Utah Capitol Preservation Board created under Title 63C, Chapter 9.

(5) "Change order" means a written order signed by the executive director or duly appointed designee, directing the contractor to suspend work or make changes, which the appropriate clauses of the contract authorize the executive director to order without the consent of the contractor or any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract. The executive director or duly appointed designee may also issue a construction change directive changing the scope and/or time of the contract which shall become a change order once either agreed to by the contractor or not objected to by the contractor by submission to

the executive director of such objection in writing within 21 days of the delivery of the construction change directive to the contractor.

(6)(a) "Construction" means the process of building, renovation, alteration, improvement, or repair of any public building or public work.

(b) "Construction" does not mean the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.

(7)(a) "Construction manager/general contractor" means any contractor who enters into a contract for the management of a construction project when that contract allows the contractor to subcontract for additional labor and materials that were not included in the contractor's cost proposal submitted at the time of the procurement of the construction manager/general contractor's services.

(b) "Construction manager/general contractor" does not mean a contractor whose only subcontract work not included in the contractor's cost proposal submitted as part of the procurement of construction is to meet subcontracted portions of change orders approved within the scope of the project.

(8) "Contract" means any state agreement for the procurement or disposal of supplies, services, or construction.

(9) "Cooperative purchasing" means procurement conducted by, or on behalf of, more than one public procurement unit, or by a public procurement unit with an external procurement unit.

(10) "Cost data" means factual information concerning details: including expected monetary values for labor, material, overhead, and other pricing components which the contractor has included, or will include as part of performing the contract.

(11) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the provisions of this rule, and a fee, if any.

(12)(a) "Design-build" means the procurement of architect-engineer services and construction by the use of a single contract with the design-build provider.

(b) This method of design and construction can include the design-build provider supplying the site as part of the contract.

(13) "Established catalogue price" means the price included in a catalogue, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;
(b) is either published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

(14) "Executive director" means the executive director of the board.

(15) "External procurement unit" means any buying organization not located in this state which, if located in this state, would qualify as a public procurement unit. An agency of the United States is an external procurement unit.

(16) "Grant" means the furnishing by the state or by any other public or private source assistance, whether financial or otherwise, to any person to support a program authorized by law. It does not include an award whose primary purpose is to procure an end product, whether in the form of supplies, services, or construction. A contract resulting from the award is not a grant but a procurement contract.

(17) "Invitation for bids" means all documents, whether attached or incorporated by reference, utilized for soliciting bids.

(18) "Local public procurement unit" means any political subdivision or institution of higher education of the state or public agency of any subdivision, public authority, educational, health, or other institution, and to the extent provided by law, any other entity which expends public funds for the procurement of supplies, services, and construction, but not counties, municipalities, political subdivisions created by counties or municipalities under the Interlocal Cooperation Act, the Utah Housing Corporation, or the Legislature and its staff offices. It includes two or more local public procurement units acting under legislation which authorizes intergovernmental cooperation.

(19) "Person" means any business, individual, union, committee, club, other organization, or group of individuals, not including a state agency or a local public procurement unit.

(20) "Policy board" means the Budget Development and Board Operations Subcommittee of the board to act as the procurement policy board as referred to in the Utah Procurement Code, Title 63, Chapter 56.

(21) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference under the requirements of this rule.

(22) "Price data" means factual information concerning prices for supplies, services, or construction substantially identical to those being procured. Prices in this definition refer to offered or proposed selling prices and includes data relevant to both prime and subcontract prices.

(23) "Procurement" means buying, purchasing, renting, leasing, leasing with an option to purchase, or otherwise acquiring any supplies, services, or construction. It also includes all functions that pertain to the obtaining of any supply, service, or construction, including description of requirements, selection, and solicitation of sources, preparation, and award of a contract, and all phases of contract administration.

(24) "Procurement officer" means the executive director duly authorized to enter into and administer contracts and make written determinations with respect thereto. It also includes an authorized representative acting within the limits of authority as provided by the board or designated by the executive director.

(25) "Procuring agencies" means, individually or collectively, the state, the board, the owner and a using agency, if any.

(26) "Products" means and includes materials, systems and equipment that are components of a construction project.

(27) "Proprietary specification" means a specification which uses a brand name to describe the standard of quality, performance, and other characteristics needed to meet the procuring agencies' requirements.

(28) "Public procurement unit" means either a local public procurement unit or a state public procurement unit.

(29) "Purchase description" means the words used in a solicitation to describe the supplies, services, or construction to be purchased, and includes specifications attached to or made a part of the solicitation.

(30) "Purchasing agency" means any state agency other than the board that is authorized by R131-4, or by delegation from the executive director, to enter into contracts.

(31) "Record" shall have the meaning defined in Section 63-2-103 of the Governmental Records Access and Management Act (GRAMA).

(32) "Request for proposals" means all documents, whether attached or incorporated by reference, used for soliciting proposals.

(33) "Responsible bidder or offeror" means a person who has the capability in all respects to perform fully the contract requirements and who has the integrity and reliability which will assure good faith performance.

(34) "Responsive bidder" means a person who has submitted a bid which conforms in all material respects to the invitation for bids.

(35) "Sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.

(36) "Services" means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. It does not include employment agreements or collective bargaining agreements.

(37) "Specification" means any description of the physical or functional characteristics, or of the nature of a supply, service, or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.

(38) "State" means the state of Utah.

(39) "State agency" or "the state" means any department, division, commission, council, board, bureau, committee, institution, government corporation, or other establishment, official or employee of this state.

(40) "State public procurement unit" means the board, Division of Purchasing and General Services and any other purchasing agency of this state.

(41) "Subcontractor" means any person who has a contract with any person other than the procuring agency (board or executive director) to perform any portion of the work on a project.

(42) "Supplies" means all property, including equipment, materials, and printing.

(43) "Using agency" means any state agency which utilizes any supplies, services, or construction procured under this rule.

(44) "Work" means the furnishing of labor or materials, or both.

R131-4-201. Procurement Policy.

Procurement policy powers and duties under R131-4-202 below shall be performed by the Budget Development and Board Operations Subcommittee of the board as created in Title 63C, Chapter 9. Any procurement policy determinations of the subcommittee shall be brought to the board for final approval.

R131-4-202. Powers and Duties of the Budget Development and Board Operations Subcommittee in Regard to Procurement Policies.

(1) Except as otherwise provided in R131-4-102, the Budget Development and Board Operations Subcommittee shall:

(a) make procurement rule recommendations to the board that are substantially similar to the requirements of Title 63, Chapter 56, Utah Procurement Code or facilitate the implementation of such requirements, governing the procurement, management, and control of any and all supplies, services, and construction to be procured by the board; and

(b) consider and recommend to the board, matters of policy within the provisions of R131-4, including those referred to it by the executive director.

(2)(a) The subcommittee may:

(i) audit and monitor the implementation of the board's rules and the requirements of the Utah Procurement Code and R131-4;

(ii) approve the use of innovative procurement methods proposed by the executive director.

(b) Except as otherwise provided in this rule or as duly authorized by the board, the subcommittee may not exercise authority over the award or administration of

(i) any particular contract; or

(ii) over any dispute, claim, or litigation pertaining to any particular contract.

(3) After receiving the recommendations from the Budget Development and Board Operations Subcommittee, the board shall review the recommendations, and shall make a determination on the recommendations, including the commencement of the rulemaking process.

R131-4-203. Chief Procurement Officer.

The executive director of the board shall be the chief procurement officer.

R131-4-204. Duties of Chief Procurement Officer.

Except as otherwise specifically provided in R131-4, the chief procurement officer serves as the central procurement officer for the board and shall:

(1) adopt office policies governing the internal functions of the staff for the board;

(2) procure or supervise the procurement of all supplies, services, and construction needed by the board;

(3) exercise general supervision and control over all inventories or supplies belonging to the board;

(4) establish and maintain programs for the inspection, testing, and acceptance of supplies, services, and construction; and

(5) prepare statistical data concerning the procurement and usage of all supplies, services, and construction.

R131-4-205. Delegation of Authority.

The executive director may delegate authority to a designated staff person(s) of the board.

R131-4-206. Specific Statutory Authority.

As stated in Section 63-56-207:

(1) The authority to procure certain supplies, services, and construction given the public procurement units governed by the following provisions shall be retained:

(a) Title 53B, State System of Higher Education;

(b) Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management;

(c) Title 67, Chapter 5, Attorney General;

(d) Title 72, Transportation; and

(e) Title 78, Chapter 3, District Courts.

(2) This authority extends only to supplies, services, and construction to the extent provided in the cited chapters.

(3)(a) The Department of Transportation may make rules governing the procurement of highway construction or improvement.

(b) This Subsection (3) supersedes Subsections (1) and (2) above.

(4) The legislature may procure supplies and services for its own needs.

R131-4-301. Rules and Regulations for Specifications of Supplies.

R131-4 shall govern the preparation, maintenance, and content of specifications for supplies, services, and construction required by the board. R131-4 shall determine the extent to which a nonemployee who has prepared specifications for use by the board may participate in any board procurement using such specifications.

R131-4-302. Duty of Executive Director in Maintaining Specifications.

The executive director shall prepare, issue, revise, maintain, and monitor the use of specifications for supplies, services, and construction required by the board.

R131-4-303. Purpose of Specifications.

All specifications shall seek to promote overall best quality economy and best use for the purposes intended and encourage competition in satisfying the state's needs, and shall not be unduly restrictive. The requirements of R131-4-301 through R131-4-304 regarding the purposes and nonrestrictiveness of specifications shall apply to all specifications, including, but not limited to, those prepared by architects, engineers, designers, and draftsmen for public contracts.

R131-4-304. Additional Specification Requirements.**(1) General provisions.**

(a) Preference for Commercially Available Products. Recognized, commercially-available products shall be procured wherever practicable. In developing specifications, accepted commercial standards shall be used and unique products shall be avoided where practicable.

(b) Nonrestrictiveness Requirements. All specifications shall describe the requirements to be met, without having the effect of exclusively requiring a proprietary supply, or construction item, or procurement from a sole source, unless no other manner of description will meet the need. If needed, a written determination shall justify the use of restrictive specifications over non-restrictive specifications.

(2) Executive Director's Responsibilities.

(a) The executive director shall prepare all project specifications, or

(b) The board may enter into contracts with others to prepare construction specifications when there will not be a substantial conflict of interest. In the latter instance, the executive director shall retain the authority to approve all specifications.

(c) Whenever specifications are prepared by persons other than the board and executive director's staff, the contract for the preparation of specifications shall adhere to the requirements of this rule.

(3) Types of Specifications. The executive director may use any method of specifying construction items, including:

(a) a performance specification stating the results to be achieved with the contractor choosing the means; or

(b) a prescriptive specification describing a means for achieving desired, but normally unstated, ends. Prescriptive specifications shall include the following:

(i) Descriptive specifications, providing detailed written descriptions of the required properties of products, or the workmanship required to fabricate, erect and install without using trade names; or

(ii) Proprietary specifications, identifying desired products by using manufacturers, brand names, model or type designation or important characteristics. This shall consist of:

(A) Base bid, where a rigid standard is specified and there are no allowed substitutions due to the nature of the conditions to be met. This may only be used when very restrictive standards are necessary and there are only definite proprietary products known that will meet the rigid standards needed; and

(B) Or equal, which allows substitutions if properly approved;

(c) a reference standard specification where documents or publications are incorporated by reference as though they were included in their entirety; or

(d) a nonrestrictive specification which may describe elements of prescriptive or performance specifications, or both, in order to describe the end result, thereby giving the contractor latitude in methods, materials, delivery, conditions, cost or other characteristics or considerations to be satisfied.

(4) Procedures for the Development of Specifications.

(a) Specifications may designate alternate supplies or construction items where two or more design, functional, or proprietary performance criteria will satisfactorily meet the procuring agencies' requirements.

(b) Specifications shall contain a nontechnical section to include any solicitation or contract terms or conditions such as requirements for the time and place of bid opening, time of delivery, payment, liquidated damages, and similar contract matters.

(c) Use of Proprietary Specifications.

(i) The executive director shall designate one or more brands as a standard reference and shall state that substantially equivalent products will be considered for award, with particular conditions of approval being described in the specification.

(ii) Unless the executive director determines that the essential characteristics of the brand names included in the proprietary specifications are commonly known in the industry or trade, proprietary specifications shall include a description of the particular design, functional, or performance characteristics which are required.

(iii) Where a proprietary specification is used, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition.

(iv) The board shall solicit sources to achieve whatever degree of competition is practicable. If only one source can supply the requirement, the procurement shall be made in accordance with this rule.

R131-4-401. Contracts Awarded by Sealed Bidding - Procedure.

(1) In General. Competitive sealed bidding, which includes multi-step sealed bidding, shall be an allowable method for the procurement of construction when a single prime contractor is used.

Other methods may be considered for procurement of construction when the executive director determines that it best meets the needs for the project. For all other goods, supplies and services, contracts shall be awarded by competitive sealed bidding except as otherwise provided in R131-4. An invitation for bids shall be issued when a contract is to be awarded by competitive sealed bidding. The invitation shall include a purchase description and all contractual terms and conditions applicable to the procurement.

(2) Public Notice of Invitations for Bids.

(a) Public notice of invitations for bids shall be publicized electronically on the Internet, and may be publicized in any or all of the following as determined appropriate:

(i) In a newspaper having general circulation in the area in which the project is located;

(ii) In appropriate trade publications;

(iii) In a newspaper having general circulation in the state; or

(iv) By any other method determined appropriate.

(b) A copy of the public notice shall be available for public inspection at the principal office of the board in Salt Lake City, Utah.

(3) Content of the Public Notice to Contractors for Invitation For Bids. The public notice to contractors for invitation for bids (herein referred to as the "Notice") shall include the following:

(a) The closing time and date for the submission of bids;

(b) The location to which bids are to be delivered;

(c) Directions for obtaining the bidding documents;

(d) A brief description of the project; and

(e) Notice of any mandatory pre-bid meetings.

(4) Bidding Time. Bidding time is the period of time between the date of the first publication of the public notice and the final date and time set for the receipt of bids by the executive director. Bidding time shall be set to provide bidders with reasonable time to prepare their bids and shall be not less than ten calendar days, unless a shorter time is deemed necessary for a particular project as determined in writing by the executive director.

(5) Bid Prices. The bidding documents for an invitation for bids shall include a bid price form having a space in which the bid prices shall be inserted and which the bidder shall sign and submit along with all other required documents and materials and may include qualification requirements as appropriate.

(6) Addenda to the Bidding Documents.

(a) Addenda shall be distributed or otherwise made available to all entities known to have obtained bidding documents for a project.

(b) Addenda shall be distributed within a reasonable time to allow all prospective bidders to consider them in preparing bids. If the time set for the final receipt of bids will not permit appropriate consideration, the bidding time shall be extended to allow proper consideration of the addenda. The person responsible for the issuance of bidding documents shall confirm in writing, any addenda communicated to bidders by telephone.

(7) Pre-Opening Modification or Withdrawal of Bids.

(a) Bids may be modified or withdrawn by the bidder by written notice delivered to the place designated in the notice when bids are to be delivered prior to the time set for the opening of bids.

(b) Bid security, if any, shall be returned to the bidder when withdrawal of the bid is permitted.

(c) All documents relating to the modification or withdrawal of bids shall be made a part of the appropriate project file.

(8) Late Bids, Late Withdrawals, and Late Modifications. Any bid, withdrawal of bid, or modification of bid received after the time and date set for the submission of bids at the place designated in the notice shall be deemed to be late and shall not be considered, unless it is the only bid received in which case it may be considered.

(9) Receipt, Opening, and Recording of Bids.

(a) Upon receipt, all bids and modifications shall be stored in a secure place until the time for bid opening.

(b) Bids and modifications shall be opened publicly, in the presence of one or more witnesses, at the time and place designated in the invitation for bids. The names of the bidders, the bid price,

and other information deemed appropriate by the executive director shall be read aloud or otherwise made available to the public. After the bid opening, the bids shall be tabulated or a bid abstract made, including the amount of each bid. The record (bid tabulation) and opened bids shall be available for public inspection.

(10) Mistakes in Bids.

(a) If a mistake is attributable to an error in judgment, the bid may not be corrected. Bid correction or withdrawal by reason of an inadvertent, nonjudgmental mistake is permissible but only at the discretion of the executive director and only to the extent it is not contrary to the interest of the board or the fair treatment of other bidders.

(b) When it appears from a review of the bid that a mistake may have been made, the executive director may request the bidder to confirm the bid in writing. Situations in which confirmation may be requested include obvious, apparent errors on the face of the bid or a bid lower than the other bids submitted that appears to have neglected some part of the project.

(c) Mistakes at Bid Opening. The executive director shall weigh the types of factors described below in which mistakes in bids are discovered after opening but before award. After the bid opening, no changes in the bid prices or other provisions of bids prejudicial to the interest of the board or fair competition may be permitted. These include:

(i) Minor formalities are matters which, in the discretion of the board or executive director, are found to be of form rather than substance evident from the bid document, or are insignificant mistakes that can be waived or corrected without prejudice to other bidders and with respect to which, in the executive director's discretion, the effect on price, quantity, quality, delivery, or contractual conditions is not or will not be significant. The executive director, in the executive director's sole discretion, may waive minor formalities or allow the bidder to correct them depending on which is in the best interest of the board. Examples include the failure of a bidder to:

(A) Sign the bid, but only if the unsigned bid is accompanied by other material indicating the bidder's intent to be bound;

(B) Acknowledge receipt of any addenda to the invitation for bids, but only if it is clear from the bid that the bidder received the addenda and intended to be bound by its terms; the addenda involved had a negligible effect on price, quantity, quality, or delivery; or the bidder acknowledged receipt of the addenda at the bid opening.

(ii) A determination by the executive director that the mistake and the intended bid are clearly evident on the face of the bid document. The bid shall be corrected to reflect the intent of the bidder, and may not be withdrawn. Examples of mistakes that may be clearly evident on the face of the bid document are typographical errors, errors in extending unit prices, transposition errors, and arithmetical errors.

(iii) Approval to withdraw a low bid if the executive director determines a mistake is clearly evident on the face of the bid document but the intended amount of the bid is not similarly evident, or if the bidder submits to the executive director proof of evidentiary value which, in the executive director's best judgment, demonstrates that a mistake in calculation or estimation was made.

(d) No bidder shall be allowed to correct a mistake or withdraw a bid because of a mistake discovered after award of the contract; provided, that mistakes of the types described in R131-4-401 may be corrected or the award of the contract canceled if the

executive director determines that correction or cancellation will not prejudice the interests of the board or fair competition.

(e) The executive director shall approve or deny in writing all requests to correct or withdraw a bid.

(11) Bid Evaluation and Award. Except as provided below, the contract may be awarded to the lowest qualified responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids and no bid shall be evaluated for any requirements or criteria that are not disclosed in the bidding documents. A reciprocal preference shall be granted to a resident contractor if the provisions of Section 63-56-405 are met. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable. The criteria may include discounts, transportation costs, and total or life cycle costs.

(12) Cancellation of Invitations For Bids; Rejection Of Bids in Whole or In Part.

(a) Although issuance of an invitation for bids does not compel award of a contract, the executive director may cancel an invitation for bids or reject bids received in whole or in part only when the executive director determines that it is in the best interests of the board to do so.

(b) The reasons for cancellation or rejection shall be documented and made a part of the project file and available for public inspection.

(c) Any determination of nonresponsibility of a bidder shall be made by the executive director in writing. An unreasonable failure of the bidder to promptly supply information regarding responsibility may be grounds for a determination of nonresponsibility. Any bidder determined to be nonresponsible shall be provided with a copy of the written determination within a reasonable time. The board finds that it would impair governmental procurement proceedings by creating a disincentive for bidders to respond to inquiries of nonresponsibility, therefore information furnished by a bidder or pursuant to any inquiry concerning responsibility shall be classified as a protected record pursuant to Section 63-2-304 and may be disclosed only as provided for in R131-4-411A.

(13)(a) All bids for a construction project exceed available funds as certified by the appropriate fiscal officer, and the low responsive and responsible bid does not exceed those funds by more than 5%, the executive director may, in situations where time or economic considerations preclude resolicitation of work of a reduced scope, negotiate an adjustment of the bid price, including changes in the bid requirements, with the low responsive and responsible bidder in order to bring the bid within the amount of available funds.

(b) Notwithstanding Subsection (13)(a), if all bids exceed the construction budget by any amount, the executive director may take any action allowed by this rule to award the contract to the lowest responsible and responsive bidder that will complete the construction project within the amount of available funds.

(c) This rule does not restrict in any way, the right of the executive director to use any emergency or sole source procurement provisions, or any other applicable provisions of State law or rule which may be used to award the construction project.

(14) Tie Bids. Tie bids shall be resolved in accordance with Section 63-56-426.

(15) Subcontractor Lists. The executive director may provide for subcontractor list requirements in the invitation for bids.

(a) Pursuant to Section 63-2-304, information contained in the subcontractor list submitted to the board or executive director shall be classified public except for the amount of subcontractor bids which shall be classified as protected until a contract has been awarded to the bidder at which time the subcontractor bid amounts shall be classified as public. During the time that the subcontractor bids are classified protected, they may only be made available to procurement and other officials involved with the review and approval of bids.

(b) Change of Listed Subcontractors. If the executive director requires the submission of a subcontractor list with a deadline, the contractor may change his submitted listed subcontractors only after receiving written permission from the executive director based on complying with all of the following:

(i) The contractor has established in writing that the change is in the best interest of the state and that the contractor establishes an appropriate reason for the change, which may include, but is not limited to, the following reasons: the original subcontractor has failed to perform, or is not qualified or capable of performing, or the subcontractor has requested in writing to be released;

(ii) The circumstances related to the request for the change do not indicate any bad faith in the original listing of the subcontractors;

(iii) Any requirement set forth by the executive director to ensure that the process used to select a new subcontractor does not give rise to bid shopping;

(iv) Any increase in the cost of the subject subcontractor work shall be borne by the contractor; and

(v) Any decrease in the cost of the subject subcontractor work shall result in a deductive change order being issued for the contract for such decreased amount.

R131-4-401A. Multi-Step Sealed Bidding.

(1) When it is considered impractical to prepare initially a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers (statement of qualifications) to be followed by an invitation for bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

(2) Description. Multi-step sealed bidding is a two-phase process. In the first phase, bidders shall submit a statement of qualifications to be evaluated. In the second phase, bidders whose statement of qualifications are determined to be acceptable during the first phase shall be invited to submit price bids.

(3) Use. Multi-step sealed bidding may be used when the executive director deems it to be in the interest of the state.

(4) Procedure for First Phase. The first phase shall be processed in accordance with the notice, substance and procedural requirements of a request for proposal under R131-4-408.

(5) The second phase shall be processed in accordance with the applicable substance and procedural requirements of a competitive sealed bid under R131-4-401. No public notice will be provided for this invitation.

R131-4-402. Contracts Awarded by Reverse Auction.

(1) As used in this Section, "reverse auction" means a process where:

(a) contracts are awarded in an open and interactive environment, which may include the use of electronic media; and

(b) bids are opened and made public immediately, and bidders given opportunity to submit revised, lower bids, until the bidding process is complete.

(2) Notwithstanding the requirements of this rule, contracts may be awarded through a reverse auction.

(3) Reverse auction is a two-phase process consisting of a technical first phase composed of one or more steps in which bidders submit a statement of qualifications to be evaluated against the established criteria by the executive director, and a second phase in which those bidders whose statement of qualifications are determined to be acceptable during the first phase submit their price bids through a reverse auction.

(4) Use. The reverse auction method will be used when the executive director deems it to the advantage of the board.

(5) Pre-Bid Conferences in Reverse Auctions. Prior to the submission of a statement of qualifications, a pre-bid conference may be conducted by the executive director. The executive director may also hold a conference of all bidders at any time during the evaluation of the statement of qualifications, or to explain the reverse auction process.

(6) Procedure for Phase One of Reverse Auctions.

(a) Form. A reverse auction shall be initiated by the issuance of an invitation for bids in the form required by R131-4-401. In addition to those requirements, the reverse auction invitation for bids shall state:

(i) that a statement of qualifications are requested;

(ii) that it is a reverse auction procurement, and priced bids will be considered only in the second phase and only from those bidders whose statement of qualifications are found acceptable in the first phase;

(iii) the criteria to be used in the evaluation of the statement of qualifications;

(iv) that the board or executive director, to the extent the executive director finds necessary, may conduct oral or written discussions of the statement of qualifications;

(v) that bidders may designate those portions of the statement of qualifications which contain trade secrets or other proprietary data which are to remain confidential to the extent provided by law; and

(vi) the manner in which the second phase reverse auction will be conducted.

(7) Amendments to the Invitation for Bids. After receipt of the statement of qualifications, amendments to the invitation for bids shall be distributed only to bidders who submitted a statement of qualifications and they shall be allowed to submit new statements of qualifications or to amend those submitted. If, in the opinion of the executive director, a contemplated amendment will significantly change the nature of the procurement, the invitation for bids shall be canceled in accordance with R131-4-401 and a new invitation for bids issued.

(8) Receipt and Handling of Statement of Qualifications. Statement of qualifications shall be opened publicly identifying only the names of the bidders. Technical offers and modifications shall be time stamped upon receipt and held in a secure place until the established due date. After the date established for receipt of bids, a register of bids shall be open to public inspection and shall include the name of each bidder, and a description sufficient to identify the supply, service, or construction offered. Prior to the selection of the lowest bid of a responsive and responsible bidder following phase two, statement of qualifications shall remain confidential and shall be available only to board personnel and those involved in the selection process having a legitimate interest in them.

(9) Non-Disclosure of Proprietary Data. Bidders may request protection of records in accordance with R131-4-411A.

(10)(a) Evaluation of Statement of Qualifications. The statement of qualifications submitted by bidders shall be evaluated solely in accordance with the criteria set forth in the invitation for bids. The statement of qualifications shall be categorized as:

(i) acceptable;

(ii) potentially acceptable, that is, reasonably susceptible of being made acceptable; or

(iii) unacceptable.

(b) The executive director shall record in writing the basis for finding an offer unacceptable and make it part of the procurement file.

(c) The executive director may initiate phase two of the procedure if, in the executive director's opinion, there are sufficient acceptable statements of qualifications to assure effective price competition in the second phase without modification or alteration of the offers. If the executive director finds that this is not the case, the executive director shall issue an amendment to the invitation for bids or engage in technical discussions as set forth in R131-4-402(11) below.

(11) Discussion of Statement of Qualifications. Discussion of the statement of qualifications may be conducted by the executive director with any bidder who submits an acceptable or potentially acceptable statement of qualifications. During the course of these discussions, the executive director shall not disclose any information derived from one statement of qualifications offer to any other bidder. Once discussions are begun, any bidder who has not been notified that its statement of qualifications has been finally found unacceptable may submit supplemental information modifying or otherwise amending its statement of qualifications offer at any time until the closing date established by the executive director. This submission may be made at the request of the executive director or upon the bidder's own initiative.

(12) Notice of Unacceptable Statement of Qualifications. When the executive director determines a bidder's statement of qualifications is unacceptable, the executive director shall notify the bidder. After this notification, the bidder shall not be afforded an additional opportunity to modify their statement of qualifications.

(13) Carrying Out Phase Two of Reverse Auctions.

(a) Upon the completion of phase one, the executive director shall invite those qualified bidders to participate in phase two of the reverse auction which is an open and interactive process where pricing is submitted, made public immediately, and bidders are given the opportunity to submit revised, lower bids, until the bidding process is closed.

(b) The invitation for bids shall:

(i) establish a date and time for the beginning of phase two;

(ii) establish a closing date and time. The closing date and time need not be a fixed point in time, but may remain dependent on a variable specified in the invitation for bids.

(c) Following receipt of the first bid after the beginning of phase two, the lowest bid price shall be posted, either manually or electronically, and updated as other bidders submit their bids.

(i) At any time before the closing date and time a bidder may submit a lower bid, provided that the price is below the then lowest bid.

(ii) Bid prices may not be increased after the beginning of phase two.

(14) Mistakes During Reverse Auctions.
(a) Mistakes may be corrected or bids may be withdrawn during phase one:
(i) before statements of qualifications are considered;
(ii) after any discussions have commenced under the procedure for phase one of reverse auctions, discussion of statement of qualifications; or
(iii) when responding to any amendment of the invitation for bids. Otherwise, mistakes may be corrected or withdrawal permitted in accordance with R131-4-401(10).
(15) A phase two bid may be withdrawn only in accordance with R131-4-401(10). If a bid is withdrawn, a later bid submitted by the same bidder may not be for a higher price. If the lowest responsive bid is withdrawn after the closing date and time, the executive director may cancel the solicitation or reopen phase two bidding to all bidders deemed qualified through phase one by giving notice to those bidders of the new date and time for the beginning of phase two and the new closing date and time.

R131-4-403. Procurement - Use of Recycled Goods.

The executive director shall:
(1) comply with Section 63-56-406 regarding recycled paper and paper products; and
(2)(a) use for reference, the current listing of recycled items available on state contract as issued by the State Division of Purchasing and General Services under Section 63-56-204; and
(b) give recycled items consideration when inviting bids and purchasing supplies.

R131-4-404. Preference for Providers of State Products.

(1)(a) All board procurement shall, in all purchases of goods, supplies, equipment, materials, and printing, give a reciprocal preference to those bidders offering goods, supplies, equipment, materials, or printing produced, manufactured, mined, grown, or performed in Utah as against those bidders offering goods, supplies, equipment, materials, or printing produced, manufactured, mined, grown, or performed in any state that gives or requires a preference to goods, supplies, equipment, materials, or printing produced, manufactured, mined, grown, or performed in that state.
(b) The amount of reciprocal preference shall be equal to the amount of the preference applied by the other state for that particular good, supply, equipment, material, or printing.
(c)(i) The bidder shall certify on the bid that the goods, supplies, equipment, materials, or printing offered are produced, manufactured, mined, grown, or performed in Utah.
(ii) The reciprocal preference is waived if that certification does not appear on the bid or the product, quality or services is not available from within the state of Utah.
(2)(a) If the bidder submitting the lowest responsive and responsible bid offers goods, supplies, equipment, materials, or printing produced, manufactured, mined, grown, or performed in a state that gives or requires a preference, and if another bidder has submitted a responsive and responsible bid offering goods, supplies, equipment, materials, or printing produced, manufactured, mined, grown, or performed in Utah, and with the benefit of the reciprocal preference, his bid is equal to or less than the original lowest bid, the executive director shall:
(i) give notice to the bidder offering goods, supplies, equipment, materials, or printing produced, manufactured, mined, grown, or performed in Utah that he qualifies as a preferred bidder; and

(ii) make the purchase from the preferred bidder if, within 72 hours after notification to him that he is a preferred bidder, he agrees, in writing, to meet the low bid.
(b) The executive director shall include the exact price submitted by the lowest bidder in the notice he submits to the preferred bidder.
(c) The executive director may not enter into a contract with any other bidder for the purchase until 72 hours have elapsed after notification to the preferred bidder.
(3)(a) If there is more than one preferred bidder, the executive director shall award the contract to the willing preferred bidder who was the lowest preferred bidder originally.
(b) If there were two or more equally low preferred bidders, the executive director shall resolve the tie in accordance with Section 63-56-426.
(4) The provisions of R131-4-404 do not apply if such application might jeopardize the receipt of federal funds.

R131-4-405. Preference for Resident Contractors.

(1) As used in this Section, "resident contractor" means a person, partnership, corporation, or other business entity that:
(a) either has its principal place of business in Utah or that employs workers who are residents of this state when available; and
(b) was transacting business on the date when bids for the public contract were first solicited.
(2)(a) When awarding contracts for construction, the board shall grant a resident contractor a reciprocal preference as against a nonresident contractor from any state that gives or requires a preference to contractors from that state.
(b) The amount of the reciprocal preference shall be equal to the amount of the preference applied by the state of the nonresident contractor.
(3)(a) The bidder shall certify on the bid that the bidder qualifies as a resident contractor.
(b) The reciprocal preference is waived if that certification does not appear on the bid or if the resident contractor is not qualified to perform the work as stipulated in the pre-proposal or pre-bid documents.
(4)(a) If the contractor submitting the lowest responsive and responsible bid is not a resident contractor and has its principal place of business in any state that gives or requires a preference to contractors from that state, and if a resident contractor has also submitted a responsive and responsible bid, and, with the benefit of the reciprocal preference, the resident contractor's bid is equal to or less than the original lowest bid, the executive director shall:
(i) give notice to the resident contractor that the contractor qualifies as a preferred resident contractor; and
(ii) issue the contract to the resident contractor if, within 72 hours after notification to the contractor that such contractor is a preferred resident contractor, the contractor agrees, in writing, to meet the low bid.
(b) The executive director shall include the exact price submitted by the lowest bidder in the notice submitted to the preferred resident contractor.
(c) The executive director may not enter into a contract with any other bidder for the construction until 72 hours have elapsed after notification to the preferred resident contractor.
(5)(a) If there is more than one preferred resident contractor, the executive director shall award the contract to the willing preferred resident contractor who was the lowest preferred resident contractor originally.

(b) If there were two or more equally low preferred resident contractors, the executive director shall resolve the tie in accordance with Section 63-56-426.

(6) The provisions of R131-4-405 do not apply if such application might jeopardize the receipt of federal funds.

R131-4-407. Use of Alkaline Paper.

The Board and executive director shall comply with Section 63-56-407 regarding the use of Alkaline Paper.

R131-4-408. Use of Competitive Sealed Proposals in lieu of Bids - Procedure.

(1) Considerations for Use. Competitive sealed proposals, which shall be solicited through a request for proposals, may be used, if:

(a) there may be a need for price and service negotiation;

(b) there may be a need for negotiation during performance of the contract;

(c) the relative skills or expertise of the offerors should be evaluated;

(d) characteristics of the product or service sought is important; or

(e) the conditions of the service, product or delivery conditions are unable to be sufficiently described in the invitation for bids.

(2) Determinations.

(a) Before a contract may be entered into by competitive sealed proposals, the executive director shall determine in writing that the use of competitive sealed proposals is more advantageous for state purposes than competitive sealed bidding.

(b) Determinations may be by category of service or construction items. The executive director may modify or revoke a determination and may review previous determinations for current applicability at any time. Competitive sealed proposals may be used for the procurement of services of consultants, professionals, contractors and any other entity sought for procurement by the executive director or the board.

(3) Public Notice. Public notice of the request for proposals shall be given in the same manner provided for giving public notice of an invitation for bids, as provided by R131-4-401.

(4) Proposal Preparation Time. Proposal preparation time is the period of time between the date of first publication of the notice and the date and time set for the receipt of proposals by the board or executive director. For each project, a proposal preparation time-frame shall be included to provide offerors a reasonable time to prepare their proposals, not less than ten calendar days, unless a shorter time is deemed necessary.

(5) Form of Proposal. The request for proposals may state the manner in which proposals are to be submitted, including any forms for that purpose.

(6) Addenda to Requests for Proposals. Addenda to the requests for proposals may be made in the same manner provided for addenda to the bidding documents in connection with invitations for bids by this rule. Addenda may also be issued to qualified proposers after the deadline for proposals and prior to the deadline for best and final offers.

(7) Modification or Withdrawal of Proposals. Proposals may be modified or withdrawn prior to the established due date. For the purposes of this rule, the established due date will be either the date and time announced for receipt of proposals or receipt of modifications to proposals, if any; or if discussions have begun, it is the date and time by which best and final offers must be submitted,

provided that only offerors who submitted proposals by the time announced for receipt of proposals may submit best and final offers.

(8) Late Proposals, Late Withdrawals, or Late Modifications: Except for modifications allowed pursuant to negotiation, any proposal, withdrawal, or modification received at the place designated for receipt of proposals after the established due date as defined in this rule shall be deemed to be late and shall not be considered unless there are no other offerors.

(9) Receipt and Registration of Proposals.

(a) Proposals shall be opened publicly, and shall only identify the names of the offerors in public. Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation. Proposals and modifications shall be held in a secure place until the established due date.

(b) After the date established for receipt of proposals, a register of proposals shall be open to public inspection and shall include for all proposals the name of each offeror, the number of addenda received, if any, and a description sufficient to identify the supply, service, or construction item offered. Prior to award, proposals and modifications shall be shown only to procurement and other officials involved with the review and selection of proposals who shall adhere to the requirements of GRAMA and this rule.

(10) Evaluation of Proposals.

(a) Evaluation Factors in the Request for Proposals. The request for proposals shall be prepared in a manner to assure maximum practicable competition, state all of the evaluation factors as well as the relative importance of price and other evaluating factors.

(b) Evaluation. The evaluation shall be based on the evaluation factors set forth in the request for proposals. Numerical rating systems may be used but are not required.

(c) Classifying Proposals. Proposals shall be initially classified as:

(i) Acceptable;

(ii) Potentially acceptable, that is, having the possibility of being made acceptable; or

(iii) Unacceptable. Offerors whose proposals are unacceptable shall be so notified.

(11) Proposal Discussions with Individual Offerors.

(a) "Offerors" means only those responsible persons submitting proposals that are acceptable or potentially acceptable, the number of which may be limited to no less than the two best proposals. This shall not include persons who submitted unacceptable proposals.

(b) Purposes of Discussions. Discussions may be held in order to:

(i) review the board's requirements and the offerors' proposals; and

(ii) facilitate the development of a contract that will be most advantageous to the board, taking into consideration price and other evaluation factors listed in the request for proposals.

(c) Conduct of Discussions. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussions and revisions of proposals. Discussions may be conducted for the purpose of assuring full understanding of, and responsiveness to, solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revisions may be permitted after submissions and before the contract is awarded for the purpose of obtaining best and final offers. There shall be no disclosure of any information derived from proposals submitted by competing offerors except as otherwise

provided by this rule or law. Any oral clarification or change of a proposal shall be reduced to writing by the offeror.

(12) Best and Final Offers. The executive director shall establish a common time and date to submit best and final offers. These shall be submitted only once unless the executive director makes a written determination before each subsequent round of best and final offers that another round is in the best interest of the state, and additional discussions will be conducted or the requirements may be changed. Otherwise, no discussion of, or changes in the best and final offers shall be allowed prior to award. If offerors do not submit a notice of withdrawal or another best and final offer, their immediate previous offer will be construed as their best and final offer.

(13) Mistakes in Proposals.

(a) Mistakes discovered before the established due date. An offeror may correct mistakes discovered before the time and date established for receipt of proposals by withdrawing or correcting the proposal as provided in R131-4-408.

(b) Confirmation of proposal. When it appears from a review of the proposal before an award is made, that a mistake has been made, the offeror shall be asked to confirm the proposal. If the offeror alleges that a mistake occurred, the proposal may be corrected or withdrawn during any discussions that are held or the conditions listed below, by this rule, are met.

(c) Mistakes discovered after receipt but before award. This Subsection defines procedures to be applied in four situations in which mistakes in proposals may be discovered after receipt of proposals but before award.

(i) During discussions; prior to best and final offers. Once discussions are commenced with any offeror or after best and final offers are requested, any offeror may freely correct any mistake by modifying or withdrawing the proposal until the time and date set for receipt of best and final offers.

(ii) Minor formalities. Minor formalities, unless otherwise corrected by an offeror as provided in this Section, shall be treated in accordance with this rule.

(iii) Corrections of mistakes. If discussions are not held or if the best and final offers upon which award will be made have been received, mistakes may be corrected and the correct offer considered only if:

(A) the mistakes and the correct offer are clearly evident on the face of the proposal in which event the proposal may not be withdrawn;

(B) the mistake is not clearly evident on the face of the proposal, but the offeror submits proof of evidentiary value which clearly and convincingly demonstrates both the existence of a mistake and the correct offer, and the correction of the mistake would not be contrary to the fair and equal treatment of other offerors.

(iv) Withdrawals of proposals. If discussions are not held, or if the best and final offers upon which award will be made have been received, offeror may be permitted to withdraw a proposal if:

(A) a mistake was made that is clearly evident on the face of the proposal and the intended amount of the offer is not evident; or

(B) the offeror submits proof of evidentiary value which clearly and convincingly demonstrates that a mistake was made that it does not demonstrate the correct offer or, if the correct offer is also demonstrated, to allow correction on the basis the proof provided would not be contrary to the fair and equal treatment of other offerors.

(d) Mistakes discovered after award. An offeror shall be bound to all terms, conditions and statements in offeror's proposal after award of the contract.

(14) Award.

(a) Award Documentation. A written determination shall be made showing the basis on which the award was found to be most advantageous to the state based on the factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made.

(b) One proposal received. If only one proposal is received in response to a request for proposals, the executive director may make an award or, if time permits, resolicit for the purpose of obtaining additional competitive sealed proposals.

(15) Publicizing Awards.

(a) Notice. After the selection of the successful offeror, notice of award shall be available in the executive director's office in Salt Lake City, Utah and may be available on the Internet.

(b) Information Disclosed. The following shall be disclosed with the notice of award:

(i) the rankings of the proposals;

(ii) the names of the selection committee members;

(iii) the amount of each offeror's cost proposal;

(iv) the final scores used by the selection committee to make the selection, except that the names of the individual scorers shall not be associated with their individual scores; and

(v) the written justification statement supporting the selection.

(c) Information Classified as Protected. After due consideration and public input, the following has been determined by the board to impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract with the board and shall be classified as protected records:

(i) the names of individual selection committee scorers in relation to their individual scores or rankings; and

(ii) non-public financial statements.

(16) Confidentiality of Performance Evaluations and Reference Information. The board finds that it is necessary to maintain the confidentiality of performance evaluations and reference information in order to avoid competitive injury and to encourage those persons providing the information to respond in an open and honest manner without fear of retribution. Accordingly, records containing performance evaluations and reference information are classified as protected records under the provisions of Subsections 63-2-304(6) and shall be disclosed only to those persons involved with the performance evaluation, the contractor that the information addresses and procurement and other officials involved with the review and selection of proposals. The executive director may, however, provide reference information to other governmental entities for use in their procurement activities and to other parties when requested by the contractor that is the subject of the information. Any other disclosure of such performance evaluations and reference information shall only be as required by applicable law.

R131-4-409. Small Purchases.

(1) Procurements of \$200,000 or Less.

(a) The executive director may make procurements estimated to cost \$200,000 or less by soliciting at least two firms to submit written quotations.

(b) The names of the persons submitting quotations and the date and amount of each quotation shall be recorded and maintained as a public record by the board.

(c) If the executive director determines that other factors in addition to cost should be considered in the procurement, the executive director shall solicit proposals from at least two firms. The award shall be made to the firm offering the best proposal as determined through application of the procedures provided for in R131-4-408 except that a public notice is not required and only invited firms may submit proposals.

(2) Procurements of \$50,000 or Less. The executive director may make small purchases of \$50,000 or less in any manner that he shall deem to be adequate and reasonable.

(3) Division of Procurements. Procurements shall not be divided in order to qualify for the procedures outlined in this rule.

R131-4-410. Sole Source Procurement.

(1) Conditions for Use of Sole Source Procurement. The procedures concerning sole source procurement in this rule may be used if, in the discretion of the executive director, a requirement is reasonably available only from a single source. Examples of circumstances which could also necessitate sole source procurement are:

(a) there is only one qualified source for the required craftsmanship, supply, service, or construction item; or

(b) the level of craftsmanship and quality to replicate restore is critical to the best interests of the state.

(c) the award to a specific supplier, service provider, or contractor is a condition of a donation that will fund the full cost of the supply, service, or construction item.

(d) where the compatibility of product design, equipment, accessories, or replacement parts is the paramount consideration;

(e) where a sole supplier's item is needed for trial use or testing;

(f) procurement of public utility services; or

(g) when it is a condition of a donation that will fund the full cost of the supply, material, equipment, service, or construction item.

(2) Written Determination. The determination as to whether a procurement shall be made as a sole source shall be made by the executive director in writing and may cover more than one procurement.

(3) Negotiation in Sole Source Procurement. The executive director shall negotiate with the sole source vendor for considerations of price, delivery, and other terms.

R131-4-411. Emergency Procurements.

(1) Application. This Section shall apply to every procurement made under emergency conditions that will not permit other source selection methods to be used.

(2) Definition of Emergency Conditions. An emergency condition is a situation which creates a threat to public health, welfare, or safety such as may arise by reason of floods, epidemics, riots, natural disasters, wars, destruction of property, building or equipment failures, or any emergency proclaimed by governmental authorities.

(3) Scope of Emergency Procurements. Emergency procurements shall be limited to only those items necessary to meet the emergency.

(4) Authority to Make Emergency Procurements.

(a) The executive director may make an emergency procurement when, in the executive director's determination, an emergency condition exists or will exist and the need cannot be met through other procurement methods.

(b) The procurement process shall be considered unsuccessful when all bids or proposals received pursuant to an invitation for bids or request for proposals are nonresponsive, unreasonable, noncompetitive, or exceed available funds as certified by the appropriate fiscal officer, and time or other circumstances will not permit the delay required to resolicit competitive sealed bids or proposals. If emergency conditions exist after or are brought about by an unsuccessful procurement process, an emergency procurement may be made.

(5) Source Selection Methods. The source selection method used for emergency procurement shall be selected by the executive director with a view to assuring that the required items are procured in time to meet the emergency. Given this constraint, as much competition as the executive director determines to be practicable shall be obtained.

(6) Specifications. The executive director may use any appropriate specifications without being subject to the requirements of R131-4-301 through R131-4-304.

(7) Required Construction Contract Clauses. The executive director may modify or not use the construction contract clauses otherwise required by R131-4-601.

(8) Written Determination. The executive director shall make a written determination stating the basis for each emergency procurement and for the selection of the particular source. This determination shall be included in the project file.

R131-4-411A. Protected Records.

(1) General Classification. Records submitted to the board or the executive director in a procurement process are classified as public unless a different classification is determined in accordance with Title 63, Chapter 2, Government Records Access and Management Act.

(2) Protected Records. Records meeting the requirements of Section 63-2-304 will be treated as protected records if the procedural requirements of GRAMA are met. Examples of protected records include the following:

(a) trade secrets, as defined in Section 13-24-2, if the requirements of R131-4-411A(3) are met;

(b) commercial information or nonindividual financial information if the requirements of Subsection 63-2-304(2) and R131-4-411A(3) are met; and

(c) records the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract with the board, including, but not limited to, those records for which such a determination is made in R131-4 or R131-1.

(3) Requests for Protected Status. Persons who believe that a submitted record, or portion thereof, should be protected under the classifications listed in R131-4-411A(2)(a) and R131-4-411A(2)(b) shall provide with the record a written claim of business confidentiality and a concise statement of reasons supporting the claim of business confidentiality. Such statements must address each portion of a document for which protected status is requested.

(4) Notification. A person who complies with R131-4-411A shall be notified by the executive director prior to the executive director's public release of any information for which business confidentiality has been asserted.

(5) Disclosure of Records and Appeal. The records access determination and any further appeal of such determination shall be made in accordance with the provisions of Sections 63-2-308 and 63-2-401 et seq., GRAMA.

(6) Not Limit Rights. Nothing in this rule shall be construed to limit the right of the board or executive director to protect a record from public disclosure where such protection is allowed by law.

R131-4-412. Cancellation and Rejection of Bids.

An invitation for bids, a request for proposals, or other solicitation may be cancelled, or any or all bids or proposals may be rejected, in whole or in part, as may be specified in the solicitation, when it is in the best interests of the state as determined by the board or executive director in writing. The reasons shall be made part of the contract file.

R131-4-413. Determination of Nonresponsibility of Bidder or Offeror.

A written determination of nonresponsibility of a bidder or offeror shall be made by the executive director when information of such nonresponsibility is provided to the executive director. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of nonresponsibility with respect to the bidder or offeror. Information furnished by a bidder or offeror pursuant to R131-4-413 shall not be disclosed outside of the board or executive director's office without prior written consent by the bidder or offeror.

R131-4-414. Prequalification of Suppliers.

Prospective suppliers may be prequalified for particular types of supplies, services, and construction. Solicitation mailing lists of potential contractors shall include but shall not be limited to prequalified suppliers.

R131-4-415. Rules and Regulations to Determine Allowable Incurred Costs - Required Information - Auditing of Books.

(1) Applicability. Cost or pricing data shall be required when negotiating contracts and adjustments to contracts if:

(a) adequate price competition is not obtained as provided in this rule; and

(b) the amounts listed in Subsection (3) below are exceeded.

(2) Adequate Price Competition. Adequate price competition for portions of, or entire contracts, occurs when:

(a) a contract is awarded based on competitive sealed bidding;

(b) a contractor is selected from competitive sealed proposals and cost was one of the selection criteria;

(c) a portion of a contract is awarded for a lump sum amount or a fixed percentage of other costs, and the cost of the lump sum or percentage amount is one of the selection criteria, and when contractor selection is made from competitive sealed proposals;

(d) a portion of a contract is awarded for which adequate price competition that was not otherwise obtained when competitive bids were obtained and documented by either the board, executive director, or the contractor;

(e) costs are based upon established catalogue prices or market prices;

(f) costs are set by law or rule; or

(g) the executive director makes a written determination that other circumstances have resulted in adequate price competition.

(3) Amounts. R131-4-415 does not apply to:

(a) Contracts or portions of contracts costing less than \$200,000, and

(b) Change orders or other price adjustments of less than \$50,000.

(4) Other Applications: R131-4-415 may apply to any contract or price adjustment when it is found by the executive director to be in the best interest of the state and any contract may require cost or pricing data and certifications by the contractor as to the accuracy of such cost or pricing data.

(5) Submission of Cost or Pricing Data and Certification. When cost or pricing data is required, the data shall be submitted prior to beginning price negotiation. The offeror or contractor shall keep the data current throughout the negotiations and certify as soon as practicable after agreement is reached on price that the cost or pricing data submitted are accurate, complete, and current as of a mutually determined date.

(6) Refusal to Submit. If the offeror fails to submit the required data, the executive director may disqualify the noncomplying offeror, to defer award pending further investigation, or to enter into the contract. If the matter involves a price adjustment, the executive director may further investigate the price adjustment, disallow any price adjustment, or set the amount of the price adjustment.

(7) Defective Cost or Pricing Data. If certified cost or pricing data are subsequently found to have been inaccurate, incomplete, or noncurrent as of the date stated in the certificate, the Board shall be entitled to an adjustment of the contract price to exclude any significant sum, including profit or fee, to the extent the contract sum was increased because of the defective data. It shall be assumed that overstated cost or pricing data resulted in an increase of the contract price in the amount of the defect plus any related overhead and profit or fee; therefore, unless documentation can show that the defective data were not used or relied upon, the price may be reduced by a requisite amount. In establishing that defective data caused an increase in the contract price, the executive director shall not be required to reconstruct the negotiation or speculate on the mental attitudes of the negotiating parties if correct data had been submitted at the time of agreement on price.

(8) Audit. The state, board or executive director may, in its discretion, and at reasonable times and places, audit or cause to be audited the books and records of any person who has submitted cost or pricing data pursuant to this rule or any contractor, prospective contractor, subcontractor, or prospective subcontractor which are related to the cost or pricing data submitted.

(9) Retention of Books and Records. Any contractor who receives a contract or price adjustment for which cost or pricing data is required shall maintain all books and records that relate to the cost or pricing data for three years following the end of the fiscal year in which final payment is made under the prime contract and by the subcontractor for three years following the end of the fiscal year in which final payment is made under the subcontract.

R131-4-416. Cost-Plus-a-Percentage-of-Cost Contract.

(1) Subject to the limitations of R131-4-416, any type of contract which will promote the best interests of the state or the Board may be used; provided that the use of a cost-plus-a-percentage-of-cost contract is only allowed as approved by the board, otherwise it is prohibited. A cost-reimbursement contract with a guaranteed maximum price may be used only when a determination is made in writing by the board that such contract is likely to be less costly to the state than any other type or that it is

impracticable to obtain the supplies, services, or construction required except under such a contract.

(2) Except with respect to firm fixed-price contracts, no contract type shall be used unless it has been determined in writing by the executive director or the board that:

(a) the proposed contractor's accounting system will permit timely development of all necessary cost data in the form required by the specific contract type contemplated; and

(b) the proposed contractor's accounting system is adequate to allocate costs in accordance with generally accepted accounting principles.

R131-4-417. Period of Time for Contract of Supplies.

(1) Unless otherwise provided by law, a contract for supplies or services may be entered into for any period of time deemed to be in the best interests of the state or the board; provided that the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds.

(2) Prior to the utilization of a multi-year contract, it shall be determined in writing by the executive director or the board that estimated requirements cover the period of the contract and are reasonably firm and continuing and that such a contract will serve the best interests of the state or the board by encouraging effective competition or otherwise promoting economies in state procurement.

(3) When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be cancelled and the contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the supplies or services delivered under the contract. The cost of cancellation may be paid from any appropriations available for that purpose.

R131-4-418. Right to Inspect Place of Business of Contractor or Subcontractor.

The state, board or the executive director may, at reasonable times, inspect the part of the plant or place of business of a contractor or any subcontractor which is related to the performance of any contract awarded or to be awarded by the board or the executive director.

R131-4-419. Determinations Final Except when Arbitrary and Capricious.

The determinations required by R131-4-401, R131-4-408, R131-4-410, R131-4-411, R131-4-413, R131-4-415, R131-3-416, and R131-4-417 are final and conclusive unless they are arbitrary and capricious or clearly erroneous.

R131-4-420. Factual Information to Attorney General if Collusion Suspected.

When for any reason collusion or other anticompetitive practices are suspected among bidders or offerors, a notice of the relevant facts shall be transmitted to the attorney general.

R131-4-421. Records of Contracts Made.

The executive director shall maintain a record listing all contracts made under R131-4-410 or R131-4-111 and shall maintain the record in accordance with Title 63, Chapter 2, Government Records Access and Management Act. The record shall contain

each contractor's name, the amount and type of each contract, and a listing of the supplies, services, or construction procured under each contract.

R131-4-423. Purchase of Prison Industry Goods.

(1) The board shall purchase goods and services produced by the Utah Correctional Industries Division as provided by R131-4-423, which is an exemption from other provisions of R131-4, when in the opinion of the board or executive director such purchase is feasible.

(2) The board or executive director may not purchase any goods or services provided by the Utah Correctional Industries Division from any other source unless it has been determined in writing by the director of the Utah Correctional Industries and the board or executive director, that purchase from the Utah Correctional Industries Division is not feasible due to one of the following circumstances:

(a) the good or service offered by the Utah Correctional Industries Division does not meet the reasonable requirements of the executive director or board, including the compatibility with the unique design requirements of the Capitol Hill facilities and grounds;

(b) the good or service cannot be supplied within a reasonable time by the Utah Corrections Industries Division; or

(c) the cost of the good or service, including basic price, transportation costs, and other expenses of acquisition, is not competitive with the cost of procuring the item from another source.

(3) In cases of disagreement, the decision may be appealed to a board consisting of the director of the Department of Corrections, the executive director, and a neutral third party agreed upon by the other two members.

R131-4-425. Purchase from Community Rehabilitation Programs.

(1) Except as provided under R131-4-425(3) below, notwithstanding any provision in R131-4 to the contrary, the board or executive director shall purchase goods and services produced by a community rehabilitation program using the preferred procurement contract list approved under Section 63-56-425(2)(b)(iii) if:

(a) the good or service offered for sale by a community rehabilitation program reasonably conforms to the needs and specifications of the board;

(b) the community rehabilitation program can supply the good or service within a reasonable time; and

(c) the price of the good or service is reasonably competitive with the cost of procuring the good or service from another source.

(2) In accordance with Section 63-56-425 (5), each community rehabilitation program:

(a) may submit a bid to the Persons with Disabilities Advisory Board at any time and not necessarily in response to a request for bids; and

(b) shall certify on any bid it submits to the Persons with Disabilities Advisory Board, the Board or executive director that it is claiming a preference under Section 63-56-425.

(3) During a fiscal year, the requirement for the board or executive director to purchase goods and services produced by a community rehabilitation program under the preferred procurement list under Section 63-56-425(4) does not apply if the Division of Purchasing and General Services determines that the total amount of procurement contracts with community rehabilitation programs has reached \$5 million for that fiscal year.

(4) In the case of conflict between a purchase under R131-4-425 and a purchase under R131-4-423, R131-4-425 prevails.

R131-4-501. Alternative Methods of Construction Contracting Management.

(1) Application. This Section contains provisions applicable to the selection of the appropriate type of construction contract management.

(2) Flexibility. The executive director may devise an appropriate construction contract management method for a particular project that will best meet the needs of the board. The methods outlined in this rule are not an exclusive list.

(3) Selection. The executive director shall be expected to consider the results achieved on similar projects in the past and the methods used, other appropriate and effective methods, and how a method could be adapted or combined to meet the needs of the state.

(4) Criteria. Before choosing the construction contracting method, some factors that may be considered include:

- (a) when the facility must be ready for occupancy;
- (b) the type of project, for example, housing, offices, labs, heavy or specialized construction;
- (c) the extent to which the requirements of the occupants are known;
- (d) the location of the project;
- (e) the size, scope, complexity, and economics of the project;
- (f) the amount and type of financing available for the project, including whether the budget is fixed, the source of funding, general or special appropriation, federal assistance moneys, general obligation bonds or revenue bonds;
- (g) the availability, qualification, experience, and available time of assigned State personnel to the project;
- (h) the availability, experience and qualifications of outside consultants and contractors.

(5) General Descriptions.

(a) Application of Descriptions. The following descriptions are provided for the more common contracting methods. The methods described are not mutually exclusive and may be combined on a project. These descriptions are not intended to be fixed for all construction projects of the state. In each project, these descriptions may be adapted to fit the circumstances of that project.

(b) Single Prime Contractor. The single prime contractor method is typified by one business entity acting as a general contractor with the state to complete an entire construction project in accordance with drawings and specifications provided by the state within a defined time period. Generally, the drawings and specifications are prepared by an architectural or engineering firm under contract with the state. Further, while the general contractor may take responsibility for successful completion of the project, much of the work may be performed by specialty contractors with whom the prime contractor has entered into subcontracts.

(c) Multiple Prime Contractors. Under this method, the board or the board's agent shall contract directly with a number of specialty contractors to complete portions of the project in accordance with the board's drawings and specifications. The board or its agent may have primary responsibility for successful completion of the entire project, or the contracts may provide that one of the multiple prime contractors shall have this responsibility.

(d) Design-Build. The use of a design build provider is authorized if determined to be used in accordance with this rule. In a design-build project, a business entity shall contract directly with

the board to meet requirements described in a set of performance specifications. Both the design and construction responsibilities are assumed by the design-build contractor. This method can include instances where the design-build contractor supplies the site as part of the package.

(e) Construction Manager. The use of a construction manager, including a construction manager/general contractor, is authorized if determined to be used in accordance with this rule and shall be selected in accordance with R131-4. A construction manager shall be experienced in construction, have the ability to evaluate and to implement drawings and specifications as they affect time, cost, and quality of construction and the ability to coordinate the construction of the project, including the addition of change orders. A contract with a construction manager may be issued early in a project to assist in the development of a cost effective design. The construction manager may be appointed the single prime contractor, or may be required to guarantee that the project will be completed by a specified time, and not to exceed a specified maximum price. The procurement of a construction manager may be based, among other criteria, on proposals for a management fee which is either a lump sum or a percentage of construction costs with a guaranteed maximum cost or, on proposals for a lump sum or guaranteed maximum cost for the construction of the project. The contract with the construction manager may also provide for a sharing of any savings which are achieved below the guaranteed maximum cost. When entering into any subcontract that was not specifically included in the construction manager/general contractor's cost proposal, the construction manager/general contractor shall procure that subcontractor in accordance with R131-4 in the same manner as if the subcontract work was procured directly by the board.

(f) Sequential Design and Construction. Sequential design and construction is a method whereby design of substantially the entire structure is completed prior to beginning the construction process.

(g) Phased Design and Construction. Phased design and construction is a method whereby construction is begun when appropriate portions have been designed but before design of the entire structure has been completed. This method is also known as fast track construction.

(h) Design Assist Contracting. Design assist contracting may be used when it is determined by the executive director that a contractor (including a particular subcontractor trade) is needed subject to the following:

- (i) it is determined that the design assist contractor (DAC) has a unique knowledge of a material or product that warrants the interaction of the DAC early on with the designer;
- (ii) the DAC will be providing construction estimates, details and documents as well as the construction or installation of materials or products into the project;

(iii) the DAC is selected through a competitive sealed proposal process where qualifications are the main criteria for selection;

(iv) the DAC will provide information to the executive director and the designer of the project as needed to define the scope of the work for a fee; and

(v) a contract may be entered with a DAC only when the proposed cost for the work is equal to or less than the budget established by the board for the project, provided that the board may increase the budget, the board/executive director may use the information provided by the DAC and initiate a procurement process for the construction or installation; or the board/executive director may reduce the scope of the work.

R131-4-502. Procurement of Design-Build Highway Project Contracts.

The board may contract with the Department of Transportation as needed for procurement of design-build transportation project contracts surrounding Capitol Hill.

R131-4-503. Bid Security Requirements.

(1) Bid security in amount equal to at least 5% of the amount of the bid shall be required for all competitive sealed bidding for construction contracts with an amount over \$50,000. The board finds that requiring a bid bond for construction contracts of \$50,000 or less is presumed not necessary to protect the state or the board, though the executive director or the board has the right on an individual contract to so require the bonds. Bid security shall be a bond in a form and from a surety company that meets the requirements of R131-4-504.

(2) When a bidder fails to comply with the requirement for bid security set forth in the invitation for bids, the bid shall be rejected unless, pursuant to R131-4, it is determined by the executive director that the failure to comply with the security requirements is nonsubstantial.

(3) After the bids are opened, they shall be irrevocable for the period specified in the invitation for bids, except as provided in R131-4-401. If a bidder is permitted to withdraw a bid before award, no action shall be taken against the bidder or the bid security.

Failure to submit an acceptable bid security in connection with an invitation for bids shall be deemed nonsubstantial where only one bid is received, and there is not sufficient time to rebid the contract.

(4) When issuing an invitation for bid under R131-4, the executive director may not require a person or entity who is bidding for a contract to obtain a bond of the type referred to in Subsection (1) from a specific insurance or surety company, producer, agent, or broker.

R131-4-504. Bonds Necessary When Contract is Awarded - Waiver - Action - Attorneys' Fees.

(1) When a construction contract for an amount over \$50,000, is awarded under R131-4, the contractor to whom the contract is awarded shall deliver the following bonds or security to the executive director, which shall become binding on the parties upon the execution of the contract:

(a) a performance bond satisfactory to the executive director that is in an amount equal to 100% of the price specified in the contract and is executed by a surety company authorized to do business in this state or any other form satisfactory to the state; and

(b) a payment bond satisfactory to the executive director that is in an amount equal to 100% of the price specified in the contract and is executed by a surety company authorized to do business in this state or any other form satisfactory to the state, which is for the protection of each person supplying labor, service, equipment, or material for the performance of the work provided for in the contract.

(2) The board finds that requiring a performance or payment bond for construction contracts of \$50,000 or less is presumed not necessary to protect the state or the board, though the executive director or the board has the right on an individual contract to so require the bonds.

(3) If a contractor fails to deliver the required bonds, the contractor's bid shall be found nonresponsive and its bid security shall be forfeited.

(4) Forms of Bonds. Bid bonds, payment bonds and performance bonds must be from sureties meeting the requirements of this rule and must be on the exact bond forms most recently adopted by the board and on file with the board.

(5) Surety firm requirements. All surety firms must be authorized to do business in the state of Utah and be listed in the U.S. Department of the Treasury Circular 570, Companies Holding Certificates of Authority as Acceptable Securities on Federal Bonds and as Acceptable Reinsuring Companies for an amount not less than the amount of the bond to be issued. A co-surety may be utilized to satisfy this requirement.

(6) Waiver. The executive director may waive the bonding requirement if the executive director finds that bonds cannot be reasonably obtained for the work involved and, after seeking advice from the attorney general, that such bonds are not necessary to protect the board or the state, which finding shall be documented in the project files.

(7) A person shall have a right of action on a payment bond in accordance with Section 63-56-504.

R131-4-505. Preliminary Notice Requirement.

(1) Any person furnishing labor, service, equipment, or material for which a payment bond claim may be made under R131-4, shall provide preliminary notice to the designated agent as prescribed by Section 38-1-32, except that this preliminary notice requirement shall not apply:

(a) to a person performing labor for wages; or

(b) if a notice of commencement is not filed as prescribed in Section 38-1-31 for the project or improvement for which labor, service, equipment or material is furnished.

(2) Any person who fails to provide the preliminary notice required by Subsection (1) may not make a payment bond claim under the Utah Procurement Code or R131-4.

(3) The preliminary notice required by Subsection (1) must be provided prior to commencement of any action on the payment bond.

R131-4-506. Form of Bonds - Effect of Certified Copy.

The form of the bonds shall be as required in R131-4-503 and R131-4-504 above. Any person may obtain from the executive director a certified copy of a bond upon payment of the cost of reproduction of the bond and postage, if any. A certified copy of a bond shall be prima facie evidence of the contents, execution, and delivery of the original.

R131-4-507. Qualifications of Contractors.

(1) Pre-Bidding Requirements. The following documents must be on file with the board before the bidding documents for a project may be issued to prospective bidders.

(a) If the type of work involved with the project requires a contractor's license, a photocopy of the bidder's current Utah contractor's license showing date issued, expiration date, bid limit amount or similar restriction, and the class of work for which licensed; (b) A statement from the bidder's surety stating that it will bond the bidder for an amount at least equal to the estimated cost of the contract as determined by the executive director. This requirement can be met by having the surety file an annual statement with the board showing the bonding limit it has established for the bidder.

(2) A form of surety statement and, when applicable, a form for prequalification, are available at the principal office of the board.

(3) Project Specific Requirements. The board may include additional qualification requirements in the solicitation documents as may be appropriate for a specific project.

R131-4-601. Construction Contract Clauses.

(1) Required Contract Clauses. Pursuant to Section 63-56-601, the document entitled "Required Construction Contract Clauses", dated March 28, 2001 and on file with the executive director, is hereby incorporated by reference. Except as provided in this rule, the executive director shall include some or all of these clauses in all construction contracts for more than \$50,000.

(2) Revisions to Contract Clauses. The executive director may modify the clauses for inclusion in any particular contract. The clauses required by this Section may be modified for use in any particular contract when, pursuant to this rule, the executive director makes a written determination describing the circumstances justifying the variation or variations. Notice of any material variations from the contract clauses required by this Section shall be included in any invitation for bids or request for proposals. Any variations shall be supported by a written determination by the executive director that describes the circumstances justifying the variations, and notice of any material variation shall be included in the invitation for bids or request for proposals.

R131-4-602. Certification of Change Order.

Under a construction contract, any change order which increases the contract amount shall be subject to prior written certification that the change order is within the determined project or contract budget. The certification shall be made by the executive director. If the certification discloses a resulting increase in the total project or contract budget, the executive director shall not execute or make the change order unless sufficient funds are available or the scope of the project or contract is adjusted to permit the degree of completion feasible within the total project or contract budget as it existed prior to the change order under consideration. However, with respect to the validity, as to the contractor, of any executed change order upon which the contractor has reasonably relied, it shall be presumed that there has been compliance with the provisions of this rule.

R131-4-701. Procured in Accordance with R131-1.

Architectural and engineering services shall be procured in accordance with R131-1.

R131-4-703. Selection as Part of Design-Build or Lease.

Notwithstanding any other provision of R131-4, architect-engineer services may be procured by the board as part of the services obtained in a design-build contract or as part of the services obtained in a lease contract for real property, provided that the qualifications of those providing the architect-engineer services are part of the consideration in the selection process.

R131-4-801. In General.

While the board is exempt from the requirements of Title 63, Chapter 56, Utah Procurement Code and is required to adopt procurement rules substantially similar to the requirements of that chapter, the board recognizes that the provisions of Title 63, Chapter 56, Utah Procurement Code Section 63-56-801 through 63-56-820 shall apply to the procurement processes of the board and the executive director. The following R131-801A through R131-4-820

shall be operative, whether through the Utah Procurement Code or through the rules themselves.

R131-4-801A. Protest to Executive Director - Time - Authority to Resolve Protest.

(1) Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the executive director. A protest with respect to an invitation for bids or a request for proposals shall be submitted in writing prior to the opening of bids or the closing date for proposals, unless the aggrieved person did not know and should not have known of the facts giving rise to the protest prior to bid opening or the closing date for proposals. The protest shall be submitted in writing within five working days after the aggrieved person knows or should have known of the facts giving rise thereto.

(2) The executive director shall have the authority, prior to the commencement of an action in court concerning the controversy, to settle and resolve the protest.

R131-4-802. Effect of Timely Protest.

In the event of a timely protest under R131-4-801A(1), Section 63-56-810(1) or R131-4-815(1), the board shall not proceed further with the solicitation or with the award of the contract until all administrative and judicial remedies have been exhausted or until the executive director after consultation with the head of any applicable using agency or the head of any applicable purchasing agency, makes a written determination that the award of the contract without delay is necessary to protect substantial interests of the state.

R131-4-803. Costs to or Against Protestor.

(1) When a protest is sustained administratively or upon administrative or judicial review and the protesting bidder or offeror should have been awarded the contract under the solicitation but is not, the protestor shall be entitled to the following relief as a claim against the state:

(a) the reasonable costs incurred in connection with the solicitation, including bid preparation and appeal costs; and

(b) any equitable relief determined to be appropriate by the reviewing administrative or judicial body.

(2) When a protest is not sustained by the procurement appeals board, the protestor shall reimburse the board or the Division of Purchasing and General Services, in accordance with which agency incurred the expense, for the per diem and expenses paid to witnesses or appeals board members and any additional expenses incurred by the state agency staff who have provided materials and administrative services to the procurement appeals board for that case.

R131-4-804. Debarment from Consideration for Award of Contracts - Causes for Debarment.

(1) After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the executive director after consultation with the attorney general and any applicable using agency, shall have authority to debar a person for cause from consideration for award of contracts. The debarment shall not be for a period exceeding three years. The executive director, after consultation with the attorney general and any applicable using agency, shall have authority to suspend a person from consideration for award of contracts if there is probable cause to believe that the person has engaged in any activity which might lead to debarment. The suspension shall not be for a period

exceeding three months unless an indictment has been issued for an offense which would be a cause for debarment under Subsection (2) of R131-4-804, in which case the suspension shall, at the request of the attorney general, remain in effect until after the trial of the suspended person.

(2) The causes for debarment include the following:

(a) conviction of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract or in the performance of such contract or subcontract;

(b) conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a state contractor;

(c) conviction under state or federal antitrust statutes;

(d) failure without good cause to perform in accordance with the terms of the contract; or

(e) any other cause the executive director determines to be so serious and compelling as to affect responsibility as a state contractor, including debarment by another governmental entity for any cause listed in rules and regulations.

R131-4-805. Authority to Resolve Controversy Between Capitol Preservation Board and Contractor.

The board/executive director is authorized, prior to commencement of an action in court concerning the controversy, to settle and resolve a controversy which arises between the board/executive director and a contractor under or by virtue of a contract between them. This includes, without limitation, controversies based upon breach of contract, mistakes, misrepresentation, or other cause for contract modification or rescission.

R131-4-806. Decisions of Executive Director to be in Writing - Effect of no Writing.

(1) The executive director, or board if determined by the board, shall promptly issue a written decision regarding any protest, debarment or suspension, or contract controversy if it is not settled by a mutual agreement. The decision shall state the reasons for the action taken and inform the protestor, contractor, or prospective contractor of the right to judicial or administrative review as provided in the Utah Procurement Code and R131-4.

(2) A decision shall be effective until stayed or reversed on appeal, except to the extent provided in R131-4-802. A copy of the decision under Subsection (1) above shall be mailed or otherwise furnished immediately to the protestor, prospective contractor, or contractor. The decision shall be final and conclusive unless the protestor, prospective contractor, or contractor appeals administratively to the procurement appeals board in accordance with Subsection 63-56-810(2) or the protestor, prospective contractor, or contractor commences an action in district court in accordance with R131-4-815 (Section 63-56-815).

(3) If the executive director or board, depending who is considering the matter, does not issue the written decision regarding a contract controversy within 60 calendar days after written request for a final decision, or within such longer period as may be agreed upon by the parties, then the contractor may proceed as if an adverse decision had been received.

R131-4-807. Procurement Appeals Board.

The board recognizes the provisions of Sections 63-56-807 through 63-56-813, related to the procurement appeals board, as being applicable to the procurement processes of the board and the executive director.

R131-4-814. Right to Appeal to Court of Appeals.

In accordance with Section 63-56-814, any person receiving an adverse decision of the board may appeal a decision of the procurement appeals board to the court of appeals. However, no appeal may be made by the board unless recommended by the executive director and approved by the attorney general.

R131-4-815. Jurisdiction of District Court.

The board recognizes the jurisdictional provisions of Section 63-56-815 regarding the district court.

R131-4-816. Effect of Prior Determination by Agents of State.

The board recognizes the provisions of Section 63-56-816 as being applicable in that in any judicial action under R131-4-815, determinations by employees, agents, or other persons appointed by the state shall be final and conclusive only as provided in R131-4-419, R131-4-806, and R131-4-807.

R131-4-817. Statutes of Limitations.

(1) The board recognizes the statute or limitation requirements of Section 63-56-817 as being applicable and therefore:

(a) Any action under R131-4-815(1)(a) shall be initiated as follows:

(i) within 20 calendar days after the aggrieved person knows or should have known of the facts giving rise to the action; provided, however, that an action with respect to an invitation for bids or request for proposals shall be initiated prior to the opening of bids or the closing date for proposals unless the aggrieved person did not know and should not have known of the facts giving rise to the action prior to bid opening or the closing date for proposals; or

(ii) within 14 calendar days after receipt of a final administrative decision pursuant to either R131-4-806 or R131-4-807, whichever is applicable.

(b) Any action under R131-4-815(1)(b) shall be commenced within six months after receipt of a final administrative decision pursuant to R131-4-806 or R131-4-807, whichever is applicable.

(c) The statutory limitations on an action between private persons on a contract or for breach of contract shall apply to any action commenced pursuant to R131-4-815(1)(c), except notice of appeals from the procurement appeals board pursuant to R131-4-807 concerning actions on a contract or for breach of contract shall be filed within one year after the date of the procurement appeals board decision.

R131-4-818. Effect of Violation Prior to Award of Contract.

The board recognizes Section 63-56-818 as being applicable and therefore, if prior to award it is determined administratively or upon administrative or judicial review that a solicitation or proposed award of a contract is in violation of law, the solicitation or proposed award shall be cancelled or revised to comply with the law.

R131-4-819. Effect of Violation after Award of Contract.

The board recognizes Section 63-56-819 as being applicable and therefore, if after an award it is determined administratively or

upon administrative or judicial review that a solicitation or award of a contract is in violation of law:

(1) If the person awarded the contract has not acted fraudulently or in bad faith:

(a) The contract may be ratified and affirmed if it is determined that doing so is in the best interests of the state; or

(b) The contract may be terminated and the person awarded the contract shall be compensated for the actual expenses reasonably incurred under the contract prior to termination, plus a reasonable profit;

(2) If the person awarded the contract has acted fraudulently or in bad faith:

(a) The contract may be declared null and void; or

(b) The contract may be ratified and affirmed if such action is in the best interests of the state, without prejudice to the board's and the state's rights to any appropriate damages.

R131-4-820. Interest Rate.

The board recognizes Section 63-56-820 as being applicable and therefore:

(1) Except as provided in (2) below, in controversies between the board, including the executive director, and contractors under R131-4-801 through R131-4-820, interest on amounts ultimately determined to be due to a contractor or to the board and the state are payable at the rate applicable to judgments from the date the claim arose through the date of decision or judgment, whichever is later.

(2) This rule does not apply to public assistance benefits programs.

R131-4-901. Public Procurement Units.

The board recognizes the applicability of Sections 63-56-901 through 63-56-907 and the board is authorized to enter into agreements under those Sections and those Sections shall be operative in regard to such agreements.

R131-4-1001. Accepting or Offering Emolument.

To the extent allowed by law, the provisions of Sections 63-56-1001 and 63-56-1002 restricting the acceptance or offering of emolument shall apply.

KEY: contracts, public buildings, procurement

Date of Enactment or Last Substantive Amendment: ~~May 16, 2001~~ 2007

Notice of Continuation: May 12, 2006

Authorizing, and Implemented or Interpreted Law: 63C-9-301

◆ ————— ◆

Commerce, Occupational and Professional Licensing

R156-56

Utah Uniform Building Standard Act Rules

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 30574

FILED: 10/11/2007, 15:50

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division is proposing changes to the rule to adopt amendments to the building codes approved by the Uniform Building Code Commission after review by various subcommittees.

SUMMARY OF THE RULE OR CHANGE: Subsection R156-56-202(1) is a technical change to correct outdated statutory references.

In Section R156-56-401, moved Daniels designation of DAN to correct column. Subsection R156-56-801(47) is a technical correction clarifying when alternative wind design procedures may be used. Subsections R156-56-801(58) and R156-56-820(4) are technical corrections to clarify the requirement that an engineer's recommendation for corrective action must be implemented when deficient conditions are found in certain buildings undergoing remodeling. Subsections R156-56-803(52) and (56) are additions to the rule which allow tested air admittance valves to be used in limited circumstances such as labs using a chemical waste and vent system. In Subsection R156-56-903(1), Salt Lake City has requested approval of a local amendment which allows gray water recycling in certain nonresidential buildings. Gray water recycling allows nonhazardous wastewater from limited sources such as laundries, showers, or baths to be used for flushing of toilets and urinals within the same building.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-56-1 and Subsections 58-1-106(1)(a), 58-1-202(1)(a), 58-56-4(2), and 58-56-6(2)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Division has determined that there should be no direct effect on the state budget as a result of the proposed amendments other than minimal costs to affected state agencies who need to reprint the rule once the proposed amendments are made effective.

❖ LOCAL GOVERNMENTS: The division has determined that there should be no direct effect on local governments except as noted below. Any net effect will be minimal.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The division has determined the technical changes will not result in any significant impact on any party. It is unknown how many persons these proposed amendments will affect or the cost of implementation; therefore, it is impossible to determine an aggregate impact. The change to allow air admittance valves in certain applications will result in savings in certain types of buildings such as labs which handle chemicals. This results in a savings to construct redundant venting to outside air. It is impossible to estimate the savings per building or other number of building that this amendment would affect. The local amendment for Salt Lake City will allow for installation of gray water recycling in certain

nonresidential buildings. Gray water recycling has not previously been allowed within Utah buildings and would be considered experimental at this time in Utah, although it has been successfully implemented in other jurisdictions such as Las Vegas. At this time the cost to add gray water recycling systems would be substantial and would likely cost substantially more than the cost of the water that it would save. However, as demand for water increases particularly in drier locations, methods of recycling water need to be explored. Codes and rules for how these types of recycling projects would be constructed and monitored have previously been adopted for potential use. This would be the first instance in Utah when those codes are adopted by a local jurisdiction. Existing rules already provide for added monitoring by the Utah Department of Environmental Quality and the Department of Health if such a system is constructed.

The Salt Lake City local amendment may result in higher installation costs and ongoing maintenance costs for a limited number of persons but those persons would only voluntarily commit to the additional costs. No one is required to use a gray water recycling system under the code. But if they voluntarily choose to implement such a system, they are required to expend additional costs to assure the health and safety of such a system. It is impossible for the division to determine potential costs of such a system until it is actually designed.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Division has determined the technical changes will not result in any significant impact on any party. The change to allow air admittance valves in certain applications will result in savings in certain types of buildings such as labs which handle chemicals. This results in a savings to construct redundant venting to outside air. It is impossible to estimate the savings per building or other number of building that this amendment would affect. The local amendment for Salt Lake City will allow for installation of gray water recycling in certain nonresidential buildings. Gray water recycling has not previously been allowed within Utah buildings and would be considered experimental at this time in Utah, although it has been successfully implemented in other jurisdictions such as Las Vegas. At this time the cost to add gray water recycling systems would be substantial and would like cost substantially more than the cost of the water that it would save. However, as demand for water increases particularly in drier locations, methods of recycling water need to be explored. Codes and rules for how these types of recycling projects would be constructed and monitored have previously been adopted for potential use. This would be the first instance in Utah when those codes are adopted by a local jurisdiction. Existing rules already provide for added monitoring by the Utah Department of Environmental Quality and the Department of Health if such a system is constructed. The Salt Lake City local amendment may result in higher installation costs and ongoing maintenance costs for a limited number of persons but those persons would only voluntarily commit to the additional costs. No one is required to use a gray water recycling system under the code. But if they voluntarily choose to implement such a system, they are required to expend additional costs to assure the health and safety of such a system. It is impossible for the

division to determine potential costs of such a system until it is actually designed.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing permits the use of tested air admittance valves in limited circumstances, which is expected to result in cost savings to the construction industry and owners of buildings. The filing also approves Salt Lake City's request for a local amendment permitting gray water recycling in nonresidential buildings, which is costly but optional. Finally, the rule filing makes various technical amendments which are not expected to result in any fiscal impact to businesses. 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 12/03/2007

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 11/15/2007 at 9:00 AM, State Office Building (behind the Capitol), Room 4112, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2007

AUTHORIZED BY: F. David Stanley, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-56. Utah Uniform Building Standard Act Rules.
R156-56-202. Advisory Peer Committees Created - Membership - Duties.**

(1) There is created in accordance with Subsection 58-1-203[(6)](1)(f) and 58-56-5(10)([e]d), the following committees as advisory peer committees to the Uniform Building Codes Commission:

- (a) the Education Advisory Committee consisting of seven members;
- (b) the Plumbing and Health Advisory Committee consisting of nine members;
- (c) the Structural Advisory Committee consisting of seven members;
- (d) the Architectural Advisory Committee consisting of seven members;
- (e) the Fire Protection Advisory Committee consisting of five members;
- (i) This committee shall join together with the Fire Advisory

and Code Analysis Committee of the Utah Fire Prevention Board to form the Unified Code Analysis Council.

(ii) The Unified Code Analysis Council shall meet as directed by the Utah Fire Prevention Board or as directed by the Uniform Building Code Commission or as needed to review fire prevention and building code issues that require definitive and specific analysis.

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

(iv) The chair or vice chair shall report to the Utah Fire Prevention Board or Uniform Building Code Commission recommendations of the council with regard to the review of fire and building codes;

(f) the Mechanical Advisory Committee consisting of seven members; and

(g) the Electrical Advisory Committee consisting of seven members.

(2) The committees shall be appointed and serve in accordance with Section R156-1-205. The membership of each committee shall be made up of individuals who have direct knowledge or involvement in the area of code involved in the title of that committee.

(3) The duties and responsibilities of the committees shall include:

(a) review of requests for amendments to the adopted codes as assigned to each committee by the division with the collaboration of the commission;

(b) submission of recommendations concerning the requests for amendment; and

(c) the Education Advisory Committee shall review and make recommendations regarding funding requests which are submitted, and review and make recommendations regarding budget, revenue and expenses of the education fund established pursuant to Subsection 58-56-9(4).

R156-56-401. Standardized Building Permit Number.

As provided in Section 58-56-18, beginning on January 1, 2007, any agency issuing a permit for construction within the state of Utah shall use the standardized building permit numbering which includes the following:

(1) The permit number shall consist of 12 digits with the following components in the following order:

(a) digits one, two and three shall be alphabetical characters identifying the compliance agency issuing the permit as specified in the table in Subsection (3);

(b) digits four and five shall be numerical characters indicating the year of permit issuance;

(c) digits six and seven shall be numerical characters indicating the month of permit issuance;

(d) digits eight and nine shall be numerical characters indicating the day of the month on which the permit is issued; and

(e) digits ten, eleven and twelve shall be numerical characters used to distinguish between permits issued by the agency on the same day.

(2) When used in addition to a different permit numbering system, as provided for in Subsection 58-56-18(3)(b), the standardized building permit number shall be clearly identified and labeled as the "state permit number" or "Utah permit number".

(3) The following table establishes the three digit alphabetical

character for which the compliance agency shall be identified as provided in Subsection (1)(a):

TABLE
COMPLIANCE AGENCY PERMIT TABLE
FOR STANDARDIZED BUILDING PERMIT
THREE LETTER DESIGNATIONS

Index:

Column 1: City, town, or other compliance agency in which project is located

Column 2: County in which the city, town, or other compliance agency is located

Column 3: City, town or other compliance agency 3 digit designation (Designation is shown for cities, towns, or other compliance agency which issue building permits. If no designation is shown, the building permits for the city, town, or other compliance agency are issued by the county, therefore the county three digit designation should be used)

Column 4: County 3 digit designation

1 City, Town, or other Compliance Agency	2 County	3 City, Town, or other Compliance Agency Designation	4 County Designa- tion
Adamsville	BEAVER		BVR
Alpine	UTAH	ALP	
Alta	SALT LAKE	ALT	
Altamont	DUCHESNE		DCH
Alton	KANE		KAN
Altonah	DUCHESNE		DCH
Amalga	CACHE		CAC
American Fork	UTAH	AFC	
Aneth	SAN JUAN		SJC
Angle	PIUTE		PIU
Annabella	SEVIER		SEV
Antimony	GARFIELD		GRF
Apple Valley	WASHINGTON		WSC
Aragonite	TOOELE		TOC
Aurora	SEVIER		SEV
Austin	SEVIER		SEV
Avon	CACHE		CAC
Axtell	SANPETE		SPC
Bacchus	SALT LAKE		SCO
Ballard	UINTAH	BAL	
Bauer	TOOELE		TOC
Bear River	BOX ELDER	BRC	
Beaver City	BEAVER		BEA
BEAVER COUNTY			BVR
Beaver Dam	BOX ELDER		BEC
Benjamin	UTAH		UTA
Benson	CACHE		CAC
Beryl	IRON		IRO
Bicknell	WAYNE		WAY
Big Water	KANE	BWM	
Birdseye	UTAH		UTA
Black Rock	MILLARD		MIL
Blanding	SAN JUAN	BLA	
Bloomington Hills	WASHINGTON	STG (part of	St. George)
Bloomington	WASHINGTON	STG (part of	St. George)
Blue Creek	BOX ELDER		BEC
Bluebell	DUCHESNE		DCH
Bluff	SAN JUAN		SJC
Bluffdale	SALT LAKE	BLU	
Bonanza	UINTAH		UTC
Boneta	DUCHESNE		DCH
Bothwell	BOX ELDER		BEC
Boulder	GARFIELD		GRF
Bountiful	DAVIS	BOU	
BOX ELDER COUNTY			BEC

Brian Head	IRON	BHT		Diamond Valley	WASHINGTON	WSC
Bridgeland	DUCHESNE		DCH	Div of Facilities		
Brigham	BOX ELDER	BRI		Construction and Mgmt	(statewide) FCM	
Brighton	SALT LAKE		SCO	Dividend	UTAH	UTA
Brookside	WASHINGTON		WSC	Draper	SALT LAKE	DRA
Bryce	GARFIELD		GRF	Draper City South	UTAH	UTA
Bullfrog	KANE		KAN	Duchesne City	DUCHESNE	DUC
Burmester	TOOELE		TOC	DUCHESNE COUNTY		DCH
Burrville	SEVIER		SEV	Duck Creek	KANE	KAN
CACHE COUNTY			CAC	Dugway (Federal)	TOOELE	XXX
Cache Junction	CACHE		CAC	Dutch John	DAGGETT	DAG
Caineville	WAYNE		WAY	Eagle Mountain	UTAH	EMC
Callao	JUAB		JUA	East Carbon	CARBON	ECC
Camp Williams	UTAH		UTA	East Green River	GRAND	GRA
Cannonville	GARFIELD		GRF	East Millcreek	SALT LAKE	SCO
CARBON COUNTY			CAR	Eastland	SAN JUAN	SJC
Carbonville	CARBON		CAR	Echo	SUMMIT	SUM
Castle Dale	EMERY		EMR	Eden	WEBER	WEB
Castle Rock	SUMMIT		SUM	Elk Ridge	UTAH	ERC
Castle Valley	GRAND		GRA	Elberta	UTAH	UTA
Cedar City	IRON	CEC		Elmo	EMERY	EMR
Cedar Creek	BOX ELDER		BEC	Elsinore	SEVIER	SEV
Cedar Fort	UTAH	CFT		Elwood	BOX ELDER	ELW
Cedar Hills	UTAH	CDH		Emery City	EMERY	EME
Cedar Mountain	TOOELE		TOC	EMERY COUNTY		EMR
Cedar Springs	BOX ELDER		BEC	Emory	SUMMIT	SUM
Cedar Valley	UTAH		UTA	Enoch	IRON	ENO
Cedarview	DUCHESNE		DCH	Enterprise	WASHINGTON	ENT
Center Creek	WASATCH		WAC	Ephraim	SANPETE	SPC
Centerfield	SANPETE		SPC	Erda	TOOELE	TOC
Centerville	DAVIS	CEV		Escalante	GARFIELD	GRF
Central	SEVIER		SEV	Eskdale	MILLARD	MIL
Central	WASHINGTON		WSC	Etna	BOX ELDER	BEC
Central Valley	SEVIER		SEV	Eureka	JUAB	EUR
Charleston	WASATCH	CHA		Fairfield	UTAH	UTA
Chester	SANPETE		SPC	Fairmont	SEVIER	SEV
Christinburg	SANPETE		SPC	Fairview	SANPETE	SPC
Christmas Meadows	SUMMIT		SUM	Farmington	DAVIS	FAR
Church Wells	KANE		KAN	Farr West	WEBER	FAW
Circleville	PIUTE	CIR		Faust	TOOELE	TOC
Cisco	GRAND		GRA	Fayette	SANPETE	SPC
Clarkston	CACHE		CAC	Ferron	EMERY	EMR
Clawson	EMERY		EMR	Fielding	BOX ELDER	FIE
Clear Lake	MILLARD		MIL	Fillmore	MILLARD	FIL
Clearcreek	BOX ELDER		BEC	Flowell	MILLARD	MIL
Clearcreek	CARBON		CAR	Fort Duchesne	UINTAH	UTC
Clearfield	DAVIS	CLE		Fountain Green	SANPETE	SPC
Cleveland	EMERY		EMR	Francis	SUMMIT	FRA
Clinton	DAVIS	CLI		Freedom	SANPETE	SPC
Clive	TOOELE		TOC	Freeport Circle	DAVIS	DAV
Clover	TOOELE	RUV(became Rush Valley)		Fremont	WAYNE	WAY
				Fremont Junction	SEVIER	SEV
Coalville	SUMMIT	COA		Fruit Heights	DAVIS	FRU
College Ward	CACHE		CAC	Fruitland	DUCHESNE	DCH
Collinston	BOX ELDER		BEC	Fry Canyon	SAN JUAN	SJC
Colton	UTAH		UTA	Gandy	MILLARD	MIL
Copperton	SALT LAKE		SCO	Garden City	RICH	GAR
Corinne	BOX ELDER	COR		Garfield	SALT LAKE	SCO
Cornish	CACHE		CAC	GARFIELD COUNTY		GRF
Cottonwood	SALT LAKE		SCO	Garland	BOX ELDER	GRL
Cottonwood Heights	SALT LAKE	CHC		Garrison	MILLARD	MIL
Cove	CACHE		CAC	Geneva	UTAH	GEV
Cove Fort	MILLARD		MIL	Genola	UTAH	GEN
Crescent	SALT LAKE		SCO	Glendale	KANE	KAN
Crescent Junction	GRAND		GRA	Glenwood	SEVIER	SEV
Croyden	MORGAN		MRG	Goldhill	TOOELE	TOC
DAGGETT COUNTY			DAG	Goshen	UTAH	GOS
Dameron Valley	WASHINGTON		WSC	Grafton	WASHINGTON	ROC (part of Rockville)
Daniels	WASATCH	DAN	DAN			
DAVIS COUNTY			DAV	GRAND COUNTY		GRA
Deer Creek	WASATCH		WAC	Granite	SALT LAKE	SCO
Delle	TOOELE		TOC	Grantsville	TOOELE	GTV
Delta	MILLARD	DEL		Green River	EMERY	EMR
Deseret	MILLARD		MIL	Greenville	BEAVER	BVR
Deseret Mound	IRON		IRO	Greenwich	PIUTE	PIU
Devils Slide	MORGAN		MRG	Greenwood	MILLARD	MIL
Deweyville	BOX ELDER	DEW		Grouse Creek	BOX ELDER	BEC

Grover	WAYNE		WAY	Leeton	UINTAH		UTC
Gunlock	WASHINGTON		WSC	Lehi	UTAH	LEH	
Gunnison	SANPETE		SPC	Leland	UTAH		UTA
Gusher	UINTAH		UTC	Leota	UINTAH		UTC
Hailstone	WASATCH		WAC	Levan	JUAB	LEV	
Halls Crossing	SAN JUAN		SJC	Lewiston	CACHE	LEW	
Hamilton Fort	IRON		IRO	Liberty	WEBER		WEC
Hamlin Valley	IRON		IRO	Lincoln	TOOELE		TOC
Hanksville	WAYNE		WAY	Lindon	UTAH	LIN	
Hanna	DUCHESNE		DCH	Little Mountain	WEBER		WEC
Harrisville	WEBER	HAR		Littleton	MORGAN		MRG
Hatch	GARFIELD		GRF	Loa	WAYNE	LOA	
Hatton	MILLARD		MIL	Logan	CACHE	LOG	
Heber	WASTACH	HEB		Long Valley	KANE		KAN
Helper	CARBON		CAR	Losepa	TOOELE		TOC
Henefer	SUMMIT	HEN		Low	TOOELE		TOC
Henrieville	GARFIELD		GRF	Lucin	BOX ELDER		BEC
Herriman	SALT LAKE	HER		Lund	IRON		IRO
Hiawatha	CARBON		CAR	Lyman	WAYNE		WAY
Hideway Valley	SANPETE		SPC	Lynn	BOX ELDER		BEC
Highland	UTAH	HIG		Lynndyl	MILLARD	LYN	
Hildale	WASHINGTON	HIL		Madsen	BOX ELDER		BEC
Hinckley	MILLARD	HIN		Maeser	UINTAH		UTC
Hite	SAN JUAN		SJC	Magna	SALT LAKE		SCO
Holden	MILLARD	HOL		Mammoth	JUAB		JUA
Holladay	SALT LAKE	HOD		Manderfield	BEAVER		BVR
Honeyville	BOX ELDER	HON		Manila	DAGGETT	MNL	
Hooper	WEBER	HOO		Manti	SANPETE		SPC
Hot Springs	BOX ELDER		BEC	Mantua	BOX ELDER	MNT	
Hovenweep Mountain	SAN JUAN		SJC	Mapleton	UTAH	MAP	
Howell	BOX ELDER	HPW		Marion	SUMMIT		SUM
Hoytsville	SUMMIT		SUM	Marriott-Slaterville	WEBER	MSC	
Huntington	EMERY		EMR	Marysvale	PIUTE	MAR	
Huntsville	WEBER	HTV		Mayfield	SANPETE		SPC
Hurricane	WASHINGTON	HUR		Meadow	MILLARD	MEA	
Hyde Park	CACHE	HPC		Meadowville	RICH		RIC
Hyrum	CACHE		CAC	Mendon	CACHE	MEN	
Ibapah	TOOELE		TOC	Mexican Hat	SAN JUAN		SJC
Indianola	SANPETE		SPC	Middleton	WASHINGTON	STG (part of St. George)	
Ioka	DUCHESNE		DCH				
IRON COUNTY			IRO	Midvale	SALT LAKE	MID	
Iron Springs	IRON		IRO	Midway	WASATCH	MWC	
Ivins	WASHINGTON	INI		Milburn	SANPETE		SPC
Jensen	UINTAH		UTC	Milford	BEAVER	MLF	
Jericho	JUAB		JUA	Mill Fork	UTAH		UTA
Joseph	SEVIER		SEV	MILLARD COUNTY			MIL
JUAB COUNTY			JUA	Mills	JUAB		JUA
Junction	PIUTE	JUN		Mills Junction	TOOELE		TOC
Kamas	SUMMIT	KAM		Millville	CACHE		CAC
Kanab	KANE	KNB		Milton	MORGAN		MRG
Kanarraville	IRON		IRO	Minersville	BEAVER		BVR
KANE COUNTY			KAN	Moab	GRAND	MOA	
Kaneville	WEBER		WEC	Modena	IRON		IRO
Kanosh	MILLARD	KNS		Mohrland	EMERY		EMR
Kayenta	WASHINGTON	INI (part of Ivins)		Molen	EMERY		EMR
Kaysville	DAVIS	KAY		Mona	JUAB	MON	
Kearns	SALT LAKE		SCO	Monarch	DUCHESNE		DCH
Keetley	WASATCH		WAC	Monroe	SEVIER		SEV
Kelton	BOX ELDER		BEC	Montezuma Creek	SAN JUAN		SJC
Kenilworth	CARBON		CAR	Monticello	SAN JUAN	MNC	
Kingston	PIUTE	KIN		Monument Valley	SAN JUAN		SJC
Knolls	TOOELE		TOC	Moore	EMERY		EMR
Koosharem	SEVIER		SEV	Morgan City	MORGAN	MOR	
La Sal	SAN JUAN		SJC	MORGAN COUNTY			MRG
La Verkin	WASHINGTON	LAV		Moroni	SANPETE		SPC
Lake Powell	SAN JUAN		SJC	Mt Carmel	KANE		KAN
Lakepoint	TOOELE		TOC	Mt Emmons	DUCHESNE		DCH
Lakeshore	UTAH		UTA	Mt Green	MORGAN		MRG
Lakeside	BOX ELDER		BEC	Mt Home	DUCHESNE		DCH
Laketown	RICH		RIC	Mt Olympus	SALT LAKE		SCO
Lakeview	UTAH		UTA	Mt Pleasant	SANPETE		SPC
Lapoint	UINTAH		UTC	Mt Sterling	CACHE		CAC
Lark	SALT LAKE		SCO	Murray	SALT LAKE	MUR	
Lawrence	EMERY		EMR	Myton	DUCHESNE		DCH
Layton	DAVIS	LAY		Naples	UINTAH	NAP	
Leamington	MILLARD	LEA		National	CARBON		CAR
Leeds	WASHINGTON	LEE		Navaho Lake	DUCHESNE		DCH

Neola	DUCHESNE		DCH	SALT LAKE COUNTY			SCO
Nephi	JUAB	NEP		Salt Lake Suburban			
New Harmony	WASHINGTON		WSC	Sanitary District #1	SALT LAKE	SSD	
Newcastle	IRON		IRO	Salt Springs	TOOELE		TOC
Newton	CACHE	NEW		Samak	SUMMIT		SUM
Nibley	CACHE	NIB		SAN JUAN COUNTY			SJC
North Logan	CACHE	NLC		Sandy	SALT LAKE	SAN	
North Ogden	WEBER	NOC		SANPETE COUNTY			SPC
North Salt Lake	DAVIS	NSL		Santa Clara	WASHINGTON	SAC	
Oak City	MILLARD	OAK		Santaquin	UTAH	STQ	
Oakley	SUMMIT	OKL		Saratoga Springs	UTAH	SRT	
Oasis	MILLARD		MIL	Scipio	MILLARD	SCI	
Ogden	WEBER	OGD		Scofield	CARBON		CAR
Ogden City School Dist	WEBER	OSD		Sevier	SEVIER		SEV
Ophir	TOOELE	OPH		SEVIER COUNTY			SEV
Orangeville	EMERY	ORA		Shivwits (Federal)	WASHINGTON	YYY	
Orderville	KANE		KAN	Sigurd	SEVIER		SEV
Orem	UTAH	ORE		Silver City	JUAB		JUA
Orrey	WAYNE		WAY	Silver Creek Junction	SUMMIT		SUM
Ouray	UINTAH		UTC	Silver Fork	SALT LAKE		SCO
Palmyra	UTAH		UTA	Silver Reef	WASHINGTON	LEE (part of Leeds)	
Panguitch	GARFIELD		GRF	Smithfield	CACHE	SMI	
Paradise	CACHE		CAC	Snowbird	SALT LAKE		SCO
Paragonah	IRON		IRO	Snowville	BOX ELDER	SNO	
Park City	SUMMIT	PAC		Snyderville	SUMMIT		SUM
Park City East	WASATCH		WAC	Soldier Summit	WASATCH		WAC
Park Valley	BOX ELDER		BEC	South Jordan	SALT LAKE	SOJ	
Parowan	IRON		IRO	South Ogden	WEBER	S00	
Partoun	JUAB		JUA	South Salt Lake	SALT LAKE	SSL	
Payson	UTAH	PAY		South Weber	DAVIS	SWC	
Penrose	BOX ELDER		BEC	Spanish Fork	UTAH	SFC	
Peoa	SUMMIT		SUM	Spring City	SANPETE		SPC
Perry	BOX ELDER	PER		Spring Glen	CARBON		CAR
Petersboro	CACHE		CAC	Spring Lake	UTAH		UTA
Peterson	MORGAN		MRG	Springdale	WASHINGTON	SPD	
Pickleville	RICH		RIC	Springville	UTAH	SPV	
Pigeon Hollow Junction	SANPETE		SPC	St George	WASHINGTON	STG	
Pine Valley	WASHINGTON		WSC	St John	TOOELE	RUV (became Rush Valley)	
Pineview	SUMMIT		SUM	Standrod	BOX ELDER		BEC
Pinto	WASHINGTON		WSC	Stansbury Park	TOOELE		TOC
Pintura	WASHINGTON		WSC	Sterling	SANPETE		SPC
PIUTE COUNTY			PIU	Stockmore	DUCHESNE		DCH
Plain City	WEBER	PLA		Stockton	TOOELE	STO	
Pleasant Grove	UTAH	PGC		Stoddard	MORGAN		MRG
Pleasant View	WEBER	PVC		Sugarville	MILLARD		MIL
Plymouth	BOX ELDER	PLY		Summit	IRON		IRO
Portage	BOX ELDER		BEC	SUMMIT COUNTY			SUM
Porterville	MORGAN		MRG	Summit Park	SUMMIT		SUM
Price	CARBON	PRI		Summit Point	SAN JUAN		SJC
Promontory	BOX ELDER		BEC	Sundance	UTAH		UTA
Providence	CACHE	PRV		Sunnyside	CARBON		CAR
Provo	UTAH	PRO		Sunset	DAVIS	SUN	
Provo Canyon	UTAH		UTA	Sutherland	MILLARD		MIL
Randlett	UINTAH		UTC	Swan Creek	TOOELE		TOC
Randolph	RICH	RAN		Syracuse	DAVIS	SYR	
Redmond	SEVIER	RED		Tabiona	DUCHESNE		DCH
Redmonton	BOX ELDER		BEC	Talmage	DUCHESNE		DCH
RICH COUNTY			RIC	Taylor	WEBER		WEC
Richfield	SEVIER	RCF		Taylorsville	SALT LAKE	TAY	
Richmond	CACHE		CAC	Teasdale	WAYNE		WAY
Richville	MORGAN		MRG	Thatcher	BOX ELDER	THA	
River Heights	CACHE		CAC	Thistle	UTAH		UTA
Riverdale	WEBER	RVD		Thompson Springs	GRAND		GRA
Riverside	BOX ELDER		BEC	Ticaboo	GARFIELD		GRF
Riverton	SALT LAKE	RVT		Timpe	TOOELE		TOC
Rockville	WASHINGTON	ROC		Tintic	JUAB		JUA
Rocky Ridge Town	JUAB	ROR		Tooele City	TOOELE	TOO	
Roosevelt	DUCHESNE	ROO		TOOELE COUNTY			TOC
Rosette	BOX ELDER		BEC	Toquerville	WASHINGTON	TOQ	
Round Valley	RICH		RIC	Torrey	WAYNE		WAY
Roy	WEBER	ROY		Tremonton	BOX ELDER	TRE	
Rubys Inn	GARFIELD		GRF	Trenton	CACHE		CAC
Rush Valley	TOOELE	RUV		Tridell	UINTAH		UTC
Sage Creek Junction	RICH		RIC	Tropic	GARFIELD		GRF
Salem	UTAH	SLM		Trout Creek	JUAB		JUA
Salina	SEVIER		SEV	Tucker	UTAH		UTA
Salt Lake City	SALT LAKE	SLC					

Ucolo	SAN JUAN		SJC
Uintah	WEBER	UIN	
UINTAH COUNTY			UTC
Upalco	DUCHESNE		DCH
Upton	SUMMIT		SUM
UTAH COUNTY			UTA
Uvada	IRON		IRO
Venice	SEVIER		SEV
Vernal	UINTAH	VER	
Vernon	TOOELE		TOC
Veyo	WASHINGTON		WSC
Vineyard	UTAH	VIN	
Virgin	WASHINGTON	VIR	
Wahsatch	SUMMIT		SUM
Wales	SANPETE		SPC
Wallsburg	WASATCH		WAC
Wanship	SUMMIT		SUM
Warren	WEBER		WEC
WASATCH COUNTY			WAC
Washington City	WASHINGTON	WAS	
Washakie	BOX ELDER		BEC
Washington Terrace	WEBER	WAT	
WASHINGTON COUNTY			WSC
WAYNE COUNTY			WAY
WEBER COUNTY			WEC
Webster Cove Junction	CACHE		CAC
Wellington	CARBON		CAR
Wellsville	CACHE		CAC
Wendover	TOOELE	WEN	
West Bountiful	DAVIS	WEB	
West Haven	WEBER	WEH	
West Jordan	SALT LAKE	WEJ	
West Point	DAVIS	WEP	
West Valley	SALT LAKE	WVC	
West Warren	WEBER		WEC
West Weber	WEBER		WEC
Westwater	GRAND		GRA
Whiterocks	UINTAH		UTC
Widtsoe Junction	GARFIELD		GRF
Wildwood	UTAH		UTA
Willard	BOX ELDER	WIL	
Wilson	WEBER		WEC
Wins	WASHINGTON		WSC
Woodland Hills	UTAH	WHO	
Woodland	SUMMIT		SUM
Woodruff	RICH		RIC
Woodrow	MILLARD		MIL
Woods Cross	DAVIS	WXC	
Woodside	EMERY		EMR
Yost	BOX ELDER		BEC
Young Ward	CACHE		CAC
Zane	IRON		IRO

R156-56-801. Statewide Amendments to the IBC.

The following are adopted as amendments to the IBC to be applicable statewide:

(1) All references to the ICC Electrical Code are deleted and replaced with the National Electrical Code adopted under Subsection R156-56-701(1)(b).

(2) Section 101.4.1 is deleted and replaced with the following:
 101.4.1 Electrical. The provisions of the National Electrical Code (NEC) shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto.

(3) Section 106.3.2 is deleted and replaced with the following:
 106.3.2 Previous approval. If a lawful permit has been issued and the construction of which has been pursued in good faith within 180 days after the effective date of the code and has not been abandoned, then the construction may be completed under the code in effect at the time of the issuance of the permit.

(4) In Section 109, a new section is added as follows:

109.3.5 Weather-resistive barrier and flashing. An inspection shall be made of the weather-resistive barrier as required by Section 1403.2 and flashing as required by Section 1405.3 to prevent water from entering the weather-resistant exterior wall envelope.

The remaining sections will be renumbered as follows:

109.3.6 Lath or gypsum board inspection

109.3.7 Fire-resistant penetrations

109.3.8 Energy efficiency inspections

109.3.9 Other inspections

109.3.10 Special inspections

109.3.11 Final inspection.

(5) Section 114.1 is deleted and replaced with the following:

114.1 Authority. Whenever the building official finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or other pertinent laws or ordinances or dangerous or unsafe, the building official is authorized to stop work.

(6) In Section 202, the definition for Assisted Living Facility is deleted and replaced with the following:

ASSISTED LIVING FACILITY. See Section 308.1.1.

(7) Section 305.2 is deleted and replaced with the following:

305.2 Day care. The building or structure, or portion thereof, for educational, supervision, child day care centers, or personal care services of more than four children shall be classified as a Group E occupancy. See Section 421 for special requirements for Group E child day care centers.

Exception: Areas used for child day care purposes with a Residential Certificate, Family License or Family Group License may be located in a Group R-2 or R-3 occupancy as provided in Section 310.1 or shall comply with the International Residential Code in accordance with Section 101.2.

Child day care centers providing care for more than 100 children 2 1/2 years or less of age shall be classified as Group I-4.

(8) In Section 308 the following definitions are added:

308.1.1 Definitions. The following words and terms shall, for the purposes of this section and as used elsewhere in this code, have the meanings shown herein.

TYPE I ASSISTED LIVING FACILITY. A residential facility licensed by the Utah Department of Health that provides a protected living arrangement for ambulatory, non-restrained persons who are capable of achieving mobility sufficient to exit the facility without the assistance of another person.

TYPE II ASSISTED LIVING FACILITY. A residential facility licensed by the Utah Department of Health that provides an array of coordinated supportive personal and health care services to residents who meet the definition of semi-independent.

SEMI-INDEPENDENT. A person who is:

- A. Physically disabled but able to direct his or her own care; or
- B. Cognitively impaired or physically disabled but able to evacuate from the facility with the physical assistance of one person.

RESIDENTIAL TREATMENT/SUPPORT ASSISTED LIVING FACILITY. A residential treatment/support assisted living facility which creates a group living environment for four or more residents licensed by the Utah Department of Human Services, and provides a protected living arrangement for ambulatory, non-restrained persons who are capable of achieving mobility sufficient to exit the facility without the physical assistance of another person.

(9) Section 308.2 is deleted and replaced with the following:

308.2 Group I-1. This occupancy shall include buildings, structures, or parts thereof housing more than 16 persons, on a 24-hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment that provides personal

care services. The occupants are capable of responding to an emergency situation without physical assistance from staff. This group shall include, but not be limited to, the following: residential board and care facilities, type I assisted living facilities, residential treatment/support assisted living facility, half-way houses, group homes, congregate care facilities, social rehabilitation facilities, alcohol and drug centers and convalescent facilities. A facility such as the above with five or fewer persons shall be classified as a Group R-3 or shall comply with the International Residential Code in accordance with Section 101.2. A facility such as above, housing at least six and not more than 16 persons, shall be classified as a Group R-4.

(10) Section 308.3 is deleted and replaced with the following:

308.3 Group I-2. This occupancy shall include buildings and structures used for medical, surgical, psychiatric, nursing or custodial care on a 24-hour basis of more than three persons who are not capable of self-preservation. This group shall include, but not be limited to the following: hospitals, nursing homes (both intermediate care facilities and skilled nursing facilities), mental hospitals, detoxification facilities, ambulatory surgical centers with two or more operating rooms where care is less than 24 hours, outpatient medical care facilities for ambulatory patients (accommodating more than five such patients in each tenant space) which may render the patient incapable of unassisted self-preservation, and type II assisted living facilities. Type II assisted living facilities with five or fewer persons shall be classified as a Group R-4. Type II assisted living facilities as defined in 308.1.1 with at least six and not more than sixteen residents shall be classified as a Group I-1 facility.

(11) Section 308.3.1 is deleted and replaced with the following:

308.3.1 Child care facility. A child care facility that provides care on a 24 hour basis to more than four children 2 1/2 years of age or less shall be classified as Group I-2.

(12) Section 308.5 is deleted and replaced with the following:

308.5 Group I-4, day care facilities. This group shall include buildings and structures occupied by persons of any age who receive custodial care less than 24 hours by individuals other than parents or guardians, relatives by blood, marriage, or adoption, and in a place other than the home of the person cared for. A facility such as the above with four or fewer persons shall be classified as an R-3 or shall comply with the International Residential Code in accordance with Section 101.2. Places of worship during religious functions and Group E child day care centers are not included.

(13) Section 308.5.2 is deleted and replaced with the following:

308.5.2 Child care facility. A facility that provides supervision and personal care on less than a 24 hour basis for more than 100 children 2 1/2 years of age or less shall be classified as Group I-4.

(14) Section 310.1 is deleted and replaced with the following:

310.1 Residential Group "R". Residential Group R includes, among others, the use of a building or structure, or a portion thereof, for sleeping purposes when not classed as an Institutional Group I. Residential occupancies shall include the following:

R-1: Residential occupancies where the occupants are primarily transient in nature (less than 30 days) including: Boarding Houses (transient) and congregate living facilities, Hotels (transient), and Motels (transient).

Exception: Boarding houses and congregate living facilities accommodating 10 persons or less shall be classified as a Residential Group R-3 or shall comply with the International Residential Code in accordance with Section 101.2.

R-2: Residential occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature, including: Apartment Houses, Boarding houses (not transient) and congregate living facilities, Convents, Dormitories, Fraternities and Sororities, Monasteries, Vacation timeshare properties, Hotels (non transient), and Motels (non transient).

Exception: Boarding houses and congregate living facilities accommodating 10 persons or less shall be classified as a Residential Group R-3 or shall comply with the International Residential Code in accordance with Section 101.2.

R-3: Residential occupancies where the occupants are primarily permanent in nature and not classified as R-1, R-2, R-4 or I and where buildings do not contain more than two dwelling units, as applicable in Section 101.2, or adult and child care facilities that provide accommodations for five or fewer persons of any age for less than 24 hours. Adult and child care facilities that are within a single family home are permitted to comply with the International Residential Code in accordance with Section 101.2. Areas used for day care purposes may be located in a residential dwelling unit under all of the following conditions:

1. Compliance with the Utah Administrative Code, R710-8, Day Care Rules, as enacted under the authority of the Utah Fire Prevention Board.

2. Use is approved by the State Department of Health, as enacted under the authority of the Utah Child Care Licensing Act, UCA, Sections 26-39-101 through 26-39-110, and in any of the following categories:

a. Utah Administrative Code, R430-50, Residential Certificate Child Care Standards.

b. Utah Administrative Code, R430-90, Licensed Family Child Care.

3. Compliance with all zoning regulations of the local regulator.

R-4: Residential occupancies shall include buildings arranged for occupancy as Residential Care/Assisted Living Facilities or Residential Treatment/Support Assisted Living Facilities including more than five but not more than 16 occupants, excluding staff.

Group R-4 occupancies shall meet the requirements for construction as defined for Group R-3 except as otherwise provided for in this code or shall comply with the International Residential Code in accordance with Section 101.2.

(15) In Section 310.2 the definition for Residential Care/Assisted Living Facilities is deleted and replaced with the following:

See Section 308.1.1.

(16) A new section 421 is added as follows:

Section 421 Group E Child Day Care Centers. Group E child day care centers shall comply with Section 421.

421.1 Location at grade. Group E child day care centers shall be located at the level of exit discharge.

Exception: Child day care spaces for children over the age of 24 months may be located on the second floor of buildings equipped with automatic fire protection throughout and an automatic fire alarm system.

421.2 Egress. All Group E child day care spaces with an occupant load of more than 10 shall have a second means of egress. If the second means of egress is not an exit door leading directly to the exterior, the room shall have an emergency escape and rescue window complying with Section 1026.

(17) In Section 707.14.1 Exception 4 is deleted.

(18) In Section (F)902, the definition for record drawings is deleted and replaced with the following:

(F)RECORD DRAWINGS. Drawings ("as built") that document all aspects of a fire protection system as installed.

(19) In Section (F)903.2.3 condition 2 is deleted and replaced with the following:

2. Where a Group F-1 fire area is located more than three stories above the lowest level of fire department vehicle access; or

(20) In Section (F)903.2.6 condition 2 is deleted and replaced with the following:

2. Where a Group M fire area is located more than three stories above the lowest level of fire department vehicle access; or

(21) Section (F)903.2.7 is deleted and replaced with the following:

(F)903.2.7 Group R. An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.

Exceptions:

1. Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) constructed in accordance with the International Residential Code For One- and Two-Family Dwellings.

2. Group R-4 fire areas not more than 4,500 gross square feet and not containing more than 16 residents, provided the building is equipped throughout with an approved fire alarm system that is interconnected and receives its primary power from the building wiring and a commercial power system.

(22) In Section F903.2.8 condition 2 is deleted and replaced with the following:

2. Where a Group S-1 fire area is located more than three stories above the lowest level of fire department vehicle access; or

(23) Section (F)903.2.9 is deleted and replaced with the following:

(F)903.2.9 Group S-2. An automatic sprinkler system shall be provided throughout buildings classified as parking garages in accordance with Section 406.2 or where located beneath other groups.

Exception 1: Parking garages of less than 5,000 square feet (464 m²) accessory to Group R-3 occupancies.

Exception 2: Open parking garages not located beneath other groups if one of the following conditions is met:

a. Access is provided for fire fighting operations to within 150 feet (45,720 mm) of all portions of the parking garage as measured from the approved fire department vehicle access; or

b. Class I standpipes are installed throughout the parking garage.

(24) In Section (F)903.2.9.1 the last clause "where the fire area exceeds 5,000 square feet (464 m²)" is deleted.

(25) Section (F)904.11 and Subsections (F)904.11.3, (F)904.11.3.1, (F)904.11.4 and (F)904.11.4.1 are deleted and replaced with the following:

(F)904.11 Commercial cooking systems. The automatic fire-extinguishing system for commercial cooking systems shall be of a type recognized for protection of commercial cooking equipment and exhaust systems of the type and arrangement protected. Pre-engineered automatic extinguishing systems shall be tested in accordance with UL 300 and listed and labeled for the intended application. The system shall be installed in accordance with this code, its listing and the manufacturer's installation instructions. Automatic fire-extinguishing systems shall be installed in

accordance with the referenced standard for wet-chemical extinguishing systems, NFPA 17A.

Exception: Factory-built commercial cooking recirculating systems that are tested in accordance with UL 710B and listed, labeled and installed in accordance with Section 304.1 of the International Mechanical Code.

(Subsections (F)904.11.1 and (F)904.11.2 remain unchanged.)

(26) Section (F)907.2.10 is deleted and replaced with the following:

(F)907.2.10 Single- and multiple-station alarms. Listed single- and multiple-station smoke alarms complying with U.L. 217 shall be installed in accordance with the provision of this code and the household fire-warning equipment provision of NFPA 72. Listed single- and multiple-station carbon monoxide detectors shall comply with U.L. 2034 and shall be installed in accordance with the provisions of this code and NFPA 720.

(F)907.2.10.1 Smoke alarms. Single- or multiple-station smoke alarms shall be installed in the locations described in Sections (F)907.2.10.1.1 through (F)907.2.10.1.3.

(F)907.2.10.1.1 Group R-1. Single- or multiple-station smoke alarms shall be installed in all of the following locations in Group R-1:

1. In sleeping areas.

2. In every room in the path of the means of egress from the sleeping area to the door leading from the sleeping unit.

3. In each story within the sleeping unit, including basements. For sleeping units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

(F)907.2.10.1.2 Groups R-2, R-3, R-4 and I-1. Single- or multiple-station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4 and I-1, regardless of occupant load at all of the following locations:

1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.

2. In each room used for sleeping purposes.

3. In each story within a dwelling unit, including basements and cellars but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

(F)907.2.10.1.3 Group I-1. Single- or multiple-station smoke alarms shall be installed and maintained in sleeping areas in occupancies in Group I-1.

Exception: Single- or multiple-station smoke alarms shall not be required where the building is equipped throughout with an automatic fire detection system in accordance with Section (F)907.2.6.

(F)907.2.10.2 Carbon monoxide alarms. Carbon monoxide alarms shall be installed on each habitable level of a dwelling unit or sleeping unit in Groups R-2, R-3, R-4 and I-1 equipped with fuel burning appliances.

(F)907.2.10.3. Power source. In new construction, required alarms shall receive their primary power from the building wiring where such wiring is served from a commercial source and shall be equipped with a battery backup. Alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a

disconnecting switch other than as required for overcurrent protection.

Exception: Alarms are not required to be equipped with battery backup in Group R-1 where they are connected to an emergency electrical system.

(F)907.2.10.4 Interconnection. Where more than one alarm is required to be installed with an individual dwelling unit in Group R-2, R-3, or R-4, or within an individual sleeping unit in Group R-1, the alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed. Approved combination smoke and carbon-monoxide detectors shall be permitted.

(F)907.2.10.5 Acceptance testing. When the installation of the alarm devices is complete, each detector and interconnecting wiring for multiple-station alarm devices shall be tested in accordance with the household fire warning equipment provisions of NFPA 72 and NFPA 720, as applicable.

(27) In Section 1007.3 a new exception 6 is added as follows:

6. Areas of refuge are not required at exit stairways in buildings or facilities equipped throughout with an automatic fire sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2.

(28) In Section 1007.4 the word "exception" is changed to "exception 1" and an exception 2 is added as follows:

2. Elevators are not required to be accessed from an area of refuge or horizontal exit in buildings or facilities equipped throughout with an automatic fire sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2.

(29) In Section 1008.1.8.3, a new subparagraph (5) is added as follows:

(5) Doors in Group I-1 and I-2 occupancies, where the clinical needs of the patients require specialized security measures for their safety, approved access controlled egress may be installed when all the following are met:

5.1 The controlled egress doors shall unlock upon activation of the automatic fire sprinkler system or automatic fire detection system.

5.2 The facility staff can unlock the controlled egress doors by either sensor or keypad.

5.3 The controlled egress doors shall unlock upon loss of power.

(30) In Section 1009.3, Exception #4 is deleted and replaced with the following:

4. In Group R-3 occupancies, within dwelling units in Group R-2 occupancies, and in Group U occupancies that are accessory to a Group R-3 occupancy, or accessory to individual dwelling units in Group R-2 occupancies, the maximum riser height shall be 8 inches (203 mm) and the minimum tread depth shall be 9 inches (229 mm). The minimum winder tread depth at the walk line shall be 10 inches (254 mm), and the minimum winder tread depth shall be 6 inches (152 mm). A nosing not less than 0.75 inch (19.1 mm) but not more than 1.25 inches (32 mm) shall be provided on stairways with solid risers where the tread depth is less than 10 inches (254 mm).

(31) In Section 1009.10 Exception 6 is added as follows:

6. In occupancies in Group R-3, as applicable in Section 101.2 and in occupancies in Group U, which are accessory to an occupancy in Group R-3, as applicable in Section 101.2, handrails shall be provided on at least one side of stairways consisting of four or more risers.

(32) Section 1012.3 is amended to include the following exception at the end of the section:

Exception. Non-circular handrails serving an individual unit in a Group R-1, Group R-2 or Group R-3 occupancy with a perimeter greater than 6 1/4 inches (160 mm) shall provide a graspable finger recess area on both sides of the profile. The finger recess shall begin within a distance of 3/4 inch (19 mm) measured vertically from the tallest portion of the profile and achieve a depth of at least 5/16 inch (8 mm) within 7/8 inch (22 mm) below the widest portion of the profile. This required depth shall continue for at least 3/8 inch (10 mm) to a level that is not less than 1 3/4 inches (45 mm) below the tallest portion of the profile. The minimum width of the handrail above the recess shall be 1 1/4 inches (32 mm) to a maximum of 2 3/4 inches (70 mm). Edges shall have a minimum radius of 0.01 inch (0.25 mm).

(33) In Section 1013.2 Exception 3 is added as follows:

3. For occupancies in Group R-3 and within individual dwelling units in occupancies in Group R-2, as applicable in Section 101.2, guards shall form a protective barrier not less than 36 inches (914 mm) in height.

(34) In Section 1015.2.2 the following sentence is added at the end:

Additional exits or exit access doorways shall be arranged a reasonable distance apart so that if one becomes blocked, the others will be available.

(35) A new Section 1109.7.1 is added as follows:

1109.7.1 Platform (wheelchair) lifts. All platform (wheelchair) lifts shall be capable of independent operation without a key.

(36) In Section 1208.4 subparagraph 1 is deleted and replaced with the following:

1. The unit shall have a living room of not less than 165 square feet (15.3 m²) of floor area. An additional 100 square feet (9.3 m²) of floor area shall be provided for each occupant of such unit in excess of two.

(37) Section 1405.3 is deleted and replaced with the following:

1405.3 Flashing. Flashing shall be installed in such a manner so as to prevent moisture from entering the wall or to redirect it to the exterior. Flashings shall be installed at the perimeters of exterior door and window assemblies, penetrations and terminations of exterior wall assemblies, exterior wall intersections with roofs, chimneys, porches, decks, balconies and similar projections and at built-in gutters and similar locations where moisture could enter the wall. Flashing with projected flanges shall be installed on both sides and the ends of copings, under sills and continuously above projected trim. A flashing shall be installed at the intersection of the foundation to stucco, masonry, siding or brick veneer. The flashing shall be on an approved corrosion-resistant flashing with a 1/2" drip leg extending past exterior side of the foundation.

(38) In Section 1605.2.1, the formula shown as "f₂ = 0.2 for other roof configurations" is deleted and replaced with the following:

f₂ = 0.20 + .025(A-5) for other configurations where roof snow load exceeds 30 psf

f₂ = 0 for roof snow loads of 30 psf (1.44kN/m²) or less.

Where A = Elevation above sea level at the location of the structure (ft/1000).

(39) In Section 1605.3.1 and section 1605.3.2, Exception number 2 in each section is deleted and replaced with the following:

2. Flat roof snow loads of 30 pounds per square foot (1.44 kNm²) or less need not be combined with seismic loads. Where flat roof snow loads exceed 30 pounds per square foot (1.44 kNm²), the

snow loads may be reduced in accordance with the following in load combinations including both snow and seismic loads. W_s as calculated below, shall be combined with seismic loads.

$$W_s = (0.20 + 0.025(A-5))P_f \text{ is greater than or equal to } 0.20 P_f$$

Where

W_s = Weight of snow to be included in seismic calculations;

A = Elevation above sea level at the location of the structure (ft/1000)

P_f = Design roof snow load, psf

For the purpose of this section, snow load shall be assumed uniform on the roof footprint without including the effects of drift or sliding. The Importance Factor, I , used in calculating P_f may be considered 1.0 for use in the formula for W_s .

(40) In Table 1607.1 number 9 is deleted and replaced with the following:

Occupancy or Use	Uniform (psf)	Concentrated (lbs)
9. Decks, except residential	Same as occupancy served ^h	
9.1 Residential decks	60 psf	

(41) Section 1608.1 is deleted and replaced with the following:

1608.1 General. Except as modified in section 1608.1.1, 1608.1.2, and 1608.1.3 design snow loads shall be determined in accordance with Section 7 of ASCE 7, but the design roof load shall not be less than that determined by Section 1607.

(42) Section 1608.1.1 is added as follows:

1608.1.1 Section 7.4.5 of Section 7 of ASCE 7 referenced in Section 1608.1 of the IBC is deleted and replaced with the following:

Section 7.4.5 Ice Dams and Icicles Along Eaves. Where ground snow loads exceed 75 psf, eaves shall be capable of sustaining a uniformly distributed load of $2p_f$ on all overhanging portions. No other loads except dead loads shall be present on the roof when this uniformly distributed load is applied. All building exits under down-slope eaves shall be protected from sliding snow and ice.

(43) Section 1608.1.2 is added as follows:

1608.1.2 Utah Snow Loads. The ground snow load, P_g , to be used in the determination of design snow loads for buildings and other structures shall be determined by using the following formula: $P_g = (P_o^2 + S^2(A-A_o)^2)^{0.5}$ for A greater than A_o , and $P_g = P_o$ for A less than or equal to A_o .

WHERE

P_g = Ground snow load at a given elevation (psf)

P_o = Base ground snow load (psf) from Table No. 1608.1.2(a)

S = Change in ground snow load with elevation (psf/100 ft.)

From Table No. 1608.1.2(a)

A = Elevation above sea level at the site (ft./1000)

A_o = Base ground snow elevation from Table 1608.1.2(a) (ft./1000)

The building official may round the roof snow load to the nearest 5 psf. The ground snow load, P_g , may be adjusted by the building official when a licensed engineer or architect submits data substantiating the adjustments. A record of such action together with the substantiating data shall be provided to the division for a permanent record.

The building official may also directly adopt roof snow loads in accordance with Table 1608.1.2(b), provided the site is no more than 100 ft. higher than the listed elevation.

Where the minimum roof live load in accordance with section 1607.11 is greater than the design roof snow load, such roof live

load shall be used for design, however, it shall not be reduced to a load lower than the design roof snow load. Drifting need not be considered for roof snow loads less than 20 psf.

(44) Table 1608.1.2(a) and Table 1608.1.2(b) are added as follows:

TABLE NO. 1608.1.2(a)
STATE OF UTAH - REGIONAL SNOW LOAD FACTORS

COUNTY	P_o	S	A_o
Beaver	43	63	6.2
Box Elder	43	63	5.2
Cache	50	63	4.5
Carbon	43	63	5.2
Daggett	43	63	6.5
Davis	43	63	4.5
Duchesne	43	63	6.5
Emery	43	63	6.0
Garfield	43	63	6.0
Grand	36	63	6.5
Iron	43	63	5.8
Juab	43	63	5.2
Kane	36	63	5.7
Millard	43	63	5.3
Morgan	57	63	4.5
Piute	43	63	6.2
Rich	57	63	4.1
Salt Lake	43	63	4.5
San Juan	43	63	6.5
Sanpete	43	63	5.2
Sevier	43	63	6.0
Summit	86	63	5.0
Tooele	43	63	4.5
Uintah	43	63	7.0
Utah	43	63	4.5
Wasatch	86	63	5.0
Washington	29	63	6.0
Wayne	36	63	6.5
Weber	43	63	4.5

TABLE NO. 1608.1.2(b)
RECOMMENDED SNOW LOADS FOR SELECTED UTAH CITIES AND TOWNS(2)

	Roof Snow Load (PSF)	Ground Snow Load (PSF)
Beaver County		
Beaver	5920 ft. 43	62
Box Elder County		
Brigham City	4300 ft. 30	43
Tremonton	4290 ft. 30	43
Cache County		
Logan	4530 ft. 35	50
Smithfield	4595 ft. 35	50
Carbon County		
Price	5550 ft. 30	43
Daggett County		
Manila	5377 ft. 30	43
Davis County		
Bountiful	4300 ft. 30	43
Farmington	4270 ft. 30	43
Layton	4400 ft. 30	43
Fruit Heights	4500 ft. 40	57
Duchesne County		
Duchesne	5510 ft. 30	43
Roosevelt	5104 ft. 30	43
Emery County		
Castledale	5660 ft. 30	43
Green River	4070 ft. 25	36
Garfield County		
Panguitch	6600 ft. 30	43
Grand County		
Moab	3965 ft. 25	36

Iron County			
Cedar City	5831 ft.	30	43
Juab County			
Nephi	5130 ft.	30	43
Kane County			
Kanab	5000 ft.	25	36
Millard County			
Millard	5000 ft.	30	43
Delta	4623 ft.	30	43
Morgan County			
Morgan	5064 ft.	40	57
Piute County			
Piute	5996 ft.	30	43
Rich County			
Woodruff	6315 ft.	40	57
Salt Lake County			
Murray	4325 ft.	30	43
Salt Lake City	4300 ft.	30	43
Sandy	4500 ft.	30	43
West Jordan	4375 ft.	30	43
West Valley	4250 ft.	30	43
San Juan County			
Blanding	6200 ft.	30	43
Monticello	6820 ft.	35	50
Sanpete County			
Fairview	6750 ft.	35	50
Mt. Pleasant	5900 ft.	30	43
Manti	5740 ft.	30	43
Ephraim	5540 ft.	30	43
Gunnison	5145 ft.	30	43
Sevier County			
Salina	5130 ft.	30	43
Richfield	5270 ft.	30	43
Summit County			
Coalville	5600 ft.	60	86
Kamas	6500 ft.	70	100
Park City	6800 ft.	100	142
Park City	8400 ft.	162	231
Summit Park	7200 ft.	90	128
Tooele County			
Tooele	5100 ft.	30	43
Uintah County			
Vernal	5280 ft.	30	43
Utah County			
American Fork	4500 ft.	30	43
Orem	4650 ft.	30	43
Pleasant Grove	5000 ft.	30	43
Provo	5000 ft.	30	43
Spanish Fork	4720 ft.	30	43
Wasatch County			
Heber	5630 ft.	60	86
Washington County			
Central	5209 ft.	25	36
Dameron	4550 ft.	25	36
Leeds	3460 ft.	20	29
Rockville	3700 ft.	25	36
Santa Clara	2850 ft.	15 (1)	21
St. George	2750 ft.	15 (1)	21
Wayne County			
Loa	7080 ft.	30	43
Hanksville	4308 ft.	25	36
Weber County			
North Ogden	4500 ft.	40	57
Ogden	4350 ft.	30	43

NOTES

- (1) The IBC requires a minimum live load - See 1607.11.2.
- (2) This table is informational only in that actual site elevations may vary. Table is only valid if site elevation is within 100 feet of the listed elevation.

(45) Section 1608.1.3 is added as follows:

1608.1.3 Thermal Factor. The value for the thermal factor, C_t , used in calculation of p_f shall be determined from Table 7.3 in ASCE 7.

Exception: Except for unheated structures, the value of C_t need not exceed 1.0 when ground snow load, P_g is calculated using Section 1608.1.2 as amended.

(46) Section 1608.2 is deleted and replaced with the following:

1608.2 Ground Snow Loads. The ground snow loads to be used in determining the design snow loads for roofs in states other than Utah are given in Figure 1608.2 for the contiguous United States and Table 1608.2 for Alaska. Site-specific case studies shall be made in areas designated CS in figure 1608.2. Ground snow loads for sites at elevations above the limits indicated in Figure 1608.2 and for all sites within the CS areas shall be approved. Ground snow load determination for such sites shall be based on an extreme value statistical analysis of data available in the vicinity of the site using a value with a 2-percent annual probability of being exceeded (50-year mean recurrence interval). Snow loads are zero for Hawaii, except in mountainous regions as approved by the building official.

(47) In Section 1609.1.1 a new exception number 5 is added as follows:

5. The wind design procedure as found in Section 1616 through 1624 of the 1997 Uniform Building Code may be used as an alternative wind design procedure for:

(a) items 1 through 3 listed in Table 16-H of the 1997 Uniform Building Code provided that the building or component being designed meets the limits for the Simplified Method as defined in ASCE 6.4.1.1 and 6.4.1.2 of ASCE 7; or

(b) items 4 through 7 listed in Table 16-H of the 1997 Uniform Building Code.

The Importance Factor, I, shall be determined in accordance with Table 6-1 of ASCE 7.

(48) Section 1613.7 is added as follows:

1613.7 ASCE 12.7.2 and 12.14.18.1 of Section 12 of ASCE 7 referenced in Section 1613.1, Definition of W , Item 4 is deleted and replaced with the following:

4. Where the flat roof snow load, P_f , exceeds 30 psf, the snow load included in seismic design shall be calculated, in accordance with the following formula: $W_s = (0.20 + 0.025(A-5))P_f$ is greater than or equal to $0.20 P_f$

WHERE:

W_s = Weight of snow to be included in seismic calculations;

A = Elevation above sea level at the location of the structure (ft/1000)

P_f = Design roof snow load, psf

For the purposes of this section, snow load shall be assumed uniform on the roof footprint without including the effects of drift or sliding. The Importance Factor, I, used in calculating P_f may be considered 1.0 for use in the formula for W_s .

(49) A new Section 1613.8 is added as follows:

1613.8 ASCE 7, Section 13.5.6.2.2 paragraph (e) is modified to read as follows:

(e) Penetrations shall have a sleeve or adapter through the ceiling tile to allow for free movement of at least 1 inch (25 mm) in all horizontal directions.

Exceptions:

1. Where rigid braces are used to limit lateral deflections.

2. At fire sprinkler heads in frangible surfaces per NFPA 13.

(50) Section 1805.5 is deleted and replaced with the following:

1805.5 Foundation walls. Concrete and masonry foundation walls shall be designed in accordance with Chapter 19 or 21, respectively. Foundation walls that are laterally supported at the top and bottom and within the parameters of Tables 1805.5(1) through

1805.5(5) are permitted to be designed and constructed in accordance with Sections 1805.5.1 through 1805.5.5. Concrete foundation walls may also be constructed in accordance with Section 1805.5.8.

(51) A new section 1805.5.8 is added as follows:

1805.5.8 Empirical foundation design. Group R, Division 3 Occupancies three stories or less in height, and Group U Occupancies, which are constructed in accordance with Section 2308, or with other methods employing repetitive wood-frame construction or repetitive cold-formed steel structural member construction, shall be permitted to have concrete foundations constructed in accordance with Table 1805.5(6).

(52) Table 1805.5(6) is added as follows:

Table 1805.5(6), entitled "Empirical Foundation Walls, dated January 1, 2007, published by the Department of Commerce, Division of Occupational and Professional Licensing is hereby adopted and incorporated by reference. Table 1805.5(6) identifies foundation requirements for empirical walls.

(53) A new section 2306.1.5 is added as follows:

2306.1.5 Load duration factors. The allowable stress increase of 1.15 for snow load, shown in Table 2.3.2, Frequently Used Load Duration Factors, C_d , of the National Design Specifications, shall not be utilized at elevations above 5,000 feet (1524 M).

(54) In Section 2308.6 the following exception is added:

Exception: Where foundation plates or sills are bolted or anchored to the foundation with not less than 1/2 inch (12.7 mm) diameter steel bolts or approved anchors, embedded at least 7 inches (178 mm) into concrete or masonry and spaced not more than 32 inches (816 mm) apart, there shall be a minimum of two bolts or anchor straps per piece located not less than 4 inches (102 mm) from each end of each piece. A properly sized nut and washer shall be tightened on each bolt to the plate.

(55) Section 2506.2.1 is deleted and replaced with the following:

2506.2.1 Other materials. Metal suspension systems for acoustical and lay-in panel ceilings shall conform with ASTM C635 listed in Chapter 35 and Section 13.5.6 of ASCE 7-05, as amended in Section 1613.8, for installation in high seismic areas.

(56) In Section 2902.1, the title for Table 2902.1 is deleted and replaced with the following and footnote e is added as follows: Table 2902.1, Minimum Number of Required Plumbing Facilities^{a, e}.

FOOTNOTE: e. When provided, in public toilet facilities there shall be an equal number of diaper changing facilities in male toilet rooms and female toilet rooms.

(57) Section 3006.5 Shunt Trip, the following exception is added:

Exception: Hydraulic elevators and roped hydraulic elevators with a rise of 50 feet or less.

(58) A new section 3403.2.4 is added as follows:

3403.2.4 Parapet bracing, wall anchors, and other appendages. Buildings constructed prior to 1975 shall have parapet bracing, wall anchors, and appendages such as cornices, spires, towers, tanks, signs, statuary, etc. evaluated by a licensed engineer when said building is undergoing reroofing, or alteration of or repair to said feature. Such parapet bracing, wall anchors, and appendages shall be evaluated in accordance with 75% of the seismic forces as specified in Section 1613. When allowed by the local building official, alternate methods of equivalent strength as referenced in Subsection R156-56-701(2) will be considered when accompanied by engineer sealed drawings, details and calculations. When found to be deficient because of design or deteriorated condition, the

engineer's [~~shall prepare specific~~] recommendations to anchor, brace, reinforce, or remove the deficient feature shall be implemented.

EXCEPTIONS:

1. Group R-3 and U occupancies.

2. Unreinforced masonry parapets need not be braced according to the above stated provisions provided that the maximum height of an unreinforced masonry parapet above the level of the diaphragm tension anchors or above the parapet braces shall not exceed one and one-half times the thickness of the parapet wall. The parapet height may be a maximum of two and one-half times its thickness in other than Seismic Design Categories D, E, or F.

(59) Section 3406.4 is deleted and replaced with the following:

3406.4 Change in Occupancy. When a change in occupancy results in a structure being reclassified to a higher Occupancy Category (as defined in Table 1604.5), or when such change of occupancy results in a design occupant load increase of 100% or more, the structure shall conform to the seismic requirements for a new structure.

Exceptions:

1. Specific seismic detailing requirements of this code or ASCE 7 for a new structure shall not be required to be met where it can be shown that the level of performance and seismic safety is equivalent to that of a new structure. Such analysis shall consider the regularity, overstrength, redundancy and ductility of the structure within the context of the existing and retrofit (if any) detailing providing. Alternatively, the building official may allow the structure to be upgraded in accordance with referenced sections as found in Subsection R156-56-701(2).

2. When a change of use results in a structure being reclassified from Occupancy Category I or II to Occupancy Category III and the structure is located in a seismic map area where S_{DS} is less than 0.33, compliance with the seismic requirements of this code and ASCE 7 are not required.

3. Where design occupant load increase is less than 25 occupants and the Occupancy Category does not change.

(60) The exception in 3409.1 is deleted and replaced with the following:

Exception: Type B dwelling or sleeping units required by section 1107 are not required to be provided in existing buildings and facilities, except when an existing occupancy is changed to R-2.

(61) In Section 3409.4, number 7 is added as follows:

7. When a change of occupancy in a building or portion of a building results in a Group R-2 occupancy as determined in section 1107.6.2, not less than 20 percent of the dwelling or sleeping units shall be Type B dwelling or sleeping units. These dwelling or sleeping units may be located on any floor of the building provided with an accessible route. Two percent, but not less than one, of the dwelling or sleeping units shall be Type A dwelling units.

(62) The following referenced standard is added under NFPA in chapter 35:

TABLE		
Number	Title	Referenced in code Section number
720-05	Recommended Practice for the Installation of Household Carbon Monoxide (CO) Warning Equipment	907.2.10, 907.2.10.5

R156-56-803. Statewide Amendments to the IPC.

The following are adopted as amendments to the IPC to be applicable statewide:

(1) In Section 202, the definition for "Backflow Backpressure, Low Head" is deleted in its entirety.

(2) In Section 202, the definition for "Backsiphonage" is deleted and replaced with the following:

Backsiphonage. The backflow of potentially contaminated, polluted or used water into the potable water system as a result of the pressure in the potable water system falling below atmospheric pressure of the plumbing fixtures, pools, tanks or vats connected to the potable water distribution piping.

(3) In Section 202, the following definition is added:

Certified Backflow Preventer Assembly Tester. A person who has shown competence to test Backflow prevention assemblies to the satisfaction of the authority having jurisdiction under Subsection 19-4-104(4), Utah Code Ann. (1953), as amended.

(4) In Section 202, the definition for "Cross Connection" is deleted and replaced with the following:

Cross Connection. Any physical connection or potential connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other either water of unknown or questionable safety or steam, gas or chemical, whereby there exists the possibility for flow from one system to the other, with the direction of flow depending on the pressure differential between the two systems (see "Backflow").

(5) In Section 202, the following definition is added:

Heat Exchanger (Potable Water). A device to transfer heat between two physically separated fluids (liquid or steam), one of which is potable water.

(6) In Section 202, the definition for "Potable Water" is deleted and replaced with the following:

Potable Water. Water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming to the Titles 19-4 and 19-5, Utah Code Ann. (1953), as amended and the regulations of the public health authority having jurisdiction.

(7) In Section 202, the following definition is added:

S-Trap. A trap having its weir installed above the inlet of the vent connection.

(8) In Section 202, the definition for "Water Heater" is deleted and replaced with the following:

Water Heater. A closed vessel in which water is heated by the combustion of fuels or electricity and is withdrawn for use external to the system at pressures not exceeding 160 psig (1100 kPa (gage)), including the apparatus by which heat is generated, and all controls and devices necessary to prevent water temperatures from exceeding 210 degrees Fahrenheit (99 degrees Celsius).

(9) Section 304.3 Meter Boxes is deleted.

(10) Section 305.5 is deleted and replaced with the following:

305.5 Pipes through or under footings or foundation walls. Any pipe that passes under or through a footing or through a foundation wall shall be protected against structural settlement.

(11) Section 305.8 is deleted and replaced with the following:

305.8 Protection against physical damage. In concealed locations where piping, other than cast-iron or galvanized steel, is installed through holes or notches in studs, joists, rafters or similar members less than 1 1/2 inches (38 mm) from the nearest edge of the member, the pipe shall be protected by shield plates. Protective shield plates shall be minimum of 1/16 inch-thick (1.6 mm) steel, shall cover the area of the pipe where the member is notched or bored, and shall be at least the thickness of the framing member penetrated.

(12) Section 305.10 is added as follows:

Section 305.10 Improper Connections. No drain, waste, or vent piping shall be drilled and tapped for the purpose of making connections.

(13) Section 311.1 is deleted.

(14) Section 312.9 is deleted in its entirety and replaced with the following:

312.9 Backflow assembly testing. The premise owner or his designee shall have backflow prevention assemblies operation tested at the time of installation, repair and relocation and at least on an annual basis thereafter, or more frequently as required by the authority having jurisdiction. Testing shall be performed by a Certified Backflow Preventer Assembly Tester. The assemblies that are subject to this paragraph are the Spill Resistant Vacuum Breaker, the Pressure Vacuum Breaker Assembly, the Double Check Backflow Prevention Assembly, the Double Check Detector Assembly Backflow Preventer, the Reduced Pressure Principle Backflow Preventer, and Reduced Pressure Detector Assembly.

(15) In Section 403.1 footnote e is added as follows:

FOOTNOTE: e. When provided, in public toilet facilities there shall be an equal number of diaper changing facilities in male toilet rooms and female toilet rooms.

(16) In Section 406.3, an exception is added as follows:

Exception: Gravity discharge clothes washers, when properly trapped and vented, shall be allowed to be directly connected to the drainage system or indirectly discharge into a properly sized catch basin, trench drain, or other approved indirect waste receptor installed for the purpose of receiving such waste.

(17) A new section 406.4 is added as follows:

406.4 Automatic clothes washer metal safe pans. Metal safe pans, when installed under automatic clothes washers, shall only be allowed to receive the unintended discharge from a leaking appliance, valve, supply hose, or overflowing waste water from the clothes washer standpipe. Clothes washer metal safe pans shall not be used as indirect waste receptors to receive the discharge of waste water from any other equipment, appliance, appurtenance, drain pipe, etc. Each safe pan shall be provided with an approved trap seal primer, conforming to ASSE 1018 or 1044 or a deep seal trap. The sides of the safe pan shall be no less than 1 1/2" high and shall be soldered at the joints to provide a water tight seal.

406.4.1 Safe pan outlet. The safe pan outlet shall be no less than 1 1/2" in diameter and shall be located in a visible and accessible location to facilitate cleaning and maintenance. The outlet shall be flush with the surface of the pan so as not to allow water retention within the pan.

(18) Section 412.1 is deleted and replaced with the following:

412.1 Approval. Floor drains shall be made of ABS, PVC, cast-iron, stainless steel, brass, or other approved materials that are listed for the use.

(19) Section 412.5 is added as follows:

412.5 Public toilet rooms. All public toilet rooms shall be equipped with at least one floor drain.

(20) Section 418.1 is deleted and replaced with the following:

418.1 Approval. Sinks shall conform to ANSI Z124.6, ASME A112.19.1M, ASME A112.19.2M, ASME A112.19.3M, ASME A112.19.4M, ASME A112.19.9M, CSA B45.1, CSA B45.2, CSA B45.3, CSA B45.4 or NSF 2.

(21) Section 504.6.2 is deleted and replaced with the following:

504.6.2 Material. Relief valve discharge piping shall be of those materials listed in Tables 605.4 and 605.5 and meet the requirements for Sections 605.4 and 605.5 or shall be tested, rated

and approved for such use in accordance with ASME A112.4.1. Piping from safety pan drains shall meet the requirements of Section 804.1 and be constructed of those materials listed in Section 702.

(22) Section 504.7.2 is deleted and replaced with the following:

504.7.2 Pan drain termination. The pan drain shall extend full-size and terminate over a suitably located indirect waste receptor, floor drain or extend to the exterior of the building and terminate not less than 6 inches (152 mm) and not more than 24 inches (610 mm) above the adjacent ground surface. When permitted by the administrative authority, the pan drain may be directly connected to a soil stack, waste stack, or branch drain. The pan drain shall be individually trapped and vented as required in Section 907.1. The pan drain shall not be directly or indirectly connected to any vent. The trap shall be provided with a trap primer conforming to ASSE 1018 or ASSE 1044.

(23) A new section 504.7.3 is added as follows:

504.7.3 Pan Designation. A water heater pan shall be considered an emergency receptor designated to receive the discharge of water from the water heater only and shall not receive the discharge from any other fixtures, devices or equipment.

(24) Section 602.3 is deleted and replaced with the following:

602.3 Individual water supply. Where a potable public water supply is not available, individual sources of potable water supply shall be utilized provided that the source has been developed in accordance with Sections 73-3-1, 73-3-3, and 73-3-25, Utah Code Ann. (1953), as amended, as administered by the Department of Natural Resources, Division of Water Rights. In addition, the quality of the water shall be approved by the local health department having jurisdiction. The source shall supply sufficient quantity of water to comply with the requirements of this chapter.

(25) Sections 602.3.1, 602.3.2, 602.3.3, 602.3.4, 602.3.5 and 602.3.5.1 are deleted in their entirety.

(26) Section 604.4.1 is added as follows:

604.4.1 Metering faucets. Self closing or metering faucets shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet.

(27) Section 606.5 is deleted and replaced with the following:

606.5 Water pressure booster systems. Water pressure booster systems shall be provided as required by Section 606.5.1 through 606.5.11.

(28) Section 606.5.11 is added as follows:

606.5.11 Prohibited installation. In no case shall a booster pump be allowed that will lower the pressure in the public main to less than 20 psi.

(29) In Section 608.1, the following sentence is added at the end of the paragraph:

Connection without an air gap between potable water piping and sewer-connected waste shall not exist under any condition.

(30) Table 608.1 is deleted and replaced with the following:

TABLE 608.1
General Methods of Protection

Assembly (applicable standard)	Degree of Hazard	Application	Installation Criteria
Air Gap (ASME A112.1.2)	High or Low	Backsiphonage	See Table 608.15.1
Reduced Pressure	High or Low	Backpressure or Backsiphonage	a. The bottom of each RP assembly shall

Principle Backflow Preventer (AWWA C511, USC-FCCCHR, ASSE 1013 CSA CNA/CSA-B64.4) and Reduced Pressure Detector Assembly (ASSE 1047, USC-FCCCHR)	Low	1/2" - 16"	<ul style="list-style-type: none"> be a minimum of 12 inches above the ground or floor. b. RP assemblies shall NOT be installed in a pit. c. The relief valve on each RP assembly shall not be directly connected to any waste disposal line, including sanitary sewer, storm drains, or vents. d. The assembly shall be installed in a horizontal position only unless listed or approved for vertical installation.
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Double Check Backflow Prevention Assembly (AWWA C510, USC-FCCCHR, ASSE 1015) Double Check Detector Assembly Backflow Preventer (ASSE 1048, USC-FCCCHR)	Low	Backpressure or Backsiphonage 1/2" - 16"	<ul style="list-style-type: none"> a. If installed in a pit, the DC assembly shall be installed with a minimum of 12 inches of clearance between all sides of the vault including the floor and roof or ceiling with adequate room for testing and maintenance. b. Shall be installed in a horizontal position unless listed or approved for vertical installation.
--	-----	--	---

Pressure Vacuum Breaker Assembly (ASSE 1020, USC-FCCCHR)	High or Low	Backsiphonage 1/2" - 2"	<ul style="list-style-type: none"> a. Shall not be installed in an area that could be subjected to backpressure or back drainage conditions. b. Shall be installed a minimum of 12 inches above all downstream piping and the highest point of use. c. Shall not be installed below ground or in a vault or pit. d. Shall be installed in a vertical position only.
--	-------------	-------------------------	---

Spill Resistant Vacuum Breaker (ASSE 1056, USC-FCCCHR)	High or Low	Backsiphonage 1/4" - 2"	<ul style="list-style-type: none"> a. Shall not be installed in an area that could be subjected to backpressure or back drainage conditions. b. Shall be installed a minimum of 12 inches above all downstream piping and the highest point of use.
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Atmospheric High or Vacuum Low Breaker (ASSE 1001 USC-FCCCHR, CSA CAN/CSA-B64.1.1)

Backsiphonage

General Installation Criteria

a. Shall not be installed below ground or in a vault or pit.

d. Shall be installed in a vertical position only.

a. Shall not be installed in an area that could be subjected to backpressure or back drainage conditions.

b. Shall not be installed where it may be subjected to continuous pressure for more than 12 consecutive hours at any time.

c. Shall be installed a minimum of six inches above all downstream piping and the highest point of use.

d. Shall be installed on the discharge (downstream) side of any valves.

e. The AVB shall be installed in a vertical position only.

The assembly owner, when necessary, shall provide devices or structures to facilitate testing, repair, and/or maintenance and to insure the safety of the backflow technician.

Assemblies shall not be installed more than five feet off the floor unless a permanent platform is installed.

The body of the assembly shall not be closer than 12 inches to any wall, ceiling or incumbrance, and shall be accessible for testing, repair and/or maintenance.

In cold climates, assemblies shall be protected from freezing by a means acceptable to the code official.

Assemblies shall be maintained as an intact assembly.

(31) Table 608.1.1 is added as follows:

TABLE 608.1.1
Specialty Backflow Devices for low hazard use only

Device	Degree of Hazard	Application	Applicable Standard
Antisiphon-type Water Closet Flush Tank Ball Cock	Low	Backsiphonage	ASSE 1002 CSA CAN/CSA-B125
Dual check valve Backflow Preventer	Low	Backsiphonage or Backpressure 1/4" - 1"	ASSE 1024
Backflow Preventer with Intermediate Atmospheric Vent	Low Residential Boiler	Backsiphonage or Backpressure 1/4" - 3/4"	ASSE 1012 CSA CAN/CSA-B64.3
Dual check valve type Backflow Preventer for Carbonated Beverage Dispensers/Post Mix Type	Low	Backsiphonage or Backpressure 1/4" - 3/8"	ASSE 1022
Hose-connection Vacuum Breaker	Low	Backsiphonage 1/2", 3/4", 1"	ASSE 1011 CSA CAN/CSA-B64.2
Vacuum Breaker Wall Hydrants, Frost-resistant, Automatic Draining Type	Low	Backsiphonage 3/4", 1"	ASSE 1019 CSA CAN/CSA-B64.2.2
Laboratory Faucet Backflow Preventer	Low	Backsiphonage	ASSE 1035 CSA CAN/CSA-B64.7
Hose Connection Backflow Preventer	Low	Backsiphonage 1/2" - 1"	ASSE 1052

Installation Guidelines: The above specialty devices shall be installed in accordance with their listing and the manufacturer's instructions and the specific provisions of this chapter.

(32) In Section 608.3.1, the following sentence is added at the end of the paragraph:

All piping and hoses shall be installed below the atmospheric vacuum breaker.

(33) Section 608.7 is deleted in its entirety.

(34) In Section 608.8, the following sentence is added at the end of the paragraph:

In addition each nonpotable water outlet shall be labeled with the words "CAUTION: UNSAFE WATER, DO NOT DRINK".

(35) In Section 608.11, the following sentence is added at the end of the paragraph:

The coating shall conform to NSF Standard 61 and application of the coating shall comply with the manufacturers instructions.

(36) Section 608.13.3 is deleted and replaced with the following:

608.13.3 Backflow preventer with intermediate atmospheric vent. Backflow preventers with intermediate atmospheric vents shall conform to ASSE 1012 or CAS CAN/CAS-B64.3. These devices shall be permitted to be installed on residential boilers only where subject to continuous pressure conditions. The relief opening shall discharge by air gap and shall be prevented from being submerged.

(37) Section 608.13.4 is deleted in its entirety.

(38) Section 608.13.9 is deleted in its entirety.

(39) Section 608.15.3 is deleted and replaced with the following:

608.15.3 Protection by a backflow preventer with intermediate atmospheric vent. Opening and outlets to residential boilers only shall be protected by a backflow preventer with an intermediate atmospheric vent.

(40) Section 608.15.4 is deleted and replaced with the following:

608.15.4 Protection by a vacuum breaker. Openings and outlets shall be protected by atmospheric-type or pressure-type vacuum breakers. The critical level of the atmospheric vacuum breaker shall be set a minimum of 6 inches (152 mm) above the flood level rim of the fixture or device. The critical level of the pressure vacuum breaker shall be set a minimum of 12 inches (304 mm) above the flood level rim of the fixture or device. Ball cocks shall be set in accordance with Section 425.3.1. Vacuum breakers shall not be installed under exhaust hoods or similar locations that will contain toxic fumes or vapors. Pipe-applied vacuum breakers shall be installed not less than 6 inches (152 mm) above the flood level rim of the fixture, receptor or device served. No valves shall be installed downstream of the atmospheric vacuum breaker.

(41) Section 608.15.4.2 is deleted and replaced with the following:

608.15.4.2 Hose connections. Sillcocks, hose bibbs, wall hydrants and other openings with a hose connection shall be protected by an atmospheric-type or pressure-type vacuum breaker or a permanently attached hose connection vacuum breaker. Add-on-type backflow prevention devices shall be non-removable. In climates where freezing temperatures occur, a listed self-draining frost proof hose bibb with an integral backflow preventer shall be used.

(42) In Section 608.16.2, the first sentence of the paragraph is deleted and replaced as follows:

608.16.2 Connections to boilers. The potable water supply to the residential boiler shall be equipped with a backflow preventer with an intermediate atmospheric vent complying with ASSE 1012 or CSA CAN/CSA B64.3.

(43) Section 608.16.3 is deleted and replaced with the following:

608.16.3 Heat exchangers. Heat exchangers shall be separated from potable water by double-wall construction. An air gap open to the atmosphere shall be provided between the two walls.

Exceptions:

1. Single wall heat exchangers shall be permitted when all of the following conditions are met:

a. It utilizes a heat transfer medium of potable water or contains only substances which are recognized as safe by the United States Food and Drug Administration (FDA);

b. The pressure of the heat transfer medium is maintained less than the normal minimum operating pressure of the potable water system; and

c. The equipment is permanently labeled to indicate only additives recognized as safe by the FDA shall be used.

2. Steam systems that comply with paragraph 1 above.

3. Approved listed electrical drinking water coolers.

(44) In Section 608.16.4.1, add the following exception:

Exception: All class 1 and 2 systems containing chemical additives consisting of strictly glycerine (C.P. or U.S.P. 96.5 percent grade) or propylene glycol shall be protected against backflow with

a double check valve assembly. Such systems shall include written certification of the chemical additives at the time of original installation and service or maintenance.

(45) Section 608.16.7 is deleted and replaced with the following:

608.16.7 Chemical dispensers. Where chemical dispensers connect to the water distribution system, the water supply system shall be protected against backflow in accordance with Section 608.13.1, Section 608.13.2, Section 608.13.5, Section 608.13.6 or Section 608.13.8.

(46) Section 608.16.8 is deleted and replaced with the following:

608.16.8 Portable cleaning equipment. Where the portable cleaning equipment connects to the water distribution system, the water supply system shall be protected against backflow in accordance with Section 608.13.1, Section 608.13.2 or Section 608.13.8.

(47) Section 608.16.9 is deleted and replaced with the following:

608.16.9 Dental pump equipment or water syringe. Where dental pumping equipment or water syringes connects to the water distribution system, the water supply system shall be protected against backflow in accordance with Section 608.13.1, Section 608.13.2, Section 608.13.5, Section 608.13.6 or Section 608.13.8.

(48) Section 608.16.11 is added as follows:

608.16.11 Automatic and coin operated car washes. The water supply to an automatic or coin operated car wash shall be protected in accordance with Section 608.13.1 or Section 608.13.2.

(49) Section 608.17 is deleted in its entirety.

(50) Section 701.2 is deleted and replaced with the following:

701.2 Sewer required. Every building in which plumbing fixtures are installed and all premises having drainage piping shall be connected to a public sewer where the sewer is within 300 feet of the property line in accordance with Section 10-8-38, Utah Code Ann., (1953), as amended; or an approved private sewage disposal system in accordance with Rule R317-4, Utah Administrative Code, as administered by the Department of Environmental Quality, Division of Water Quality.

(51) Section 802.3.2 is deleted in its entirety and replaced with the following:

802.3.2 Open hub waste receptors. Waste receptors for clear water waste shall be permitted in the form of a hub or pipe extending not more than 1/2 inch above a water impervious floor and are not required to have a strainer.

(52) Section 901.3 is deleted and replaced with the following:

901.3 Chemical waste vent system. The vent system for a chemical waste system shall be independent of the sanitary vent system and shall terminate separately through the roof to the open air or to an air admittance valve provided at least one chemical waste vent in the system terminates separately through the roof to the open air.

~~(53)~~ 53) Section 904.1 is deleted and replaced with the following:

904.1 Roof extensions. All open vent pipes that extend through a roof shall be terminated at least 12 inches (304.8 mm) above the roof, except that where a roof is to be used for any purpose other than weather protection, the vent extension shall be run at least 7 feet (2134 mm) above the roof.

~~(54)~~ 54) In Section 904.6, the following sentence is added at the end of the paragraph:

Vents extending through the wall shall terminate not less than 12 inches from the wall with an elbow pointing downward.

~~(54)55~~ In Section 905.4, the following sentence is added at the end of the paragraph:

Horizontal dry vents below the flood level rim shall be permitted for floor drain and floor sink installations when installed in accordance with Sections 702.2, 905.2 and 905.3 and provided with a wall clean out.

~~(56)~~ In Section 917.8 the following exception is added:

Exception: Air admittance valves shall be permitted in non-neutralized special waste systems provided that they conform to the requirements in Sections 901.3 and 702.5, are tested to ASTM F1412, and are certified by ANSI/ASSE.

~~(55)57~~ Section 1104.2 is deleted and replaced with the following:

1104.2 Combining storm and sanitary drainage prohibited. The combining of sanitary and storm drainage systems is prohibited.

~~(56)58~~ Section 1108 is deleted in its entirety.

~~(57)59~~ The Referenced Standard NFPA 99c-02 in Chapter 13 is deleted and replaced with NFPA 99c-05.

~~(58)60~~ The Referenced Standard NSF-2003e in Chapter 13 is amended to add Section 608.11 to the list of Referenced in code section number.

~~(59)61~~ In Chapter 13, Referenced Standards, the following referenced standard is added:

TABLE

USC-	Foundation for Cross-Connection	Table 608.1
FCCCHR	Control and Hydraulic Research	
9th	University of Southern California	
Edition	Kaprielian Hall 300	
Manual	Los Angeles CA 90089-2531	
of Cross		
Connection		
Control		

~~(60)62~~ Appendix C of the IPC, Gray Water Recycling Systems as amended herein shall not be adopted by any local jurisdiction until such jurisdiction has requested Appendix C as amended to be adopted as a local amendment and such local amendment has been approved as a local amendment under these rules.

~~(64)63~~ In jurisdictions which have adopted Appendix C as amended as a local amendment as provided herein, Section 301.3 of the IPC is deleted and replaced with the following:

301.3 Connection to the drainage system. All plumbing fixtures, drains, appurtenances and appliances used to receive or discharge liquid wastes or sewage shall be directly connected to the drainage system of the building or premises, in accordance with the requirements of this Code. This section shall not be construed to prevent indirect waste systems provided for in Chapter 8.

Exception: Bathtubs, showers, lavatories, clothes washers and laundry sinks shall not be required to discharge to the sanitary drainage system where such fixtures discharge to a gray water recycling system meeting all the requirements as specified in Appendix C as amended by these rules.

~~(62)64~~ Appendix C is deleted and replaced with the following, to be effective only in jurisdictions which have adopted Appendix C as amended as a local amendment under these rules:

Appendix C, Gray Water Recycling Systems, C101 Gray Water Recycling Systems

C101.1 General, recycling gray water within a building. In R1, R2 and R4 occupancies and one- and two-family dwellings, gray water recycling systems are prohibited.

In commercial occupancies, recycled gray water shall only be utilized for the flushing of water closets and urinals that are located in the same building as the gray water recycling system, provided the following conditions are met:

1. Such systems comply with Sections C101.1 through C101.14 as amended by these rules.

2. The commercial establishment demonstrates that it has and will have qualified staff to oversee the gray water recycling systems. Qualified staff is defined as level 3 waste water treatment plan operator as specified by the Department of Environmental Quality.

3. Gray water recycling systems shall only receive non hazardous waste discharge of bathtubs, showers, lavatories, clothes washers and laundry sinks such as chemicals having a pH of 6.0 to 9.0, or non flammable or non combustible liquids, liquids without objectionable odors, non-highly pigmented liquids, or other liquids that will not interfere with the operation of the sewer treatment facilities.

C101.2 Permit required. A permit for any gray water recycling system shall not be issued until complete plans prepared by a licensed engineer, with appropriate data satisfactory to the Code Official, have been submitted and approved. No changes or connections shall be made to either the gray water recycling system or the potable water system within any site containing a gray water recycling system, without prior approved by the Code Official. A permit may also be required by the local health department to monitor compliance with this appendix for system operator standards and record keeping.

C101.3 Definition. The following term shall have the meaning shown herein.

GRAY WATER. Waste water discharged from lavatories, bathtubs, showers, clothes washers and laundry sinks.

C101.4 Installation. All drain, waste and vent piping associated with gray water recycling systems shall be installed in full compliance with this code.

C101.5 Gray Water Reservoir. Gray water shall be collected in an approved reservoir construction of durable, nonabsorbent and corrosion-resistant materials. The reservoir shall be a closed and gas-tight vessel. Gas tight access openings shall be provided to allow inspection and cleaning of the reservoir interior. The holding capacity of the reservoir shall be a minimum of twice the volume of water required to meet the daily flushing requirements of the fixtures supplied by the gray water, but not less than 50 gallons (189 L). The reservoir shall be sized to limit the retention time of gray water to 72 hours maximum.

C101.6 Filtration. Gray water entering the reservoir shall pass through an approved cartridge filter or other method approved by the Code Official.

C101.7 Disinfection. Gray water shall be disinfected by an approved method that employs one or more disinfectants such as chlorine, iodine or ozone. A minimum of 1 ppm free residual chlorine shall be maintained in the gray water recycling system reservoir. Such disinfectant shall be automatically dispensed. An alarm shall be provided to shut down the gray water recycling system if disinfectant levels are not maintained at the required levels.

C101.8 Makeup water. Potable water shall be supplied as a source of makeup water for the gray water recycling system. The potable water supply to any building with a gray water recycling

system shall be protected against backflow by an RP backflow assembly installed in accordance with this code. There shall be full-open valve on the makeup water supply to the reservoir. The potable water supply to the gray water reservoir shall be protected by an air gap installed in accordance with this code.

C101.9 Overflow. The reservoir shall be equipped with an overflow pipe of the same diameter as the influent pipe for the gray water. The overflow shall be directly connected to the sanitary drainage system.

C101.10 Drain. A drain shall be located at the lowest point of the reservoir and shall be directly connected to the sanitary drainage system. The drain shall be the same diameter as the overflow pipe required by Section C101.9 and shall be provided with a full-open valve.

C101.11 Vent required. The reservoir shall be provided with a vent sized in accordance with Chapter 9 based on the size of the reservoir influent pipe.

C101.12 Coloring. The gray water shall be automatically dyed blue or green with a food grade vegetable dye before such water is supplied to the fixtures.

C101.13 Identification. All gray water distribution piping and reservoirs shall be identified as containing non-potable water. Gray water recycling system piping shall be permanently colored purple or continuously wrapped with purple-colored Mylar tape. The tape or permanently colored piping shall be imprinted in black, upper case letters with the words "CAUTION: GRAY WATER, DO NOT DRINK."

All equipment areas and rooms for gray water recycling system equipment shall have a sign posted in a conspicuous place with the following text: TO CONSERVE WATER, THIS BUILDING USES GRAY WATER TO FLUSH TOILETS AND URINALS, DO NOT CONNECT TO THE POTABLE WATER SYSTEM. The location of the signage shall be determined by the Code Official.

C101.14 Removal from service. All gray water recycling systems that are removed from service shall have all connections to the reservoir capped and routed back to the building sewer. All gray water distribution lines shall be replaced with new materials.

C201.1 Outside the building. Gray water reused outside the building shall comply with the requirements of the Department of Environmental Quality Rule R317.

R156-56-820. Statewide Amendments to the IEBC.

The following are adopted as amendments to the IEBC to be applicable statewide:

(1) In Section 101.5 the exception is deleted.

(2) Section R106.3.2 is deleted and replaced with the following:

R106.3.2 Previous approval. If a lawful permit has been issued and the construction of which has been pursued in good faith within 180 days after the effective date of the code and has not been abandoned, then the construction may be completed under the code in effect at the time of the issuance of the permit.

(3) In Section 202 the definition for existing buildings is deleted and replaced with the following:

EXISTING BUILDING. A building lawfully erected prior to January 1, 2002, or one which is deemed a legal non-conforming building by the code official, and one which is not a dangerous building.

(4) Section 606.2.2 is deleted and replaced with the following:

602.2.2 Parapet bracing, wall anchors, and other appendages. Buildings constructed prior to 1975 shall have parapet bracing, wall

anchors, and appendages such as cornices, spires, towers, tanks, signs, statuary, etc. evaluated by a licensed engineer when said building is undergoing reroofing, or alteration of or repair to said feature. Such parapet bracing, wall anchors, and appendages shall be evaluated in accordance with the reduced International Building Code level seismic forces as specified in IEBC Section 506.1.1.3 and design procedures of Section 506.1.1.1. When found to be deficient because of design or deteriorated condition, the engineer's [~~shall prepare specific~~] recommendations to anchor, brace, reinforce, or remove the deficient feature shall be implemented.

EXCEPTIONS:

1. Group R-3 and U occupancies.

2. Unreinforced masonry parapets need not be braced according to the above stated provisions provided that the maximum height of an unreinforced masonry parapet above the level of the diaphragm tension anchors or above the parapet braces shall not exceed one and one-half times the thickness of the parapet wall. The parapet height may be a maximum of two and one-half times its thickness in other than Seismic Design Categories D, E, or F.

(5) Section 705.3.1.2 is deleted and replaced with the following:

705.3.1.2 Fire escapes required. When more than one exit is required, an existing fire escape complying with Section 705.3.1.2.1 shall be accepted as providing one of the required means of egress.

705.3.1.2.1 Fire escape access and details. Fire escapes shall comply with all of the following requirements:

1. Occupants shall have unobstructed access to the fire escapes without having to pass through a room subject to locking.

2. Access to an existing fire escape shall be through a door, except that windows shall be permitted to provide access from single dwelling units or sleeping units in Group R-1, R-2, and I-1 occupancies or to provide access from spaces having a maximum occupant load of 10 in other occupancy classifications.

3. Existing fire escapes shall be permitted only where exterior stairs cannot be utilized because of lot lines limiting the stair size or because of the sidewalks, alleys, or roads at grade level.

4. Openings within 10 feet (3048 mm) of fire escape stairs shall be protected by fire assemblies having minimum 3/4-hour fire-resistance ratings.

Exception: Opening protection shall not be required in buildings equipped throughout with an approved automatic sprinkler system.

5. In all buildings of Group E occupancy, up to and including the 12th grade, buildings of Group I occupancy, rooming houses, and childcare centers, ladders of any type are prohibited on fire escapes used as a required means of egress.

(6) Section 906.1 is deleted and replaced with the following:

906.1 General. Accessibility in portions of buildings undergoing a change of occupancy classification shall comply with Section 605 and 912.8.

(7) Section 907.3.1 is deleted and replaced with the following:

907.3.1 Compliance with the International Building Code. When a building or portion thereof is subject to a change of occupancy such that a change in the nature of the occupancy results in a higher seismic occupancy based on Table 1604.5 of the International Building Code; or where such change of occupancy results in a reclassification of a building to a higher hazard category as shown in Table 912.4; or where a change of a Group M occupancy to a Group A, ETM R-1, R-2, or R-4 occupancy with two-thirds or more of the floors involved in Level 3 alteration work; or when such change of occupancy results in a design occupant load

increase of 100% or more, the building shall conform to the seismic requirements of the International Building Code for the new seismic use group.

Exceptions 1-4 remain unchanged.

5. Where the design occupant load increase is less than 25 occupants and the occupancy category does not change.

(8) In Section 912.7.3 exception 2 is deleted.

(9) In Section 912.8 number 7 is added as follows:

7. When a change of occupancy in a building or portion of a building results in a Group R-2 occupancy, not less than 20 percent of the dwelling or sleeping units shall be Type B dwelling or sleeping units. These dwelling or sleeping units may be located on any floor of the building provided with an accessible route. Two percent, but not less than one unit, of the dwelling or sleeping units shall be Type A dwelling units.

R156-56-903. Local Amendments to the IPC.

The following are adopted as amendments to the IPC to be applicable to the following jurisdictions:

(1) Salt Lake City

Appendix C of the IPC as specified and amended in R156-56-803(62), (63) and (64).

(~~1~~)² South Jordan

(a) Section 312.9.2 is deleted and replaced with the following:

312.9.2 Testing. Reduced pressure principle backflow preventer assemblies, double check-valve assemblies, pressure vacuum breaker assemblies, reduced pressure detector fire protection backflow prevention assemblies, double check detector fire protection backflow prevention assemblies, hose connection backflow preventers, and spill-proof vacuum breakers shall be tested at the time of installation, immediately after repairs or relocation and at least annually. The testing procedure shall be performed in accordance with one of the following standards: ASSE 5013, ASSE 5015, ASSE 5020, ASSE 5047, ASSE 5048, ASSE 5052, ASSE 5056, CSA B64.10 or CSA B64.10.1. Assemblies, other than the reduced pressure principle assembly, protecting lawn irrigation systems that fail the annual test shall be replaced with a reduced pressure principle assembly.

(b) Section 608.16.5 is deleted and replaced with the following:

608.16.5 Connections to lawn irrigation systems. The potable water supply to lawn irrigation systems shall be protected against backflow by a reduced pressure principle backflow preventer.

KEY: contractors, building codes, building inspection, licensing
Date of Enactment or Last Substantive Amendment: ~~July 1,~~ 2007

Notice of Continuation: March 29, 2007

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-56-1; 58-56-4(2); 58-56-6(2)(a); 58-56-18



Commerce, Occupational and Professional Licensing **R156-56-420** Administration of Building Code Training Fund

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 30573

FILED: 10/11/2007, 15:47

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The division and the Uniform Building Code Commission are filing this separate rule filing to place the Building Code Training Fund administration policies and procedures into rule. The Building Code Training Fund has been in place and operating for a number of years. It has been recommended that the policies and procedures for how this fund has been administered be placed into this rule.

SUMMARY OF THE RULE OR CHANGE: Section R156-56-420 is added to the rule to identify the policies and procedures the Division has been utilizing with respect to the administration of the Building Code Training Fund.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-56-1 and Subsections 58-1-106(1)(a), 58-1-202(1)(a), 58-56-4(2), and 58-56-6(2)(a)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** It is anticipated that there will be no additional cost to the state budget and division budget beyond those costs to publish the rule which are identified in a separate rule filing affecting Rule R156-56. The policies and procedures being added to the rule have been in place and result in no change in how this fund is administered. (DAR NOTE: The other proposed amendment to Rule R156-56 is under DAR No. 30574 in this issue, November 1, 2007, of the Bulletin.)

❖ **LOCAL GOVERNMENTS:** The division has determined that there should be no costs or savings to local governments. The policies and procedures being added to the rule have been in place and result in no change in how this fund is administered.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The division has determined that there should be no costs or savings to small businesses and persons other than businesses. The policies and procedures being added to the rule have been in place and result in no change in how this fund is administered.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The division has determined that there should be no costs or savings to affected persons. The policies and procedures being added to the rule have been in place and result in no change in how this fund is administered.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing codifies existing division procedures regarding the administration of the Building Code Training Fund. Therefore, no fiscal impact to businesses is anticipated as a result of this rule filing. 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 12/03/2007

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 11/15/2007 at 9:00 AM, State Office Building (behind the Capitol), Room 4112, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2007

AUTHORIZED BY: F. David Stanley, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-56. Utah Uniform Building Standard Act Rules.
R156-56-420. Administration of Building Code Training Fund.**

In accordance with Subsection 58-56-9(3)(a), the Division shall use monies received under Subsection 58-56-9(4) to provide education regarding codes and code amendments to building inspectors and individuals engaged in construction-related trades or professions. The following procedures, standards and policies are established to apply to the administration of the fund:

(1) The Division shall not approve or deny expenditure requests from the Building Code Training Fund ("the fund") until the Uniform Building Code Commission (UBCC) Education Advisory Committee ("the Committee"), created in accordance with Subsections 58-1-203(1)(f), 58-56-5(10)(d) and (e), and R156-56-202(1)(a) has considered and made its recommendations on the requests.

(2) Appropriate funding expenditure categories include:

(a) grants in the form of reimbursement funding to the following organizations which administer code related educational events, seminars or classes:

(i) schools, colleges, universities, departments of universities or other institutions of learning;

(ii) professional associations or organizations; and

(iii) governmental agencies.

(b) costs or expenses incurred as a result of educational events, seminars or classes directly administered by the Division;

(c) expenses incurred for the salary, benefits or other compensation and related expenses resulting from the employment of a Board Secretary;

(d) office equipment and associated administrative expenses required for the performance of the duties of the Board Secretary, including but not limited to computer equipment, telecommunication equipment and costs and general office supplies; and

(e) other related expenses as determined by the Division.

(3) The following procedure shall be used for submission, review and payment of funding grants:

(a) A funding grant applicant shall submit a "Tentative Training Plans and Funding Request Estimate" preferably prior to the beginning of the fiscal year for budget consideration.

(b) A funding grant applicant shall submit a completed "Application for Building Code Training Funds Grant" preferably a minimum of 15 days prior to the meeting at which the request is to be considered and prior to the training event on forms provided for that purpose by the Division. Applications received less than 15 days prior to a meeting may be denied.

(c) A funding grant applicant shall include in its application a summary and analysis of training costs based upon the estimated costs of the proposed training.

(d) Payment of approved funding grants will be made as reimbursement after the approved event, class, or seminar has been held and the required receipts, invoices and supporting documentation have been submitted to the Division.

(4) The Committee shall consider the following in determining whether to recommend approval of a proposed funding request to the Division:

(a) costs of the facility including:

(i) the location of a facility or venue to the type of event, seminar or class;

(ii) the suitability of said facility or venue with regard to the anticipated attendance at or in connection with additional non-funded portions of an event or conference;

(iii) the duration of the proposed educational event, seminar or class; and

(iv) whether the proposed cost of the facility is reasonable compared to the cost of alternative available facilities;

(b) the estimated cost for instructor fees including:

(i) the experience or expertise of the instructor in the proposed training area;

(ii) the quality of training based upon events, seminars or classes that have been previously taught by the instructor;

(iii) the drawing power of the instructor, meaning the ability to increase the attendance at the proposed educational event, seminar or class;

(iv) travel expenses; and

(v) whether the proposed cost for the instructor or instructors is reasonable compared to the costs of similar educational events, seminars or classes;

(c) the estimated cost of advertising materials, brochures, registration and agenda materials including:

(i) printing costs which may include creative or design expenses; and

(ii) whether delivery or mailing costs, including postage and handling, are reasonable compared to the cost of alternate available means of delivery;

(d) other reasonable and comparable cost alternatives for each proposed expense item; and

(e) any other information the Committee reasonably believes may assist in evaluating a proposed expenditure.

(5) Joint Functions.

(a) "Joint function" means a proposed event, class, seminar or program that provides code or code related education and education or activities in other areas.

(b) Only the prorated portions of a joint function which are code and code related education are eligible for a funding grant.

(c) In considering a proposed funding request that involves a joint function, the Committee shall consider whether:

(i) the expenses subject to funding are reasonably prorated for the costs directly related to the code and code amendment education; and

(ii) the education being proposed will be reasonable and successful in the training objective in the context of the entire program or event.

(6) Advertising materials, brochures and agenda or training materials for a funded educational event, seminar or class shall include a statement which acknowledges that partial funding of the training program has been provided by the Utah Division of Occupational and Professional Licensing from the 1% surcharge funds on all building permits.

KEY: contractors, building codes, building inspection, licensing
Date of Enactment or Last Substantive Amendment: ~~July 1,~~ 2007

Notice of Continuation: March 29, 2007

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-56-1; 58-56-4(2); 58-56-6(2)(a); 58-56-18



**Environmental Quality, Environmental
 Response and Remediation
 R311-401-2
 Utah Hazardous Substances Priority
 List**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 30567

FILED: 10/09/2007, 16:01

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to comply with Section 19-6-311.

SUMMARY OF THE RULE OR CHANGE: The Five Points PCE Plume site is being added to the hazardous substances priority list. In addition, several sites included in the proposed national priority list sites section of the hazardous substances priority

list are being moved to the national priority list sites section. (DAR NOTE: PCE stands for tetrachloroethylene.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-311

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The addition of the Five Points PCE Plume site to the hazardous substances priority list allows the state to partner with Environmental Protection Agency (EPA) to address the conditions of the site by spending hazardous substance mitigation fund monies as appropriated and to use the authority granted by the Hazardous Substance Mitigation Act. Addressing the contamination may spur economic development. However, at this time sufficient information is not available to specify whether there would be an aggregate cost or savings or the amount to the state budget.

❖ **LOCAL GOVERNMENTS:** The addition of the Five Points PCE Plume site to the hazardous substances priority list allows the state to partner with EPA to address the conditions of the site by spending hazardous substance mitigation fund monies as appropriated and to use the authority granted by the Hazardous Substance Mitigation Act. Addressing the contamination may spur economic development. However, at this time sufficient information is not available to specify whether there would be an aggregate cost or savings or the amount to the local government.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The addition of the Five Points PCE Plume site to the hazardous substances priority list allows the State to partner with EPA to address the conditions of the site by spending hazardous substance mitigation fund monies as appropriated and to use the authority granted by the Hazardous Substance Mitigation Act. Addressing the contamination may spur economic development. However, at this time sufficient information is not available to specify whether there would be an aggregate cost or savings or the amount to small business and persons other than businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The potential compliance cost for affected persons is not known. The EPA and the state may take steps to recover their costs from the responsible parties as allowed by law.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Adding the Five Points PCE Plume site and eventually addressing the contamination may spur economic development by cleaning up the contamination or managing the risk so that some of the uncertainty of development is removed. However, at this time sufficient information is not available to identify the fiscal impact the amendment may have on businesses. Removing the sites identified above from the potential national priority list sites section and adding them to the national priority list sites section is not expected to have any fiscal impact on businesses because the amendment is merely a reflection of action already taken by EPA. Richard W. Sprott, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sandra K. Allen at the above address, by phone at 801-536-4122, by FAX at 801-359-8853, or by Internet E-mail at SKALLEN@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 12/03/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2007

AUTHORIZED BY: Richard W. Sprott, Executive Director

R311. Environmental Quality, Environmental Response and Remediation.

R311-401. Utah Hazardous Substances Priority List.

R311-401-1. Definitions.

The definitions in Section 19-6-302 are adopted and incorporated by reference as part of this rule.

R311-401-2. Hazardous Substances Priority List.

Pursuant to Section 19-6-311 of the Utah Hazardous Substances Mitigation Fund Act the hazardous substances priority list is hereby established as presented below. The listed sites are eligible to be addressed under the authority of Section 19-6-311 et seq. U.C.A. 1953 as amended.

(a) National Priority List Sites. The Federal Register publication dates are indicated below.

TABLE

SITE NUMBER	SITE NAME	FEDERAL REGISTER PUBLICATION DATE
1	Hill Air Force Base	July 22, 1987
2	Monticello Vicinity Properties	June 10, 1986
3	Ogden Defense Depot	July 22, 1987
4	Portland Cement Sites 2 and 3	June 10, 1986
5	Rose Park Sludge Pit	September 8, 1983
6	Utah Power and Light, American Barrel	October 4, 1989
7	Sharon Steel	August 30, 1990
8	Tooele Army Depot, North	August 30, 1990
9	Monticello Mill Site	November 21, 1989
10	Midvale Slag	February 11, 1991
11	Wasatch Chemical, Lot 6	February 11, 1991
12	Petrochem Recycling Corp./Ekotek Plant	October 14, 1992
13	Jacobs Smelter	February 4, 2000
14	Intermountain Waste Oil Refinery	May 11, 2000
15	International Smelting and Refining	July 27, 2000
16	Bountiful/Woods Cross 5th South PCE Plume	September 13, 2001

17	Davenport and Flagstaff Smelters	April 30, 2003
18	Eureka Mills	September 5, 2002
19	Five Points PCE Plume	September 19, 2007

(b) Proposed National Priority List Sites. The Federal Register publication dates are indicated below.

TABLE

SITE NUMBER	SITE NAME	FEDERAL REGISTER PUBLICATION DATE
1	Richardson Flat Tailings	February 7, 1992
2	Murray Smelter	January 18, 1994
3	Davenport and Flagstaff Smelters	December 1, 2000
4	Eureka Mills	February 7, 2001

(c) Scored Sites Reserved.

KEY: hazardous substances, hazardous substances priority list
Date of Enactment or Last Substantive Amendment: ~~October 1, 2002~~ 2007

Notice of Continuation: July 19, 2007

Authorizing, and Implemented or Interpreted Law: 19-6-311



**Health, Health Care Financing,
 Coverage and Reimbursement Policy**

R414-40

Nursing Service

NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE NO.: 30579

FILED: 10/15/2007, 10:03

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is repealed because it is necessary to delete inaccurate references to the Nurse Practitioner Prescriptive Practice Act and Nurse Practice Act. This rule is reenacted to clarify authority, eligibility, access requirements, service coverage, and reimbursement for private duty nursing services to Medicaid recipients.

SUMMARY OF THE RULE OR CHANGE: The repealed rule contained inaccurate references to the term "Nurse Practitioner", to the Nurse Practitioner Prescriptive Practice Act (which has been repealed), and to the Nurse Practice Act as Title 58, Chapter 31a. The new rule restates the existing program in clearer, simpler language. For example, the reenacted rule provides that to be eligible for private duty nursing service, Medicaid recipients must require greater than four hours of continuous skilled nursing care per day. The reenacted rule also clarifies that private duty nursing service is

available to children under the age of 21, who are either in transition from the hospital to the home or who are ventilator dependent. The reenacted rule further details coverage, limitations, and exclusions for private duty nursing service and establishes reimbursement methodology.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 26-18-3 and 26-1-5; Title 58, Chapter 31b; and 42 CFR 440.80

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There is no budget impact because this new rule simply eliminates improper references and restates the existing program in clearer, simpler language.
- ❖ LOCAL GOVERNMENTS: There is no budget impact because local governments do not fund or provide private duty nursing services in the home.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There is no budget impact because the new language simply eliminates improper references and restates the existing program in clearer, simpler language.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because this new rule simply eliminates improper references and restates the existing program in clearer, simpler language.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No change in past reimbursement methodology is intended by this rule. There should be no fiscal impact as a result of the use of clearer and simpler language. A. Richard Melton, Acting 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 12/03/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2007

AUTHORIZED BY: Richard Melton, Deputy Director

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

R414-40. Private Duty Nursing Service.

~~**[R414-40-1. Policy Statement.**~~

~~— A. Nursing encompasses care and services necessary to maintain or restore health; prevent illness; care for the sick, injured, infirm; and provide support and comfort for the dying patient and his family.~~

~~— B. General and specialized nursing service is provided consistent with nursing practice as defined in Title 58, Chapter 31 and 31a, Utah Code Annotated, and with all relevant federal statutes, rules and regulations.~~

~~**R414-40-2. Authority and Purpose.**~~

~~— A. Authority~~

~~— 1. Private duty nursing service is an optional Title XIX program authorized by Section 1901 et seq., of the Social Security Act, Section 1905(a)(8) of the Social Security Act and 42 CFR 440.80.~~

~~— 2. Nursing Service provided to an eligible pregnant woman or a child under the age of 21 by a certified pediatric or family nurse practitioner practicing within the scope of practice as defined by State Law is a mandatory Title XIX program authorized by The Omnibus Budget Reconciliation Act of 1989 (OBRA 89) section 6401 (H.R. 3299, P.L. 101-329).~~

~~— 3. This rule is also authorized by Utah Code Annotated (1953) Sections 26-1-5 and 26-18-3.~~

~~— B. Purpose~~

~~— 1. Private Duty nursing service is designed to prevent prolonged institutionalization and meet the needs of a special group of ventilator dependent, EPSDT (CHEC) eligible children by providing this service in the home for a period of time essential to meet medically necessary care needs, and to supervise and develop confidence in family caregivers responsible for care of the child. The quality and cost effectiveness of home care and private duty nursing must be considered in relation to other alternatives for care.~~

~~— 2. Pediatric or family nurse practitioner services are authorized for the purpose of expanding the pool of obstetric and pediatric care providers to assure that adequate numbers of ambulatory (non-institutional) obstetric and pediatric care providers will be available to provide appropriate care to those pregnant women mandated for Medicaid coverage at specified poverty levels, and to children eligible to receive EPSDT (CHEC) services.~~

~~**R414-40-3. Definitions.**~~

~~— A. In addition to the definitions related to nursing and nursing practice specified in the Nurse Practice Act and the Nurse Practitioner Prescriptive Practice Act, Title 58, chapters 31 and 31a, Utah Code Annotated, the following definitions apply specifically to this rule:~~

~~— 1. "Obstetric care" means ambulatory, non-institutional services covered by the State Plan which are provided to a pregnant woman by a certified family nurse practitioner.~~

~~— 2. "Pediatric care" means ambulatory, non-institutional services covered by the State Plan which are provided to a child under age 21 by a certified pediatric or family nurse practitioner.~~

~~— 3. "Pediatric or family nurse practitioner services" means service provided by a certified nurse practitioner who by reason of advanced education, experience, and licensure has an enhanced degree of knowledge, skill and competence necessary to provide specialized health care to women and children.~~

—4. "Prescriptive Practice" means the ability to 'prescribe', within criteria established in protocols, during the course of diagnosis and treatment of common health problems. Prescriptive practice is authorized by Title 58, Section 31a Utah Code Annotated, and is a specialized nursing function which can be performed by an advance practice registered nurse licensed under Title 58 Section 31-9.1. Prescriptive practice is based on advanced education, experience, and licensure of the nurse practitioner; an agreement and consultive relationship with a physician who has agreed to provide direction and review on a continuing basis; and on protocols jointly developed by a nurse practitioner and the consulting physician.

—5. "Private duty nursing service" means nursing services for patients who require more individual and continuous care than is available from a visiting nurse.

—6. "Ventilator dependent" means reliance on a mechanical ventilator to compensate for decreased lung function as a result of respiratory distress syndrome requiring mechanical ventilation soon after birth. The infant is then unable to be weaned from the assisted ventilation during the first month after birth because a more complicated lung problem known as bronchopulmonary dysplasia (BPD) develops. The ventilator dependence is assumed to be prolonged, perhaps up to and beyond two years of age.

—7. "Prior authorization" means that degree of approval of payment of services required to be obtained from the Division of Health Care Financing by a licensed provider before the service is provided.

R414-40-4. Eligibility Requirements/Coverage.

—A. Private duty nursing service is available to categorically and medically needy children.

—B. Pediatric or family nurse practitioner services are available to categorically eligible and medically needy children eligible to receive EPSDT (CHEC) services and to categorically eligible and medically needy pregnant women.

R414-40-5. Program Access Requirements.

—A. Recipients seeking private duty nursing service must be Medicaid eligible, ventilator dependent children under age 21 who meet the criteria established and approved by the Division of Health Care Financing staff and physician consultants.

—B. Recipients seeking ambulatory obstetrical care from a family nurse practitioner who is an accepted Medicaid provider must have a verifiable pregnancy and be in need of prenatal care.

—C. Recipients seeking ambulatory pediatric care from a pediatric nurse practitioner or a family nurse practitioner who is an accepted Medicaid provider, must be under the age of 21.

R414-40-6. Service Coverage.

—A. Private duty nursing provides for service to a special group of ventilator dependent, Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Child Health Evaluation and Care (CHEC) eligible children under age 21 who meet established criteria. A highly technical level of skilled nursing care based on specialized training, knowledge, judgment and skill is required to meet the needs of such children. However, such nursing care can be provided in the home by parents or other trained caregivers after learning and providing hands on care while the child is hospitalized and after a period of orientation and supervision by a private duty nurse in the home.

—B. Private duty nursing may be provided:

—1. in the individual's home in order to prevent prolonged institutionalization. The service shall be based on a physician's order

and a written plan of care specific to needs of the individual, and will be reviewed and recertified every 60 days consistent with Home Health requirements in 42 CFR 440.70, dated October 1988, hereby adopted and incorporated by reference;

—2. for a period of time essential to meet medically necessary care needs and develop confidence in family caregivers. Private duty nursing service needs are expected to decrease over time to minimal, intermittent levels consistent with those in the regular home health program.

—C. Certified Pediatric and family nurse practitioners are authorized to perform expanded role functions in addition to all functions appropriate for registered nurses. Pediatric and family nurse practitioner services include a broad range of primary health care services for the promotion and maintenance of health. Appropriate intervention for the management of patient care needs is essential, shall be based on established nursing or health care standards, and shall include but not be limited to:

—1. establishing a medical, family and social history;

—2. completing a physical examination;

—3. ordering diagnostic and laboratory procedures;

—4. assessing findings and complaints;

—5. evaluating health status;

—6. identifying problems;

—7. establishing a diagnosis;

—8. planning, implementing, and evaluating a treatment program according to established standards of health care;

—9. prescribing drug therapy according to standard medical practice and in accordance with the Nurse Practitioner Prescriptive Practices Act;

—10. providing emergency care;

—11. collaborating with other health care professionals;

—12. assisting clients to access community resources;

—13. initiating and maintaining medical and legal records;

—14. supporting and counseling clients on compliance with treatment plans; and

—15. making appropriate referrals to meet client needs.

—D. Pediatric and family nurse practitioners may provide service as independent or private practitioners or as part of a group practice in a private office, a community health center, or a local health department.

—E. Prescriptive practice privileges must be part of the licensure of the pediatric nurse practitioner or the family nurse practitioner providing service in this program to assure a comprehensive level of service.

R414-40-7. Standards of Care.

—A. Private duty nursing service shall be provided in accordance with 42 CFR 440.80, dated October 1988, which is hereby adopted and incorporated by reference.

—B. High quality, cost-effective care and safe environment for the child in the home may be provided only through adequate training, knowledge, judgment, and skill of the registered nurse or licensed practical nurse licensed in the State of Utah in accordance with Title 58, Chapter 31 Utah Code Annotated.

—C. Pediatric nurse practitioner and family nurse practitioner services shall be provided in accordance with standards of practice defined in the rules promulgated pursuant to the provisions of the Utah Nurse Practice Act, Title 58, Chapters 31 and 31a, Utah Code Annotated, "and to protect the public in relation to the practice of nursing."

R414-40-8. Limitations.

— A. Private duty nursing service may be provided only through a certified home health agency or by a nurse properly licensed by the State of Utah and enrolled as a provider for the Utah Medicaid Program.

— B. Private duty nursing service may be provided only to ventilator dependent, EPSDT (CHEC) eligible individuals under age 21 who meet established criteria.

— C. Private duty nursing service may be provided only through a physician's written orders on which a plan of care specific to the needs of the individual is developed and prior authorized.

— D. Private duty nursing service may be provided in the home for a period of time essential to meet medically necessary care needs, supervise and develop confidence in family caregivers.

— E. Private duty nursing service may be provided on the basis of a reasonable expectation that the care and the service needs of the child can be met adequately by the private duty nurse in the recipient's home.

— F. Private duty nursing hours will be monitored and approved through a weekly utilization review and evaluation, by telephone, with Division of Health Care Financing staff, the private duty nurse/home health agency and in consultation with the primary care pediatrician responsible for medical management of the patient.

— G. Only approved services essential to the care of pregnant women and the care of children under the age of 21 may be provided as covered Medicaid services by pediatric and family nurse practitioners in private practice.

R414-40-9. Prior Authorization.

— A. Prior authorization is required for private duty nursing service provided after January 1, 1989.

— B. Prior authorization requests shall be evaluated through the use of criteria developed and approved by the Division of Health Care Financing staff and physician consultants.

R414-40-10. Reimbursement of Services.

— A. Reimbursement for nursing services shall be provided as documented in the Utah State Medicaid Plan, Attachment 4.19-B.

— B. When service is provided by a certified licensed nurse practitioner working under supervision in a group practice, in a private office, community health center, or local health department, the supervising provider shall bill according to his authorized fee schedule.

— C. When service is provided by a certified licensed nurse practitioner working in a private or independent practice, the certified licensed nurse practitioner shall bill according to his authorized fee schedule.]

R414-40-1. Introduction and Authority.

(1) This rule outlines eligibility, access requirements, coverage, limitations, and reimbursement for private duty nursing. This rule is authorized by Sections 26-1-5 and 26-18-3.

(2) Private duty nursing service is an optional Title XIX program authorized by Section 1901 et seq., of the Social Security Act, Section 1905(a)(8) of the Social Security Act and 42 CFR 440.80.

R414-40-2. Recipient Eligibility Requirements.

ESPDT eligible children who are under age 21 and who are either in transition from the hospital to the home or who are ventilator dependent are eligible for private duty nursing service. The recipient must require greater than four hours of continuous skilled nursing care per day.

R414-40-3. Program Access Requirements.

(1) Only a licensed home health agency enrolled as a Medicaid provider may be reimbursed for private duty nursing service.

(2) A recipient must have a written physician order establishing the need for private duty nursing service. The private duty nursing provider must develop a plan of care consistent with the recipient diagnosis, severity of illness, and intensity of service.

(3) Medicaid providers shall submit an initial prior authorization request with medical documentation that demonstrates the need for service.

(a) The private duty nurse or home health agency must fax the Division of Health Care Finance updated medical management information for the patient at least every 30 days.

(b) The home health agency shall submit an initial certification and a recertification every 60 days as required by 42 CFR 440.70.

(4) Private duty nursing is only available if a parent, guardian, or primary caregiver is committed to and capable of performing the medical skills necessary to ensure quality care.

(5) The home health agency shall verify that the hospital has provided specialized training for the caregiver before patient discharge to enable the caregiver to provide hands-on care in the home. The private duty nurse initially supervises the caregiver who provides this care.

R414-40-4. Service Coverage for Private Duty Nursing.

(1) Medicaid covers private duty nursing service for a limited time to provide skilled nursing care in the home. Medicaid provides private duty nursing service while the private duty nursing service provider trains the recipient's caregivers to provide the necessary care. Once the caregivers have been given sufficient training for the recipient's needs, the private duty nursing service ends. However, ventilator dependent recipients who require frequent ventilator checks may receive up to eight hours per day of continued private duty nursing. Ventilator dependency means the recipient requires at least eight continuous hours on the ventilator per day to compensate for decreased lung function.

(2) Private duty nursing service needs are expected to decrease over time.

(3) Medicaid covers medically necessary and appropriate private duty nursing for the following. To receive these services, a patient must be in transition from the hospital, be ventilator dependent, or be a patient with a tracheotomy who is unable to manage secretions:

(a) Tracheostomy dependency;

(b) Total parenteral nutrition;

(c) Intravenous therapy where a single intravenous therapy infusion takes at least four continuous hours and requires monitoring and treatment by a skilled nurse;

(d) Decubitus ulcer care for stage three or four ulcers;

(e) Colostomy or ileostomy care;

(f) Suprapubic catheter care;

(g) Continuous nasogastric or gastrostomy tube feeding;

(h) Mechanical ventilator support;

(i) For a recipient on oxygen who experiences desaturation.

(4) The private duty nurse or home health agency shall attempt to wean the patient from a device or service, identify new problems, and consult with the physician primarily responsible for the patient's care.

(5) Private duty nursing is not covered to provide services solely for the following:

- (a) custodial or sitter care to ensure the patient is compliant with treatment;
- (b) respite care, except for ventilator dependent recipients as provided in Subsection (1);
- (c) monitoring behavioral or eating disorders; and
- (d) observation or monitoring medical conditions that do not require skilled nursing care.
- (6) Private duty nursing service is not covered if the service is available from another funding source, agency, or program.

R414-40-5. Reimbursement of Services.

- (1) Medicaid reimburses nursing service in accordance with the Utah Medicaid State Plan, Attachment 4.19-B.
- (2) A private duty nurse caring for two patients in the home shall bill with the UN modifier.
- (3) A provider shall not charge the Department a fee that exceeds the provider's usual and customary charges for the provider's private pay patients.

KEY: [m]Medicaid
Date of Enactment or Last Substantive Amendment: [1994]2007
Notice of Continuation: November 22, 2005
Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3



Human Services, Administration
R495-810
 Government Records Access and
 Management Act

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 30564
 FILED: 10/08/2007, 20:27

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule sets forth department policy and procedure specifically for Government Records Access and Management Act (GRAMA) requests. This rule is being amended to update and clarify the policy and procedures for access to department records.

SUMMARY OF THE RULE OR CHANGE: The changes in Section R495-810-1 refine the statutory authority and clarifies who the request should be submitted to. Subsection R495-810-1(D) is marked to be removed which will remove duplicative language that is already in statute. In Section R495-810-2, changes remove duplicative authority statement, definitions from statute, and fee waiver language. The change in Subsection R495-810-2(A)(2) adds clarification for hourly rate charges. Subsection R495-810-2(B) was R495-810-2(D) and strikes language that is already in statute. The change in Subsection R495-810-2(B)(2) adds language to clarify when charges are expected to exceed \$50 and removes duplicative fee language with respect to professionals. Section R495-810-3 is marked to be removed because this language is duplicative and already in statute. Section R495-810-4 is modified to

removed duplicative authority and definition statements and gives direction on administrative hearings for denied requests for documents. This is already found in Rule R497-100.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63-2-204

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: No anticipated fiscal impact to the state budget because this amendment simply removes duplicative language or language that is already in statute.
- ❖ LOCAL GOVERNMENTS: No anticipated fiscal impact to local government because this amendment simply removes duplicative language or language that is already in statute.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: No anticipated fiscal impact to small businesses and other persons because this amendment simply removes duplicative language or language that is already in statute.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No anticipated fiscal impact to affected persons because this amendment simply removes duplicative language or language that is already in statute.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These changes are housekeeping in nature and have no fiscal impact to businesses or other governmental agencies. Lisa-Michele Church, Executive Director

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

HUMAN SERVICES
 ADMINISTRATION
 120 N 200 W
 SALT LAKE CITY UT 84103-1500, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

L Ray Winger at the above address, by phone at 801-870-1672, by FAX at 801-538-4424, or by Internet E-mail at raywinger@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 12/03/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2007

AUTHORIZED BY: Lisa-Michele Church, Executive Director

R495. Human Services, Administration.
R495-810. Government Records Access and Management Act.
R495-810-1. [Request for] Access to Department of Human Services Records.

A. Authority. [As required] This rule is authorized by Section 63-2-204(2) [this rule specifies where and to whom a request for access of Department of Human Services (DHS) records shall be directed].

B. Definition. Words used in this rule are defined in Section 63-2-103~~(15) and (16)~~.

C. Requests for Access.].

—1. All] R[requests for records shall be submitted [in accordance with Section 63-2-204(1).

—2. A person may submit a request for a record—to any [DHS]Department of Human Services office. If the record requested is [one originated]maintained in that office, that office's designated GRAMA Officer will respond to the request. If the record is [unknown to]not maintained in the office where the request is filed, the request will be sent immediately to the appropriate [state or local office. If the office is unsure as to which office is the appropriate one, the request will be sent to the Department of Human Services, Records Manager.]Department of Human Services office.].

—D. News Media/Expedited Release.—If a requester demonstrates that he is a member of the news media or that expedited release of the record benefits the public rather than an individual, the request shall be submitted to the Department of Human Services, Records Manager.].

R495-810-2. Fee Schedule for Records Copies.

A. [Authority. Pursuant to Section 63-2-203, the Department shall charge fees for copying and compiling of records, and may waive fees as specified in this rule.

—B. Definition. Words used in this rule are defined in Section 63-2-103.

—C.]Fee Rates.

1. Fees for copies are based on the number of records to be copied and are as follows:

- a. paper: \$.25 per side of sheet;
- b. audio tape: \$5.00 per tape; and
- c. video tape: \$15.00 per tape.

2. For records which require compiling and reporting in another format, a fee of \$25.00 per hour may be charged, or \$50.00 per hour if the request requires programmer/analyst assistance, however no charge may be made for the first quarter hour of staff time.

3. Mailing. The fee for mailing is the actual cost of postage.

[D.]B. Payment Waiver.

1. The Department of Human Services shall fulfill a record request without charge [when it determines that:

—a. releasing the record primarily benefits the public rather than a person;

—b. the individual requesting the record is the subject of the record, or an individual specified in Subsection 63-2-202(1) or (2); or

—c. the requester's legal rights are directly implicated by the information in the record, and the requester is impecunious.

—2. No fees shall be charged for reviewing a record or inspecting a record according to 63-2-203(4)(a) and (b).]in accordance with Section 63-2-203(4).

[3-]2. The Department shall [not]require payment of future estimated fees before beginning to process a request[unless] when fees are expected to exceed \$50[;] or [if]the requester has not paid fees from previous requests.].

—4. Fees shall not be waived where records are provided to professionals providing services for a fee to individuals who would otherwise have access to records under Section 63-2-301 through 304.].

R495-810-3. [Appellate Requests, Research Requests and Intellectual Property Access Requests:

—A. Authority. section 63-2-401(9) specifies where and to whom appeals on records access denials may be directed. Section 63-2-201

(10) specifies where and to whom requests regarding duplication and distribution of materials for which the agency owns the intellectual property rights may be directed. Section 63-2-202(8) specifies where and to whom requests for access for research purposes may be directed.

—B. Definition. Words used in this rule are defined in Section 63-2-103 (15) and (16).

—C. Appeals and Special Requests.

—1. All first level appeals shall be directed to the individual(s) designated by the Executive Director of the Department of Human Services.

—2. Special requests including requests for access to records for research purposes, and duplication and distribution of materials for which the agency owns the intellectual property rights shall be submitted to the Individuals designated by the Executive Director for the respective Division, Office, Institution, or Bureau of the Department of Human Services.

—D. Discretionary Access Authority. As specified in Section 63-2-201 (5) (b) decisions regarding discretionary access to records that are private, or protected under Section 63-2-302, and 63-2-304 where the public interest to know exceeds the right of privacy shall be determined by the Individual(s) designated by the Director for the respective Division, Office, Institution, or Bureau of the Department of Human Services.

R495-810-4.]Records Modification and Clarification.

A. [Authority.—Section 63-2-603 Governmental Records and Access Act and Section 63-46b-4 Utah Administrative Procedures Act designate the option of either formal or informal hearings governing modification of records in dispute.

—B. Definition. Words used in this rule are defined in Section 63-2-103(15) and (16).

—C.]Hearings. Administrative Hearings [on disputed]regarding denied requests to amend records [accuracy]shall be conducted informally [according to R497-100-3]in accordance with Administrative Rule 497-100.

KEY: government documents

Date of Enactment or Last Substantive Amendment: [December 7, 1998]2007

Notice of Continuation: February 5, 2007

Authorizing, and Implemented or Interpreted Law: 63-2-204



Human Services, Services for People with Disabilities

R539-9

Supported Employment Pilot Program

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 30566

FILED: 10/09/2007, 13:48

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for the amendment is to allow participants in the Supported Employment Program to receive Service Brokering in addition to supported employment services.

SUMMARY OF THE RULE OR CHANGE: A person who participates in the Supported Employment Pilot Program may have needs beyond the supported employment program services. Service brokering may help persons find additional related services that will assist them in being successful in the supported employment program.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-5-103.1

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The impact of this rule will not affect the division budget or the budget of any other state agency. The addition of service brokering will assure that the persons participating will have a greater possibility for success in gaining and keeping employment.
- ❖ LOCAL GOVERNMENTS: Local governments are not involved in providing these types of services and there will be no cost or savings as a result of this rule.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Service brokering agencies are small businesses and will be providing this service under contract with the department. This changes will not affect their cost or savings, but will provide additional business to these agencies.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. There are no costs related to getting or maintaining a job secured through the supported employment program. There are no costs to apply for the program or remain on the program. It is possible that a person who was not found eligible for the program could incur legal expenses if pursuing an administrative hearing.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Service brokering services are provided by small private businesses to persons who meet eligibility standards for the pilot program. Services will be provided under contract with the Department. Lisa-Michele Church, Executive Director

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 12/03/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2007

AUTHORIZED BY: George Kelner, Director

R539. Human Services, Services for People with Disabilities.

R539-9. Supported Employment Pilot Program.

R539-9-2. Definitions.

(1) Terms used in this rule are defined in Section 62A-5-101, and

(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.

(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.

(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.

(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 Plan for Achieving Self Support[PASS] or Impairment Related Work Expense[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, (but may use Service Brokering services, if appropriate).

(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 26 U.S. Code 44[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.

KEY: disabilities, supported employment

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

Authorizing, and Implemented or Interpreted Law: 62A-5-103.1



Public Safety, Highway Patrol **R714-158** Vehicle Safety Inspection Program Requirements

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 30575

FILED: 10/12/2007, 09:35

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to update the rule to meet the new on-line program requirements.

SUMMARY OF THE RULE OR CHANGE: These amendments lay out the requirements a station must meet while serving a suspension or revocation. Also added are the fees that are already in place from the legislative budgetary process.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53-8-204(5)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There will be no cost because the division is simply putting into rule requirements that have already been in place.

❖ **LOCAL GOVERNMENTS:** There will be no cost to local government because the responsibility for certifying inspection stations rests only with the Utah Highway Patrol.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** There will be no cost because the division is simply putting into rule requirements that have already been in place.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no cost because the division is simply putting into rule requirements that have already been in place.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amended rules will reflect the fees that inspection stations are already paying. There will be no increase fiscal impact on businesses. Scott Duncan, Commissioner

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

PUBLIC SAFETY
HIGHWAY PATROL
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5994, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Joseph Vasquez at the above address, by phone at 801-965-4889, by FAX at 801-322-1817, or by Internet E-mail at jvasquez@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 12/03/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2007

AUTHORIZED BY: Lance Davenport, Superintendent

R714. Public Safety, Highway Patrol.

R714-158. Vehicle Safety Inspection Program Requirements.

R714-158-3. Definitions.

As used in this rule:

(1) "Action" means suspension or revocation of a certification or license.

(2) "Certificate" means the certificate of inspection given when a vehicle meets the requirements of the inspection program.

(3) "Certification" means the authority given to an inspector by the department to conduct safety inspections.

(4) "Commercial motor vehicle" means any vehicle, machine, tractor, trailer or semi-trailer, propelled or drawn by mechanized power upon the highway in transportation of passengers or property, or any combination thereof. It does not include implements of husbandry.

(5) "Department" means the Utah Department of Public Safety.

(6) "Fleet station" means a station licensed by the department and capable of conducting safety inspections of commercial motor vehicles, provided the fleet owns a minimum of twenty-five vehicles.

(7) "Inspector" means a person employed by a station licensed to conduct safety inspections.

(8) "License" means the authority given to a station by the department to conduct safety inspections.

(9) "Notice of agency action" means a written notice that the department intends to suspend or revoke a certification or license.

(10) "Station" means a business, including public garages, service stations, and repair shops licensed by the department to conduct safety inspections.

(11) "Sticker" means the sticker intended to be placed on the windshield of a vehicle which has met the requirements of the inspection program.

(12) "Utah Interactive (UI)" means the company that has contracted with the State Of Utah for the setup and facilitation of the web-based inspection program.

R714-158-4. Station License.

A. Application for a license as a station can be made on forms provided by the department's Safety Inspection Section, ~~[4501 South 2700 West, Box 14100, West Valley City, Utah 84114-1100]~~ 5500 West Amelia Earhart Drive, Suite 360, Salt Lake City, Utah 84116.

(1) A \$1,000 surety bond ~~or garage keepers insurance~~ is required for all stations except fleet stations and publicly owned stations.

(2) A \$100 station application fee is required.

(3) A \$25 annual license fee is required for all stations except publicly owned stations.

(4) A ~~[\$25]~~ \$100 fee is required to renew a license that has been ~~suspended or~~ revoked.

(5) A \$100 fee is required for a station name and/or address change.

B. Upon receiving an application for a license, the department will assign an investigator to inspect the place of business to determine if the applicant meets the requirements of this rule.

C. An applicant for a license shall meet the building and equipment requirements set forth in the "Vehicle Inspection Manual" prior to approval.

D. Upon approval, the license will be issued to the applicant and shall be displayed in a prominent location at the address shown on the license.

E. Licenses are not transferable. A change in the ownership, name, or location of a station requires a new application, bond, and license.

F. The \$1,000 surety bond will be forfeited in the event a station fails to observe the provisions of Section R714-158-5 of this rule.

G. All new stations upon making application will be required to enroll in the web-based inspection program through Utah Interactive. All of the station's inspections will have to be completed on-line.

H. An agency action against a station using only paper certificates will require, after reinstatement, that the station's inspections be conducted on-line.

R714-158-5. Inspector Certification.

A. An applicant for certification as an inspector shall:

(1) obtain training in accordance with the requirements of Section R714-158-6 of this rule;

(2) pay a \$10 non-refundable processing fee;

(3) be at least eighteen years of age; and

(4) have a valid drivers license.

B. Certification is valid for five years and expires on the month, day, and year shown on the certificate.

C. Certification can be renewed up to six months before the expiration date.

(1) A \$100 fee is required to process a return to the safety inspection program in the event of a suspension or revocation of certification.

D. A \$20 fee is required to replace a lost/missing inspector certification card.

R714-158-6. Inspector Training and Testing.

A. Inspector applicants shall obtain training, reference materials, and instructions from the department prior to certification.

B. The department may contract with educational institutions to provide training, re-training, or testing.

C. An inspector seeking re-certification of his/her safety inspection authority shall do one of the following options:

(1) Option #1- Participate in the full 16 hour Safety Inspection Training Course and pass the final test.

(2) Option #2- Participate in either an on-line, or "CD" formatted recertification training program, and pass the quizzes.

D. An inspector whose certification has expired for more than one (1) year is required to re-take the 16 hour certification.

R714-158-8. Vehicle Safety Inspection Manual.

The department shall prepare the "Vehicle Inspection Manual" which shall be based on the "Utah Code," the "Federal Code of Regulations," the "Vehicle Inspection Handbook" of the American Association of Motor Vehicle Administrators, and on vehicle manufacturer specifications.

(1) The department shall seek the advice of the Safety Inspection Advisory Council prior to any substantive changes in the "Vehicle Inspection Manual."

(2) Inspectors shall conduct inspections in accordance with the "Vehicle Inspection Manual."

(3) All stations are required to have a copy of the most recent manual available. This requirement can be met by having a hard copy on hand or by downloading a copy to a file on the station's computer from the Safety Inspection website. Accessing the manual through the website does not qualify for meeting this requirement.

R714-158-9. Certificates, Stickers, and Inspection Reports.

A. Certificates (HP SI-29) will be issued in books of ~~[seventy-five]~~ fifty.

(1) A maximum of ~~[seven]~~ ten books of certificates and twenty books of stickers may be purchased on one order.

(2) All orders shall be paid by check, except as authorized by the department.

(3) Unused certificates or stickers, if less than two years old and in quantities of ten or more, may be returned to the department for reimbursement or exchange.

(4) Returned certificates and stickers must be in the original book and sequence.

(5) Utah Interactive is responsible for billing the on-line stations for all completed on-line certificates each month.

(6) Each on-line station shall submit a full payment for each monthly bill received from UI.

(7) Each on-line station may purchase a maximum of two books of certificates, to be only used as a backup to the on-line program.

B. Certificates, stickers, and inspection reports, shall be completed and issued as set forth in the "Vehicle Inspection Manual."

R714-158-11. Grounds for Denial, Suspension, or Revocation of License or Certification.

A license or certification may be denied, suspended, or revoked for either of the following reasons:

(1) violation of state laws or rules applicable to vehicle inspections.

(2) conviction of any crime involving moral turpitude.

(3) A station that transfers ownership while serving a suspension/revocation period, shall serve the full period of the suspension/revocation before reinstatement of certification or approval as a new inspection station will be made.

(4) An on-line station that is more than 60 days delinquent on their balance with Utah Interactive, will be suspended until full payment is received.

KEY: motor vehicle safety, inspection

Date of Enactment or Last Substantive Amendment: ~~July 30, 1998~~ 2007

Notice of Continuation: December 17, 2002

Authorizing, and Implemented or Interpreted Law: 53-8-201; 53-8-203; 63-46b



Tax Commission, Administration
R861-1A-24
 Formal Adjudicative Proceedings
 Pursuant to Utah Code Ann. Sections
 59-1-502.5, 63-46b-8, and 63-46b-10

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 30589

FILED: 10/15/2007, 15:01

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment clarifies a procedure that was not understood by all taxpayers.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment makes technical changes; and clarifies the commission practice that evidence presented at the initial hearing is not included in the record of the formal hearing unless specifically requested by a party and admitted by the presiding officer.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-1-502.5, 63-46b-8, and 63-46b-10

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** None--The proposed amendment clarifies the current practice.
- ❖ **LOCAL GOVERNMENTS:** None--The proposed amendment clarifies the current practice.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** None--The proposed amendment clarifies the current practice.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The proposed amendment clarifies a practice that in the past has been misunderstood by some taxpayers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated costs.
 D'Arcy Dixon, Commissioner

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

TAX COMMISSION
 ADMINISTRATION
 210 N 1950 W

SALT LAKE CITY UT 84134-0002, 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 12/03/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2007

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R861. Tax Commission, Administration.

R861-1A. Administrative Procedures.

R861-1A-24. Formal Adjudicative Proceedings Pursuant to Utah Code Ann. Sections 59-1-502.5, 63-46b-8, and 63-46b-10.

(1) At a formal proceeding, an administrative law judge appointed by the commission or a commissioner may preside.

(a) Assignment of a presiding officer to a case will be made pursuant to agency procedures and not at the request of any party to the appeal.

(b) A party may request that one or more commissioners ~~sit in a proceeding for its appeal~~ be present at any hearing. However, the decision of whether the request is granted rests with the commission.

(c) If more than one commissioner or administrative law judge is present at any hearing, the hearing will be conducted by the presiding officer assigned to the appeal, unless otherwise determined by the commission.

(2) A formal proceeding includes an initial hearing pursuant to Section 59-1-502.5, unless it is waived upon agreement of all parties, and a formal hearing on the record, if the initial hearing is waived or if a party appeals the initial hearing decision.

(a) Initial Hearing.

(i) An initial hearing pursuant to Section 59-1-502.5 shall be in the form of a conference.

(ii) In accordance with Section 59-1-502.5, the commission shall make no record of an initial hearing.

(iii) Any issue may be settled in the initial hearing, but any party has a right to a formal hearing on matters that remain in dispute after the initial hearing decision is issued.

(iv) Any party dissatisfied with the result of the initial hearing must ~~pursue~~ file a timely request for a formal hearing before pursuing judicial review of unsettled matters.

(b) Formal Hearing .

(i) The commission shall make a record of all formal hearings, which may include a written record or an audio recording of the proceeding.

(ii) Evidence presented at the initial hearing will not be included in the record of the formal hearing, unless specifically requested by a party and admitted by the presiding officer.

KEY: developmentally disabled, grievance procedures, taxation, disclosure requirements
Date of Enactment or Last Substantive Amendment: ~~September 24~~, 2007
Notice of Continuation: March 20, 2007

Authorizing, and Implemented or Interpreted Law: 59-1-502.5; 63-46b-8; 63-46b-10



End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

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

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

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

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends December 3, 2007. At its option, the agency may hold public hearings.

From the end of the waiting period through February 29, 2008, the agency may notify the Division of Administrative Rules that it wants to make the CHANGE IN PROPOSED RULE effective. When an agency submits a NOTICE OF EFFECTIVE DATE for a CHANGE IN PROPOSED RULE, the PROPOSED RULE as amended by the CHANGE IN PROPOSED RULE becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file another CHANGE IN PROPOSED RULE in response to additional comments received. If the Division of Administrative Rules does not receive a NOTICE OF EFFECTIVE DATE or another CHANGE IN PROPOSED RULE, the CHANGE IN PROPOSED RULE filing, along with its associated PROPOSED RULE, lapses and the agency must start the process over.

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

The Changes in Proposed Rules Begin on the Following Page.

**Commerce, Occupational and
Professional Licensing
R156-9
Funeral Service Licensing Act Rules**

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 30359
Filed: 10/15/2007, 09:07

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: During a 09/20/2007 rule hearing, it was brought to the attention of the division and the Funeral Service Board that some wording was accidentally deleted that needed to remain in the rule.

SUMMARY OF THE RULE OR CHANGE: In Subsection R156-9-605(2), originally deleted wording is being added back in to the rule. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the September 15, 2007, issue of the Utah State Bulletin, on page 5. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-9-504 and Subsections 58-1-106(1)(a) and 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** The division has determined there are no additional costs or savings beyond those identified in the original proposed rule amendment filing as a result of this change in proposed rule.
- ❖ **LOCAL GOVERNMENTS:** The proposed amendment does not apply to local governments; therefore, no costs or savings are anticipated. The proposed amendments only apply to licensed funeral service establishments, funeral service directors, funeral service interns, and preneed funeral arrangement sales agents and applicants for licensure in those classifications.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The division has determined there are no additional costs or savings beyond those identified in the original proposed rule amendment filing as a result of this change in proposed rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The division has determined there are no additional costs or savings beyond those identified in the original proposed rule amendment filing as a result of this change in proposed rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This change to proposed rule replaces a provision inadvertently removed in the initial proposed rule change. Thus, 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
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:

Noel Taxin at the above address, by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at ntaxin@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 12/03/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2007

AUTHORIZED BY: F. David Stanley, Director

**R156. Commerce, Occupational and Professional Licensing.
R156-9. Funeral Service Licensing Act Rules.**

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R156-9-605. Licensure of Persons Selling Preneed Funeral Arrangements to be Funded by Proceeds from Insurance or Annuity Policy.

(1) Any person who sells or represents that they will or intend to sell specific funeral goods or services, represents that goods or services will be provided by a specific funeral establishment, represents that specified amount of money will purchase defined funeral goods or services, or represents that payment for those goods or services to be provided at some future date shall be accomplished through the purchase of a life insurance policy or annuity policy, is engaged in the sale of a preneed funeral arrangement and is required to be licensed as a funeral service establishment or sales agent.

(2) Any person who sells or represents that they will or intend to sell an insurance or annuity policy which will provide a certain benefit at time of death, represents that such benefit will be available to pay for funeral arrangements and no reference is made to specific funeral goods or services, to the cost of specific funeral goods or services, or to the services of a specific funeral service establishment, is not engaged in the sale of a preneed funeral arrangement and is not required to be licensed as a funeral service establishment or preneed sales agent.

(3) Nothing in this section shall be interpreted to affect or modify any requirement under state law regarding licensure of persons engaged in the sale of insurance or annuity policies.

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KEY: funeral industries, licensing, funeral directors, preneed funeral arrangements

Date of Enactment or Last Substantive Amendment: 2007

Notice of Continuation: October 31, 2006

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-9-504



Commerce, Real Estate
R162-205
Residential Mortgage Unprofessional Conduct

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 30251
 Filed: 10/12/2007, 17:21

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Public comment that was received on the original proposed amendments specifically comments that it was not feasible to have the principal lending manager review all loans.

SUMMARY OF THE RULE OR CHANGE: This filing: changes Subsection R162-205-1(205.1.3) making it unprofessional conduct to withhold payment owed by a court of competent jurisdiction; changes Subsection R162-205-2(205.2.1)(e) to require the principal lending manager (PLM) to establish written policies for ensuring the independent judgment of any underwriter employed by the entity which employs the PLM and changes Subsection R162-205-2(205.2.1)(g) to require the PLM to establish and maintain a quality control plan that includes procedures for performing pre-closing and post-closing auditing of at least ten percent of all loan files and taking corrective action for problems identified through the audit process. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the August 15, 2007, issue of the Utah State Bulletin, on page 19. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 61-2c-103(3)(d)

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** None--See original proposed amendment.

❖ **LOCAL GOVERNMENTS:** None--See original proposed amendment.
 ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** None--See original proposed amendment.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--See original proposed amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No changes from the original proposed amendment. Derek Miller, 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:
 Laurie Noda at the above address, by phone at 801-366-0328, by FAX at 801-366-0315, or by Internet E-mail at lnoda@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 12/03/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 12/03/2007

AUTHORIZED BY: Derek Miller, Director

R162. Commerce, Real Estate.
R162-205. Residential Mortgage Unprofessional Conduct.
R162-205-1. Residential Mortgage Unprofessional Conduct.

205.1 Unprofessional conduct includes the following acts:

205.1.1 conducting the business of residential mortgage loans, including soliciting or marketing, in the licensee's individual name, the principal lending manager's individual name, or any name other than the name of the licensed mortgage entity with which the individual's principal lending manager is affiliated;

205.1.2 failing to remit to third party service providers the appraisal fees, inspection fees, credit reporting fees, insurance premiums, or similar fees which have been collected from a borrower;

205.1.3 ~~failing to pay to third party service providers the fee for any service ordered by the licensee in connection with the business of residential mortgage loans, unless the potential borrower has contractually agreed to pay the third party service provider directly or unless a good faith dispute exists as to whether the service provided satisfies requirements established by state or federal law;~~ withholding payment owed, as determined by a court of competent jurisdiction to a third party service provider in connection with the business of residential mortgage loans;

205.1.4 charging for services not actually performed;

205.1.5 charging a borrower more for third party services than the actual cost of those services;

205.1.6 filling out or altering any Real Estate Purchase Contract or other contract for the sale of real property, or any addenda thereto;

205.1.7 making any alteration to any appraisal of real property;

205.1.8 unless acting as a real estate licensee and not as a mortgage licensee;

(a) providing a buyer or seller of real estate with comparative market analysis or otherwise assisting a buyer or seller to determine the offering price or sales price of real estate;

(b) representing or assisting a buyer or seller of real estate in negotiations concerning a possible sale of real estate, except that a mortgage licensee may advise a borrower about the consequences that the terms of a purchase agreement may have on the terms and availability of various mortgage products;

(c) performing any other acts that require a real estate license under Title 61, Chapter 2;

(d) advertising the sale of real estate by use of any advertising medium, except that a mortgage licensee may:

(i) advertise real estate owned by the licensee as a "for sale by owner";

(ii) provide advertising to a property owner who has not signed an agency agreement with a real estate licensee and is selling the real estate "for sale by owner", so long as the advertising provides clear and distinguishable identification, contact information, function and responsibility of both the property owner and the mortgage licensee; or

(iii) advertise in conjunction with a real estate brokerage, so long as the advertising provides clear and distinguishable identification, contact information, function and responsibility of both the real estate licensee and the mortgage licensee.

R162-205-2. Residential Mortgage Standards of Practice.

205.2.1 Supervision of licensees and unlicensed staff. Principal lending managers shall exercise reasonable supervision by controlling and directing the details and means of the work activities of all licensees affiliated with the principal lending manager and all unlicensed staff. To exercise reasonable supervision, a principal lending manager shall:

(a) establish, maintain, and provide to all licensees affiliated with the principal lending manager and all unlicensed staff written policies setting out the office procedures for complying with federal and state laws governing residential mortgage lending, including the Utah Residential Mortgage Practices Act and the rules promulgated thereunder;

(b) ensure that each person affiliated with the principal lending manager and all unlicensed staff have read the Utah Residential Mortgage Practices Act and the rules promulgated thereunder;

(c) ensure that the business of residential mortgage loans conducted by an entity is conducted only by individuals who hold active mortgage officer or associate lending manager licenses issued by the Division of Real Estate;

(d) ensure that the licensees affiliated with the principal lending manager conduct all residential mortgage loan business, as defined in Utah Code Section 61-2c-102(1)(e), in the name of the licensed mortgage entity with which the principal lending manager is affiliated, and not in the licensee's own name or any other name;

(e) ~~establish and enforce written policies and procedures for protecting and insulating underwriters employed by the entity with which the principal lending manager is affiliated from pressure from licensees and unlicensed staff that would jeopardize the underwriter's objectivity~~ establish and enforce written policies and procedures for

ensuring the independent judgment of any underwriter employed by the entity which employs the principal lending manager;

(f) establish and follow procedures for responding to all consumer complaints, and personally review any complaint relating to conduct that could constitute a violation of federal or state law governing residential mortgage lending by a licensee affiliated with the principal lending manager or by any unlicensed staff;

(g) ~~[review each loan file sent to the underwriter and attest, by signature on a form to be kept in each loan file, to the accuracy of all information in the file;]~~ establish and maintain a quality control plan that includes at a minimum procedures for performing pre-closing and post-closing auditing of at least ten percent of all loan files and taking corrective action for problems identified through the audit process. Quality control plans which comply with HUD/FHA or Freddie Mac requirements shall be deemed to be in compliance with this rule; and

~~[(h) for quality control purposes, review a minimum of 20 percent of all loan applications that have failed without being sent to an underwriter, and retain with the reviewed applications some form of proof that the applications have been reviewed; and~~

~~—(i)(h) review for compliance with applicable federal and state laws all advertising and marketing materials and all marketing methods to be used by the entity and licensees affiliated with the principal lending manager.~~

205.2.1.1 Assistance from associate lending managers. A principal lending manager may employ associate lending managers to assist in performing the duties listed in Subsection 205.2.1. The principal lending manager shall actively supervise such associate lending managers and will remain personally responsible for adequate supervision of all licensees affiliated with the principal lending manager and all unlicensed staff.

205.2.2 Reasonable supervision. A principal lending manager will not be held responsible for failing to exercise reasonable supervision if:

(a) a licensee affiliated with the principal mortgage officer or an unlicensed staff member violates a provision of federal or state law, including the Utah Residential Mortgage Practices Act, in contravention of the principal lending manager's specific written policies;

(b) the principal lending manager's current written policies were provided to the licensee or unlicensed staff prior to the violation;

(c) the principal lending manager took reasonable steps intended to enforce the written policies;

(d) upon learning of the violation, the principal lending manager reported the violation to the Division and attempted to prevent or mitigate the damage;

(e) the principal lending manager did not participate in or implicitly or explicitly condone the violation; and

(f) the principal lending manager did not attempt to avoid learning of the violation.

KEY: residential mortgage loan origination

Date of Enactment or Last Substantive Amendment: 2007

Notice of Continuation: December 13, 2006

Authorizing, and Implemented or Interpreted Law: 61-2c-301(1)(k)

◆ ————— ◆

NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a 120-DAY (EMERGENCY) RULE when it finds that the regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (*Utah Code* Subsection 63-46a-7(1) (2001)).

As with a PROPOSED RULE, a 120-DAY RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the 120-DAY RULE including the name of a contact person, justification for filing a 120-DAY RULE, anticipated cost impact of the rule, and legal cross-references. A row of dots in the text (· · · · ·) indicates that unaffected text was removed to conserve space.

A 120-DAY RULE is effective at the moment the Division of Administrative Rules receives the filing, or on a later date designated by the agency. A 120-DAY RULE is effective for 120 days or until it is superseded by a permanent rule.

Because 120-DAY RULES are effective immediately, the law does not require a public comment period. However, when an agency files a 120-DAY RULE, it usually files a PROPOSED RULE at the same time, to make the requirements permanent. Comment may be made on the proposed rule. Emergency or 120-DAY RULES are governed by *Utah Code* Section 63-46a-7 (2001); and *Utah Administrative Code* Section R15-4-8.

Human Resource Management, Administration **R477-8-5** Overtime

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 30524
FILED: 10/02/2007, 15:35

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule change is the result of a settlement agreement between the State of Utah and the Department of Labor (DOL). The basis for the rule change is rooted in the Fair Labor Standards Act (FLSA). The settlement agreement calls for immediate changes in the Department of Human Resource Management's (DHRM) rule regarding the enforcement of overtime provisions in accordance with FLSA.

SUMMARY OF THE RULE OR CHANGE: The rule will add language indicating that non-exempt employees will accurately reflect hours actually worked and that supervisors who knowingly approve inaccurate time sheets will be subject to disciplinary action. Added language will also provide for an avenue of complaint for employees who believe they have not been properly compensated.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 29 CFR Part 778, Subpart B, 778.100 through 778.106; and Section 67-19-6.7

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** This represents a significant change to state policy on the recording of overtime work by employees and the responsibility of managers. The DOL mandates that employees and managers need to be notified. There will be some cost associated with preparing e-mails or orientations that agencies wish to use to notify their employees.
- ❖ **LOCAL GOVERNMENTS:** This rule only affects the executive branch of state government and will have no impact on local governments.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** This rule only affects the executive branch of state government and will have no impact on other persons or businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule only affects agencies of the executive branch of state government.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Rules published by DHRM have no direct effect on businesses or any entity outside state government. DHRM has authority to write rules only to the extent allowed by the Utah Personnel Management Act, Title 67, Chapter 19. This act limits the provisions of career service and these rules to employees of the executive branch of state government. The only possible impact may be a very slight, indirect effect if an agency passes costs or savings on to business through fees. However, it is anticipated that the minimal costs associated with these changes will be absorbed by agency budgets and will have no effect on business. Jeff Herring, Executive Director

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

The DOL has mandated that the State of Utah change the rule immediately regarding enforcement of overtime provisions. Failure to comply with the provisions of the settlement may cause further fines to be paid by the executive branch.

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

THIS RULE IS EFFECTIVE ON: 10/03/2007

AUTHORIZED BY: Jeff Herring, Executive Director

R477. Human Resource Management, Administration.

R477-8. Working Conditions.

R477-8-5. Overtime.

The state's policy for overtime is adopted and incorporated from the Fair Labor Standards Act, 29 CFR Parts 500 to 899(2002) and Section 67-19-6.7.

(1) Management may direct an employee to work overtime. Each agency shall develop internal rules and procedures to ensure overtime usage is efficient and economical. These policies and procedures shall include:

- (a) prior supervisory approval for all overtime worked;
- (b) recordkeeping guidelines for all overtime worked;
- (c) verification that there are sufficient funds in the budget to compensate for overtime worked.

(2) Overtime compensation standards are identified for each job title in HRE as either FLSA nonexempt, or FLSA exempt.

(a) An employee may appeal the FLSA designation to the agency human resource office and DHRM concurrently. Further appeals must be filed directly with the United States Department of Labor, Wage and Hour Division. The provisions of Sections 67-19-31, 67-19a-301 and Title 63, Chapter 46b shall not apply for FLSA appeals purposes.

(3) An FLSA nonexempt employee may not work more than 40 hours a week without management approval. Overtime shall accrue when the employee actually works more than 40 hours a week. Leave and holiday time taken within the work period shall not count as hours worked when calculating overtime accrual. Hours worked over two or more weeks shall not be averaged with the exception of certain types of law enforcement, fire protection, and correctional employees.

(a) An FLSA nonexempt employee shall sign a prior overtime agreement authorizing management to compensate the employee for overtime worked by actual payment or time off at time and one half.

(b) An FLSA nonexempt employee may receive compensatory time for overtime up to a maximum of 80 hours. Only with prior approval of the Executive Director, DHRM, may compensatory time accrue up to 240 hours for regular employees or up to 480 hours for peace or correctional officers, emergency or seasonal employees. Once

an employee reaches the maximum, additional overtime shall be paid on the payday for the period in which it was earned.

(4) An FLSA exempt employee may not work more than 80 hours in a pay period without management approval. Compensatory time shall accrue when the employee actually works more than 80 hours in a work period. Leave and holiday time taken within the work period may not count as hours worked when calculating compensatory time. Each agency shall compensate an FLSA exempt employee who works overtime by granting time off. For each hour of overtime worked, an FLSA exempt employee shall accrue an hour of compensatory time.

(a) Agencies shall establish in written policy a uniform overtime year either for the agency as a whole or by division and communicate it to employees. If an agency fails to establish a uniform overtime year, the Executive Director, DHRM, and the Director of Finance, Department of Administrative Services, will determine the date for the agency at the end of one of the following pay periods: Five, Ten, Fifteen, Twenty, or the last pay period of the calendar year. An agency may change the established overtime year only after the current overtime year has lapsed, unless justifiable reasons exist and the Executive Director, DHRM, has granted a written exception.

(b) Any compensatory time earned by an FLSA exempt employee is not an entitlement, a benefit, nor a vested right.

(c) Any compensatory time earned by an FLSA exempt employee shall lapse upon occurrence of any one of the following events:

- (i) at the end of the employee's established overtime year;
- (ii) when an employee transfers to another agency; or
- (iii) when an employee terminates, retires, or otherwise does not return to work before the end of the overtime year.

(d) If an FLSA exempt employee's status changes to nonexempt, that employee's compensatory time earned while in exempt status shall lapse if not used by the end of the current overtime year.

(e) The agency head may approve overtime for career service exempt deputy and division directors, but overtime shall not be compensated with actual payment. Schedule AB employees shall not be compensated for compensatory time except with time off.

(5) Law enforcement, correctional and fire protection employees

(a) To be considered for overtime compensation under this rule, a law enforcement or correctional officer must meet the following criteria:

- (i) be a uniformed or plainclothes sworn officer;
- (ii) be empowered by statute or local ordinance to enforce laws designed to maintain public peace and order, to protect life and property from accident or willful injury, and to prevent and detect crimes;
- (iii) have the power to arrest;
- (iv) be POST certified or scheduled for POST training; and
- (v) perform over 80 percent law enforcement duties.

(b) Agencies shall select one of the following maximum work hour thresholds to determine when overtime compensation is granted to law enforcement or correctional officers designated FLSA nonexempt and covered under this rule.

- (i) 171 hours in a work period of 28 consecutive days; or
- (ii) 86 hours in a work period of 14 consecutive days.

(c) Agencies shall select one of the following maximum work hour thresholds to determine when overtime compensation is granted to fire protection employees.

- (i) 212 hours in a work period of 28 consecutive days; or
- (ii) 106 hours in a work period of 14 consecutive days.

(d) Agencies may designate a lesser threshold in a 14 day or 28 day consecutive work period as long as it conforms to the following:

- (i) the Fair Labor Standards Act, Section 207(k);
- (ii) 29 CFR 553.230;
- (iii) the state's payroll period;
- (iv) the approval of the Executive Director, DHRM.

(6) Compensatory Time

(a) Agency management shall arrange for an employee's use of compensatory time as soon as possible without unduly disrupting agency operations or endangering public health, safety or property.

(b) Compensatory time balances for an FLSA nonexempt employee shall be paid down to zero in the same pay period that the employee is transferred from one agency to a different agency, promoted, reclassified, reassigned, or transferred to an FLSA exempt position. The pay down for unused compensatory time balances shall be based on the employee's hourly rate of pay in the old position.

(7) Time Reporting

(a) An FLSA nonexempt employee must complete and sign a state approved biweekly time record that accurately reflects the hours actually worked including both approved and unapproved overtime, on-call time, stand-by time, the meal periods of guards, police officers and other public safety and correctional officers who are on duty more than 24 consecutive hours, and approved leave time. An employee who fails to accurately record all of the time for which he should be paid shall be subject to disciplinary action. Time records developed by the agency shall have the same elements of the state approved time record and be approved by the Department of Administrative Services, Division of Finance.

(b) An FLSA exempt employee who works more than 80 hours in a work period must record the total hours worked and the compensatory time used on a biweekly time record. All hours must be recorded in order to claim overtime. Completion of the time record is at agency discretion when no overtime is worked during the work period.

(c) Supervisors who direct an employee to submit an inaccurate time record or knowingly approve an inaccurate time record shall be subject to disciplinary action.

(d) Non-exempt employees who believe they have not been properly paid for hours actually worked, in accordance with R477-8-5 (7)(a), must submit a complaint that specifies dates, times and/or hours he/she believes were improperly compensated directly to the Executive Director, or designee, of the Department of Human Resource Management by telephone, mail, e-mail or FAX.

(8) Hours Worked: An FLSA nonexempt employee shall be compensated for all hours worked. An employee who works unauthorized overtime may be subject to disciplinary action.

(a) All time that an FLSA nonexempt employee is required to wait for an assignment while on duty, before reporting to duty, or before performing activities is counted towards hours worked.

(b) Time spent waiting after being relieved from duty is not counted as hours worked if one or more of the following conditions apply:

- (i) the employee arrives voluntarily before their scheduled shift and waits before starting duties;
- (ii) the employee is completely relieved from duty and allowed to leave the job;
- (iii) the employee is relieved until a definite specified time;
- (iv) the relief period is long enough for the employee to use as the employee sees fit.

(c) On-call time: An employee required by agency management to be available for on-call work shall be compensated for on-call time at a rate of one hour for every 12 hours the employee is on-call.

(i) Time is considered on-call time when the employee has freedom of movement in personal matters as long as the employee is available for call to duty.

(ii) An employee must be directed by his supervisor, either verbally or in writing, that he is on call for a specified time period. Carrying a beeper or cell phone shall not constitute on-call time without a specific directive from a supervisor.

(iii) The employee shall record the hours spent in on-call status on his time sheet in order to be paid.

(d) Stand-by time: An employee restricted to stand-by at a specified location ready for work must be paid full-time or overtime, as appropriate. An employee must be paid for stand-by time if required to stand by the post ready for duty, even during lunch periods, equipment breakdowns, or other temporary work shutdowns.

(e) The meal periods of guards, police, and other public safety or correctional officers and firefighters who are on duty more than 24 consecutive hours must be counted as working time, unless an express agreement excludes the time.

(9) Commuting and Travel Time for FLSA exempt and nonexempt employees:

(a) Normal commuting time from home to work and back shall not count towards hours worked.

(b) Time an employee spends traveling from one job site to another during the normal work schedule shall count towards hours worked.

(c) Time an employee spends traveling on a special one day assignment shall count towards hours worked except meal time and ordinary home to work travel.

(d) Travel that keeps an employee away from home overnight does not count towards hours worked if it is time spent outside of regular working hours as a passenger on an airplane, train, boat, bus, or automobile.

(e) Travel as a passenger counts toward hours worked if it is time spent during regular working hours. This applies to nonworking days, as well as regular working days. However, regular meal period time is not counted.

(10) Excess Hours for FLSA exempt and nonexempt employees: An employee may use excess hours the same way as annual leave.

(a) Agency management shall approve excess hours before the work is performed.

(b) Agency management may deny the use of any leave time, other than holiday leave, that results in an employee accruing excess hours.

(c) An employee may not accumulate more than 80 excess hours.

(d) Agency management may pay out excess hours under one of the following:

- (i) paid off automatically in the same pay period accrued;
- (ii) paid off at any time during the year as determined appropriate by a state agency or division;
- (iii) all hours accrued above the limit set by DHRM; or
- (iv) upon request of the employee and approval by the agency head.

KEY: breaks, telecommuting, overtime, dual employment
Date of Enactment or Last Substantive Amendment: October 3, 2007
Notice of Continuation: June 9, 2007
Authorizing, and Implemented or Interpreted Law: 67-19-6; 67-19-6-7; 20A-3-103



FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1998).

Administrative Services, Facilities Construction and Management **R23-12** Building Code Appeals Process

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 30525
FILED: 10/03/2007, 09:58

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The rule establishes procedures for appeal of decisions made by the Building Official in regard to application and interpretations of building codes pursuant to Section 58-56-8. Subsection 63a-5-103(1)(e) authorizes the Utah State Building Board to make rules regarding functions carried out by the Division of Facilities Construction and Management (DFCM). Section 63a-5-206 provides statutory provision where DFCM is involved in standards for facility construction and is the compliance agency under Title 58, Chapter 56, for projects administered by DFCM. Rule R23-12 establishes procedures for the appeal of decisions made by the Building Official in regard to the application and interpretation of building codes.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: DFCM and the Utah Building Board have not received any written comments, either in support or opposition to Rule R23-12.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuation of Rule R23-12 is necessary to provide the procedures for the appeal of decisions made by the Building Official in regard to the application and interpretation of building codes. Therefore, this rule should be continued.

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

ADMINISTRATIVE SERVICES
FACILITIES CONSTRUCTION AND MANAGEMENT
Room 4110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Merrill, Alan Bachman, or Priscilla Anderson at the above address, by phone at 801-538-3240, 801-538-3105, or 801-538-9595, by FAX at 801-538-3313, 801-538-3313, or 801-538-3378, or by Internet E-mail at debramerrill@utah.gov, abachman@utah.gov, or phanderson@utah.gov

AUTHORIZED BY: D. Gregg Buxton, Director

EFFECTIVE: 10/03/2007



Administrative Services, Risk Management **R37-4** Adjusted Utah Governmental Immunity Act Limitations on Judgment

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 30565
FILED: 10/09/2007, 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: Pursuant to Subsection 63-30d-604(4)(b), the Risk Manager establishes limitations of judgment every even-numbered year.

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: In order to establish limitations of judgment every even-numbered year as the statute requires, the rule should be allowed to continue.

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

ADMINISTRATIVE SERVICES
RISK MANAGEMENT
Room 5120 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:

Stephen Hewlett at the above address, by phone at 801-538-9572, by FAX at 801-538-9597, or by Internet E-mail at SHEWLETT@utah.gov

AUTHORIZED BY: Kimberly K Hood, Executive Director

EFFECTIVE: 10/09/2007

Education, Administration
R277-108

Annual Assurance of Compliance by
Local School Boards

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 30562
FILED: 10/05/2007, 13:41

**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: Subsection 53A-1-401(3) permits the Utah State Board of Education to adopt rules in accordance with its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The law continues to authorize this rule. The rule provides a list of requirements

under state law that local school boards use as a means of assuring compliance with state law. Therefore, this rule should be continued.

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

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

EFFECTIVE: 10/05/2007

Education, Administration
R277-419
Pupil Accounting

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 30561
FILED: 10/05/2007, 13:41

**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: Subsection 53A-1-401(3) allows the Utah State Board of Education to make rules in accordance with its responsibilities, and Subsection 53A-1-402(1)(e) directs the Utah State Board of Education to establish rules and standards regarding school productivity and cost effectiveness.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The law continues to require this rule. This rule specifies necessary pupil accounting procedures used in apportioning and distributing state funds for education to local school boards and charter schools. Therefore, this rule should be continued.

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

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

EFFECTIVE: 10/05/2007

Education, Administration
R277-420

Aiding Financially Distressed School Districts

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 30560
FILED: 10/05/2007, 13:40

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 53A-19-105 requires the State Board of Education to develop standards for defining and aiding financially distressed school districts, and Subsection 53A-1-401(3) permits the Utah State Board of Education to adopt rules in accordance with its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The law continues to require this rule. This rule provides necessary eligibility requirements and procedures for nonrecurring or nonroutine interfund transfers for financially distressed school districts. Therefore, this rule should be continued.

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

EDUCATION
ADMINISTRATION
250 E 500 S

SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

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

EFFECTIVE: 10/05/2007

Education, Administration
R277-422

State Supported Voted Leeway, Local Board-Approved Leeway and Local Board Leeway for Reading Improvement Programs

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 30559
FILED: 10/05/2007, 13:40

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-402(1)(e) directs the Utah State Board of Education to establish rules for school productivity and cost effectiveness measures, federal programs, school budget formats, and financial, statistical, and student accounting requirements, and Subsection 53A-1-401(3) allows the Utah State Board of Education to adopt rules in accordance with its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The law continues to require this rule. This rule provides necessary requirements, time lines, and clarifications for the state-supported vote, local board-approved, and local board voted leeway for reading improvement programs. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
**EDUCATION
 ADMINISTRATION**
 250 E 500 S
 SALT LAKE CITY UT 84111-3272, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

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

EFFECTIVE: 10/05/2007



Education, Administration
R277-423
Delivery of Flow Through Money

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 30558
 FILED: 10/05/2007, 13:39

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-402(1) directs the Utah State Board of Education to establish rules for the minimum school program, and Subsection 53A-1-401(3) allows the Utah State Board of Education to adopt rules in accordance with its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The law continues to require this rule. This rule describes the process whereby flow through money is distributed to school districts which is a continuing and necessary procedure. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
**EDUCATION
 ADMINISTRATION**
 250 E 500 S
 SALT LAKE CITY UT 84111-3272, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

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

EFFECTIVE: 10/05/2007



Education, Administration
R277-424
Indirect Costs for State Programs

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 30557
 FILED: 10/05/2007, 13:38

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-402(1) which require the Utah State Board of Education to adopt rules for financial accounting requirements, and Subsection 53A-1-401(3) which allows the Utah State Board of Education to adopt rules in accordance with its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The law continues to require this rule. This rule provides necessary standards for school districts to claim indirect costs for state programs. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
**EDUCATION
 ADMINISTRATION**
 250 E 500 S
 SALT LAKE CITY UT 84111-3272, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

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

EFFECTIVE: 10/05/2007



Education, Administration
R277-426

Definition of Private and Non-Profit
Schools for Federal Programs

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 30556
FILED: 10/05/2007, 13:33

**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: Subsection 53A-1-402(3) allows the Utah State Board of Education to administer federal funds and to distribute them to eligible applicants, and Subsection 53A-1-401(3) allows the Utah State Board of Education to adopt rules in accordance with its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The law continues to authorize this rule. This rule provides requirements that private, nonpublic, and nonprofit schools must meet to receive services under federal laws requiring the public education system to serve students in these schools. Therefore, this rule should be continued.

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

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

EFFECTIVE: 10/05/2007



Education, Administration
R277-454

Construction Management of School
Building Projects

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 30555
FILED: 10/05/2007, 13:32

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-401(3) allows the Utah State Board of Education to adopt rules in accordance with its responsibilities, and Section 53A-20-103 requires the Utah State Board of Education to prepare an annual school plant capital outlay report of all school districts, which includes information on the number and size of building projects completed and under construction.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The law continues to authorize this rule. This rule specifies the standards local boards of education need to follow in using construction management contracts for school construction projects. Therefore, this rule should be continued.

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

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

EFFECTIVE: 10/05/2007



Education, Administration
R277-509

Certification of Student Teachers and Interns

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 30554
FILED: 10/05/2007, 13:31

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 53A-6-104 permits the Utah State Board of Education to issue licenses for educators, and Subsection 53A-1-401(3) allows the Utah State Board of Education to adopt rules in accordance with its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The law continues to authorize this rule. This rule specifies the procedure under which the Utah State Board of Education issues certificates to students acting as student teachers and interns. Therefore, this rule should be continued.

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

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

EFFECTIVE: 10/05/2007



Education, Administration
R277-522

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

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 30553
FILED: 10/05/2007, 13:30

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 53A-6-106 directs the Utah State Board of Education to establish a rule for the training and experience required of license applicants for teaching, and Subsection 53A-1-401(3) allows the Utah State Board of Education to adopt rules in accordance with its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The law continues to require this rule. This rule outlines required entry years enhancement requirements for professional and emotional support for Level 1 teachers whose employment or reemployment in the Utah public schools began after 01/01/2003. Therefore, this rule should be continued.

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

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

EFFECTIVE: 10/05/2007



Education, Administration
R277-733
 Adult Education Programs

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 30552
 FILED: 10/05/2007, 13:29

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 53A-15-401 places the general control and supervision of adult education under the Utah State Board of Education. Subsection 53A-1-402(1) allows the Utah State Board of Education to adopt minimum standards for programs, and Subsection 53A-1-401(3) allows the Utah State Board of Education to adopt rules in accordance with its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The law continues to require this rule. This rule provides necessary curriculum, program standards, allocation formulas, and operation procedures for adult education programs. Therefore, this rule should be continued.

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

EDUCATION
 ADMINISTRATION
 250 E 500 S
 SALT LAKE CITY UT 84111-3272, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

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

EFFECTIVE: 10/05/2007



Environmental Quality, Solid and
 Hazardous Waste
R315-15
 Standard for the Management of Used
 Oil

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 30534
 FILED: 10/04/2007, 08:26

**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: Section 19-6-704 of the Used Oil Management Act, Title 19, Chapter 6, authorizes the Solid and Hazardous Waste Control Board to make rules under Title 63, Chapter 46a, Utah Administrative Rulemaking Act, as necessary to administer the the Act and to comply with 40 CFR 279, Standards for the Management of Used Oil, to ensure the state's primacy to manage used oil.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received since the previous 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 necessary for Utah to maintain equivalency with the federal regulations in 40 CFR 279, Standards for the Management of Used Oil, and have primacy to administer the Used Oil Program in the state. Therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY
 SOLID AND HAZARDOUS WASTE
 288 N 1460 W
 SALT LAKE CITY UT 84116-3231, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jim Smith at the above address, by phone at 801-538-7061, by FAX at 801-538-6715, or by Internet E-mail at jwsmith@utah.gov

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 10/04/2007



Environmental Quality, Water Quality
R317-1
 Definitions and General Requirements

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 30521
 FILED: 10/02/2007, 10:38

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1)(a) authorizes the Utah Water Quality Board to develop programs for the prevention, control, and abatement of new or existing pollution of the waters of the state. Subsection 19-5-104(1)(f) authorizes the Board to make rules which implement or effectuate the powers and duties of the Board.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: This rule has been amended seven times since the last five-year review. The limited comments which were received during those rulemaking actions addressed technical issues and were generally of a noncontroversial nature. Comments received during hearings and the public comment period for the rule change have been addressed through preparation of responsiveness summaries by Division of Water Quality staff and have been presented to the Water Quality Board for their consideration during the rulemaking process.

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 definitions and general requirements for implementation of the Utah Water Quality Act. It is central to the implementation of the Act, in that it provides the general framework for control of water pollution, including the requirements for construction permits, compliance with state Water Quality Standards, and requirements for waste discharges, and should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dave Wham at the above address, by phone at 801-538-6052, by FAX at 801-538-6016, or by Internet E-mail at dwham@utah.gov

AUTHORIZED BY: Walter Baker, Director

EFFECTIVE: 10/02/2007

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

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 30520
 FILED: 10/02/2007, 10:37

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1)(e) authorizes the Utah Water Quality Board to adopt, modify, or repeal standards of quality of the waters of the state and classify those waters according to their reasonable uses. Subsection 19-5-104(1)(f) authorizes the Board to make rules which implement or effectuate the powers and duties of the Board.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: This rule was amended three times since the last five-year review. The limited comments which were received during those rulemaking actions addressed technical issues and were generally of a noncontroversial nature. Comments received during hearings and the public comment period for the rule change have been addressed through preparation of responsiveness summaries by Division of Water Quality staff and have been presented to the Water Quality Board for their consideration during the rulemaking process.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule classifies waters of the state according to their beneficial uses and sets numerical standards of quality for those waters. The existence of the rule is central to implementation of water quality protection programs under the Utah Water Quality Act, and should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dave Wham at the above address, by phone at 801-538-6052, by FAX at 801-538-6016, or by Internet E-mail at dwham@utah.gov

AUTHORIZED BY: Walter Baker, Director

EFFECTIVE: 10/02/2007



Environmental Quality, Water Quality
R317-3
 Design Requirements for Wastewater
 Collection, Treatment and Disposal
 Systems

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 30518
 FILED: 10/02/2007, 10:36

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1)(h) authorizes the Water Quality Board to review plans, specifications, or other data relative to wastewater disposal systems or any part of disposal systems, and issue construction permits for the installation or modification of treatment works or any parts of them. Subsection 19-5-104(1)(f) authorizes the Board to make rules which implement or effectuate the powers and duties of the Board.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule sets design requirements for construction of wastewater collection, treatment, and disposal systems. The Water Quality Board is charged with review and approval of these systems. The rule is required to meet this charge, and should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dave Wham at the above address, by phone at 801-538-6052, by FAX at 801-538-6016, or by Internet E-mail at dwham@utah.gov

AUTHORIZED BY: Walter Baker, Director

EFFECTIVE: 10/02/2007



Environmental Quality, Water Quality
R317-5
 Large Underground Wastewater
 Disposal Systems

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 30517
 FILED: 10/02/2007, 10:36

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1)(h) authorizes the Water Quality Board to review plans, specifications, or other data relative to wastewater disposal systems or any part of disposal systems, and issue construction permits for the installation or modification of treatment works or any parts of them. Subsection 19-5-104(1)(f) authorizes the Board to make rules which implement or effectuate the powers and duties of the Board.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule sets design requirements for construction of wastewater collection, treatment, and disposal systems. The Water Quality Board is charged with review and approval of these systems. The rule is required to meet this charge, and should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dave Wham at the above address, by phone at 801-538-6052, by FAX at 801-538-6016, or by Internet E-mail at dwham@utah.gov

AUTHORIZED BY: Walter Baker, Director

EFFECTIVE: 10/02/2007

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

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 30519
FILED: 10/02/2007, 10:37

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1)(a) authorizes the Utah Water Quality Board to develop programs for the prevention, control, and abatement of new or existing pollution of the waters of the state. Subsection 19-5-104(1)(f) authorizes the Board to make rules which implement or effectuate the powers and duties of the Board.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Portions of this rule have been amended six times since the last five-year review. The limited comments which have been received during these rulemaking actions have been of a technical and noncontroversial nature. Comments received during hearings and public comment periods for rule changes have been addressed through preparation of responsiveness summaries by Division of Water Quality staff and have been presented to the Water Quality Board for their consideration during the rulemaking process.

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 for the Water Quality Board to implement the state's Ground Water Protection Program. It provides the structure for the ground water discharge permit, defines ground water classes, protection levels, and sets ground water quality standards and should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dave Wham at the above address, by phone at 801-538-6052, by FAX at 801-538-6016, or by Internet E-mail at dwham@utah.gov

AUTHORIZED BY: Walter Baker, Director

EFFECTIVE: 10/02/2007

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Environmental Quality, Water Quality **R317-8** Utah Pollutant Discharge Elimination System (UPDES)

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 30535
FILED: 10/04/2007, 09:56

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 19-5-104(1)(i) authorizes the Utah Water Quality Board to require discharge permits to control the management of sewage sludge or to prevent or control the discharge of pollutants, including effluent limitations for the discharge of wastes into the waters of the state. Subsection 19-5-104(1)(f) authorizes the board to make rules which implement or effectuate the powers and duties of the board.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: This rule has been amended three times since the last five-year review. The limited comments which have been received during these rulemaking actions have been of a technical and noncontroversial nature. Comments received during hearings and public comment periods for rule changes have been addressed through preparation of responsiveness summaries by Division of Water Quality staff and have been presented to the Water Quality Board for their consideration during the rulemaking process.

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 required for the Water Quality Board to implement Utah's Pollutant Discharge Elimination System (UPDES). It provides the structure for the surface water discharge permit. The rule is required to maintain state primacy for administering the UPDES program. If Utah does not obtain and maintain primacy to enforce UPDES rules at least equivalent to the federal rules, then the Environmental Protection Agency will enforce the federal rules using direct implementation procedures. In promulgating the rule, the Water Quality Board made the determination that the UPDES Program is best administered at the state level, and should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dave Wham at the above address, by phone at 801-538-6052, by FAX at 801-538-6016, or by Internet E-mail at dwham@utah.gov

AUTHORIZED BY: Walter Baker, Director

EFFECTIVE: 10/04/2007



**Environmental Quality, Water Quality
R317-10
Certification of Wastewater Works
Operators**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 30516
FILED: 10/02/2007, 10:35

**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: Subsections 19-5-104(1)(p) and 19-5-104(3) authorize the Utah Water Quality Board to adopt and enforce rules, and establish fees to cover the costs of testing for certification of operators of treatment works and sewerage systems operated by political subdivisions.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: This rule has been

amended three times since the last five-year review. The limited comments which have been received during those rulemaking actions have been of a technical and noncontroversial nature. Comments received during hearings and public comment periods for rule changes have been addressed through preparation of responsiveness summaries by the Division of Water Quality staff and have been presented to the Water Quality Board for their consideration during the rulemaking process. During the enactment of the rule, a technical review committee, consisting of the regulated community and other interested and affected parties, was formed to provide input to the Division of Water Quality and the Board. This committee has also provided oversight of subsequent amendments.

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 required for the Water Quality Board to implement the state's Wastewater Operator Certification Program as outlined in the Water Quality Act. The certification program is established in order to assist in protecting the quality of waters in the state of Utah by helping ensure that personnel in charge of wastewater works are trained, experienced, reliable and efficient; to protect the public health and the environment, and provide for the health and safety of wastewater works operators; and to establish standards and methods whereby wastewater works operating personnel can demonstrate competency, and should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dave Wham at the above address, by phone at 801-538-6052, by FAX at 801-538-6016, or by Internet E-mail at dwham@utah.gov

AUTHORIZED BY: Walter Baker, Director

EFFECTIVE: 10/02/2007



**Environmental Quality, Water Quality
R317-100
Utah State Project Priority System for
the Utah Wastewater Project
Assistance Program**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 30522
FILED: 10/02/2007, 10:38

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1)(f) authorizes the Water Quality Board to enact rules for construction loans, including development of a priority schedule for awarding loans.

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 priority ranking system is used to rank wastewater projects for possible state and federal funding assistance. It is a needed component of the state wastewater project assistance program, and should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dave Wham at the above address, by phone at 801-538-6052, by FAX at 801-538-6016, or by Internet E-mail at dwham@utah.gov

AUTHORIZED BY: Walter Baker, Director

EFFECTIVE: 10/02/2007

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**Environmental Quality, Water Quality
R317-550**
Rules for Waste Disposal By Liquid
Scavenger Operations

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 30515
FILED: 10/02/2007, 10:35

**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: Subsection 19-5-104(1)(f)(v) authorizes the Utah Water Quality Board to adopt rules to protect the public health for the design, construction, operation, and maintenance of individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies. Subsection 19-5-104(1)(f) authorizes the Board to make rules which implement or effectuate the powers and duties of the Board.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is required to regulate Liquid Scavenger Operations in order to protect public health and the environment, and should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dave Wham at the above address, by phone at 801-538-6052, by FAX at 801-538-6016, or by Internet E-mail at dwham@utah.gov

AUTHORIZED BY: Walter Baker, Director

EFFECTIVE: 10/02/2007

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**Environmental Quality, Water Quality
R317-560**
Rules for the Design, Construction, and
Maintenance of Vault Privies and
Earthen Pit Privies

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 30514
FILED: 10/02/2007, 10:34

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 19-5-104(1)(f)(v) authorizes the Utah Water Quality Board to adopt rules to protect the public health for the design, construction, operation, and maintenance of individual wastewater disposal systems, liquid scavenger operations, and vault and earthen pit privies. Subsection 19-5-104(1)(f) authorizes the Board to make rules which implement or effectuate the powers and duties of the Board.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule regulates the design, construction, operation, and maintenance of vault and earthen pit privies to protect public health and the environment and should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dave Wham at the above address, by phone at 801-538-6052, by FAX at 801-538-6016, or by Internet E-mail at dwham@utah.gov

AUTHORIZED BY: Walter Baker, Director

EFFECTIVE: 10/02/2007



**Health, Health Systems Improvement,
Licensing
R432-100
General Hospital Standards**

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 30542
FILED: 10/04/2007, 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 26-21-5 authorizes the Utah Department of Health to promulgate rules for the construction and operation of general acute care hospitals.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has received many comments on this rule. Except as noted, all resulted in amendments to the rule. They are listed below:
Emergency and Disaster Plan: in 2002, Joint Commission comments suggested that states require hospitals to make one of their two annual disaster drills focused on a bioterrorism or communicable disease event. The Health Facility Committee recommended that the rule be amended and the department made an amendment effective 03/13/2003.
Emergency Care Services: in 2003, comments were received that the rule should be amended to allow general acute care hospitals to designate its emergency services as Level I-III and participate in the statewide trauma system, while specialty hospitals may opt to designate their emergency services Level IV. However, a critical access hospital participating in the trauma system would need to provide at least Level III emergency care services. The Health Facility Committee concurred, and the Department amended the rule effective 01/09/2004.
Perinatal Care: comments received in 2004 suggested that the rule should be amended to require hospitals which provide perinatal services to follow the newly revised Guidelines for Perinatal Care, Fifth Edition. This was already the standard for care in most regulated facilities. The Health Facility Committee agreed to such an amendment. The department amended the rule effective 05/24/2004.
Medical and Professional Staff During Emergencies: comments were received that mass casualty incidents are likely to overwhelm the capacity of hospitals and the availability of adequate numbers of credentialed staff to care for emergency patients in such events. Comments recommended that the rule be amended to require hospitals to establish policies and procedures to issue temporary credentialing when there is an emergency or disaster situations. The Health Facility Committee approved the amendment and the department amended the rule effective 11/09/2004.
Medical Records: a) comments in 2005 requested changes to medical records requirements. It was recommended that hospitals be allowed to use an electronic master patient index to store permanent record information, and discard hard copies after seven years; and b) comments also requested the pharmacy services section requirements be updated to recognize the audit capabilities of medication dispensing machines, so hand counts of medication would no longer be necessary when such machines were used. The Health Facility Committee approved the two changes. The department amended the rule effective 01/05/2006.
Surge Capacity: comments from a federal Health Resources and Services Administration (HRSA) Bioterrorism task force recommended that the rule be modified to allow hospitals to increase their bed capacity by 20% in the event of a mass casualty incident without prior approval of the department. This would improve each hospital's ability to care for victims of such an event. The Health Facility Committee approved the amendment and the Department amended the rule effective 01/05/2006.
Transitional Care Units: in 2005, comments

were received to allow hospital transitional care units of 16 or fewer beds to be licensed as small health care facilities, instead of nursing care facilities. Finalization of Patient Record: comments recommended that hospitals be allowed up to 30 days after patient discharge to finalize the patient record. This would save time and money over the new federal regulation which required that all verbal orders be authenticated in the records within 48 hours, unless a state rule permitted a longer time frame. The Health Facility Committee approved the amendment which was filed by the department and made final on 04/11/2007. Restraint and Seclusion: comments in 2007 requested that the rule be amended to reflect more current federal regulations for restraint and seclusion use. The Health Facility Committee appointed a subcommittee to review the issues. If the subcommittee makes a recommendation and the Committee approves an amendment, the department will amend the rule accordingly.

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 required by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. There are currently 32 general acute care hospitals licensed in the State. Without this rule, the hospitals would not be regulated or licensed. The department determined to not amend the section of the rules concerning transitional care units because doing so could potentially jeopardize the Nursing Facility Bed Tax required by Title 26, Chapter 35a. The department supports continuation of the rule as it has been amended. Any amendments recommended by the Health Facility Committee will be filed following their review.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Allan Elkins at the above address, by phone at 801-538-6595, by FAX at 801-538-6163, or by Internet E-mail at aelkins@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 10/04/2007



Health, Health Systems Improvement,
Licensing
R432-101
Specialty Hospital - Psychiatric

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 30531
FILED: 10/03/2007, 16:15

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-21-5 authorizes the Utah Department of Health to promulgate rules for the construction and operation of Specialty Psychiatric Hospitals.

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. The Health Facility Committee authorized continuation of this rule on 05/23/2007.

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 authorized by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. There are currently eight Specialty Psychiatric hospitals in the state. Without this rule, these hospitals would not be regulated or licensed. The department agrees with the need to continue the rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Allan Elkins at the above address, by phone at 801-538-6595, by FAX at 801-538-6163, or by Internet E-mail at aelkins@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 10/03/2007



Health, Health Systems Improvement,
Licensing

R432-102

Specialty Hospital - Chemical
Dependency/Substance Abuse

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 30529
FILED: 10/03/2007, 15:41

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: Section 26-21-5 authorizes the Utah Department of Health to promulgate rules for the operation of Specialty Hospital-Chemical Dependency/Substance Abuse.

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. The Health Facility Committee authorized continuation of this rule on 05/23/2007.

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 authorized by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. Currently, there are no chemical dependency/substance abuse hospitals in the state. Without this rule, these hospitals would not be regulated or licensed. The department agrees with the need to continue the rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Allan Elkins at the above address, by phone at 801-538-6595, by FAX at 801-538-6163, or by Internet E-mail at aelkins@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 10/03/2007



Health, Health Systems Improvement,
Licensing
R432-103
Specialty Hospital - Rehabilitation

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 30536
FILED: 10/04/2007, 10:58

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 26-21-5 authorizes

the Utah Department of Health to promulgate rules for the construction and operation of Specialty Hospital-Rehabilitation.

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. The Health Facility Committee authorized continuation of this rule on 05/23/2007.

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 authorized by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. Currently, there is one specialty hospital-rehabilitation in the state. Without this rule, these hospitals would not be regulated or licensed. The department agrees with the need to continue the rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Allan Elkins at the above address, by phone at 801-538-6595, by FAX at 801-538-6163, or by Internet E-mail at aelkins@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 10/04/2007



Health, Health Systems Improvement,
Licensing
R432-104
Specialty Hospital - Long Term Acute
Care

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 30543
FILED: 10/04/2007, 16:05

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-21-5 authorizes the Utah Department of Health to promulgate rules for the construction and operation of Long Term Acute Care Hospitals.

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 2002, the Department of Health received comments from providers that amendments were needed to update the rule to meet current federal Medicare definitions of Long Term Care Hospital services in 42 CFR 412.23, and to change the name of such hospitals from chronic disease hospitals to long term acute care hospitals. The Health Facility Committee appointed a subcommittee to study the issue, and it recommended certain amendments to implement the comments and to be similar to the newer federal regulations. The department amended the rule effective 12/10/2002. Since that time, no further written comments have been received. On 05/23/2007, the Health Facility Committee authorized the continuation of the rule in its current form.

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 authorized by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. There are currently three long term care acute hospitals in the state and without this rule, these hospitals would not be regulated or licensed. The department agrees with the need to continue the rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Allan Elkins at the above address, by phone at 801-538-6595, by FAX at 801-538-6163, or by Internet E-mail at aelkins@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 10/04/2007



Health, Health Systems Improvement,
Licensing
R432-105
Specialty Hospital - Orthopedic

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 30533
FILED: 10/03/2007, 17:04

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-21-5 authorizes the Utah Department of Health to promulgate rules for the construction and operation of Orthopedic Specialty Hospitals.

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. The Health Facility Committee authorized continuation of this rule on 05/23/2007.

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 authorized by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. Currently, there is one orthopedic specialty hospital in the state. Without this rule, this hospital would not be regulated or licensed. The department agrees with the need to continue the rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Allan Elkins at the above address, by phone at 801-538-6595, by FAX at 801-538-6163, or by Internet E-mail at aelkins@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 10/03/2007



Health, Health Systems Improvement,
Licensing
R432-152
Mental Retardation Facility

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 30532
FILED: 10/03/2007, 16:58

**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 26-21-5 authorizes

the Utah Department of Health to promulgate rules for the operation of mental retardation facilities.

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. The Health Facility Committee authorized continuation of this rule on 05/23/2007.

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 authorized by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. Currently, there are 15 mental retardation facilities in the state. Without this rule, these hospitals would not be regulated or licensed. The department agrees with the need to continue the rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 HEALTH
 HEALTH SYSTEMS IMPROVEMENT, LICENSING
 CANNON HEALTH BLDG
 288 N 1460 W
 SALT LAKE CITY UT 84116-3231, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Allan Elkins at the above address, by phone at 801-538-6595, by FAX at 801-538-6163, or by Internet E-mail at aelkins@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 10/03/2007

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**Health, Health Systems Improvement,
 Licensing
 R432-200**
**Small Health Care Facility (Four to
 Sixteen beds)**

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**
 DAR FILE No.: 30530
 FILED: 10/03/2007, 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: Section 26-21-5 authorizes the Utah Department of Health to promulgate rules for the construction and operation of small health care facilities.

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. The Health Facility Committee authorized continuation of this rule on 05/23/2007.

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 authorized by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. Currently, there are 10 small health care facilities in the state. Without this rule, these hospitals would not be regulated or licensed. The department agrees with the need to continue the rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 HEALTH
 HEALTH SYSTEMS IMPROVEMENT, LICENSING
 CANNON HEALTH BLDG
 288 N 1460 W
 SALT LAKE CITY UT 84116-3231, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Allan Elkins at the above address, by phone at 801-538-6595, by FAX at 801-538-6163, or by Internet E-mail at aelkins@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 10/03/2007

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**Health, Health Systems Improvement,
 Licensing
 R432-201**
**Mental Retardation Facility:
 Supplement "A" to the Small Health
 Care Facility Rule**

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**
 DAR FILE No.: 30537
 FILED: 10/04/2007, 11:03

**NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 26-21-5 and 26-21-13.5 authorizes the Utah Department of Health to promulgate rules for the construction and operation of mental retardation facilities.

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. The Health Facility Committee reviewed this rule in 2007 and recommended continuation of this rule on 05/23/2007.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule supplement is authorized by Section 26-21-13.5 of the Health Facility Licensure and Inspection Act. There are currently four mental retardation facilities licensed as small health care facilities. Without this rule, the facilities would not be regulated or licensed. The department agrees with the need to continue the rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Allan Elkins at the above address, by phone at 801-538-6595, by FAX at 801-538-6163, or by Internet E-mail at aelkins@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 10/04/2007



Health, Health Systems Improvement,
Licensing
R432-500
Freestanding Ambulatory Surgical
Center Rules

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 30541
FILED: 10/04/2007, 11:20

**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: Section 26-21-5 authorizes the Utah Department of Health to promulgate rules for the construction and operation of Freestanding Ambulatory Surgical Centers.

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. The Health Facility Committee authorized continuation of this rule on 05/23/2007.

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 authorized by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. Currently, there are 33 ambulatory surgical centers licensed in the state. Without this rule, these centers would not be regulated or licensed. The department agrees with the need to continue the rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Allan Elkins at the above address, by phone at 801-538-6595, by FAX at 801-538-6163, or by Internet E-mail at aelkins@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 10/04/2007



Health, Health Systems Improvement,
Licensing
R432-550
Birthing Center (Five or Less Birth
Rooms)

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 30539
FILED: 10/04/2007, 11:12

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-21-5 authorizes the Utah Department of Health to promulgate rules for the construction and operation of birthing centers.

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. A subcommittee of the Health Facility Committee reviewed this rule in 2007. It recommended reauthorization. The Health Facility Committee authorized continuation of this rule on 05/23/2007.

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 authorized by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. Currently, there are two birthing centers in the state. Without this rule, these centers would not be regulated or licensed. The department agrees with the need to continue the rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Allan Elkins at the above address, by phone at 801-538-6595, by FAX at 801-538-6163, or by Internet E-mail at aelkins@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 10/04/2007

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Health, Health Systems Improvement,
Licensing
R432-600
Abortion Clinic Rule

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**
DAR FILE NO.: 30540
FILED: 10/04/2007, 11:16

**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: Section 26-21-5 authorizes the Utah Department of Health to promulgate rules for the operation of abortion clinics.

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. The Health Facility Committee authorized continuation of this rule on 05/23/2007.

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 authorized by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. Currently, there is one abortion clinic licensed in the state. Without this rule, the clinic would not be regulated or licensed. The department agrees with the need to continue the rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Allan Elkins at the above address, by phone at 801-538-6595, by FAX at 801-538-6163, or by Internet E-mail at aelkins@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 10/04/2007

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Health, Health Systems Improvement,
Licensing
R432-950
Mammography Quality Assurance

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**
DAR FILE NO.: 30538
FILED: 10/04/2007, 11:06

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-21a-203 authorizes the Utah Department of Health to promulgate rules for the operation of Mammography facilities.

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. The Department reviewed this rule in 2007 and recommended continuation on 05/23/2007.

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 authorized by Section 26-21a-203 of the Mammography Quality Assurance Act. Currently, there are 40 mammography facilities licensed in the state. Without this rule, these facilities would not be regulated or licensed. The department agrees with the need to continue the rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Allan Elkins at the above address, by phone at 801-538-6595, by FAX at 801-538-6163, or by Internet E-mail at aelkins@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 10/04/2007

Housing Corporation (Utah),
Administration

R460-1

Authority and Purpose

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 30581
FILED: 10/15/2007, 14:14

**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: Title 9, Chapter 4, Part 9 (the Act) is the enabling legislation of the Utah Housing Corporation (UHC). Section 9-4-910 of the Act grants UHC the power to adopt, amend, and repeal rules. Section 9-4-911 of the Act states that UHC shall make rules governing the activities authorized by its enabling legislation.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: UHC has received no comments, either written or verbal, supporting or opposing the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is necessary to continue

this rule to provide the public with a clear statement of the rulemaking authority granted to UHC by statute, and to provide a written statement of the purpose for the UHC's rules.

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

HOUSING CORPORATION (UTAH)
ADMINISTRATION
2479 LAKE PARK BLVD
WEST VALLEY CITY UT 84120, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Grant S. Whitaker at the above address, by phone at 801-902-8200, by FAX at 801-902-8350, or by Internet E-mail at gwhitaker@uthc.org

AUTHORIZED BY: Grant S. Whitaker, Senior Vice President

EFFECTIVE: 10/15/2007

Housing Corporation (Utah),
Administration

R460-2

Definitions of Terms Used Throughout
R460

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 30588
FILED: 10/15/2007, 14:18

**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: Title 9, Chapter 4, Part 9 (the Act) is the enabling legislation of the Utah Housing Corporation (UHC). Section 9-4-910 of the Act grants UHC the power to adopt, amend, and repeal rules. Section 9-4-911 of the Act states that UHC shall make rules governing the activities authorized by its enabling legislation.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: UHC has received no comments, either written or verbal, supporting or opposing the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is necessary to continue this rule to provide the public with clear definitions of terms used in UHC's rules.

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

HOUSING CORPORATION (UTAH)
ADMINISTRATION
2479 LAKE PARK BLVD
WEST VALLEY CITY UT 84120, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Grant S. Whitaker at the above address, by phone at 801-902-8200, by FAX at 801-902-8350, or by Internet E-mail at gwhitaker@uthc.org

AUTHORIZED BY: Grant S. Whitaker, Senior Vice President

EFFECTIVE: 10/15/2007

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**Housing Corporation (Utah),
Administration
R460-3
Programs of UHC**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 30584
FILED: 10/15/2007, 14:16

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 9, Chapter 4, Part 9 (the Act) is the enabling legislation of the Utah Housing Corporation (UHC). Section 9-4-910 of the Act grants UHC the power to adopt, amend, and repeal rules. Section 9-4-911 of the Act states that UHC shall make rules governing the activities authorized by its enabling legislation.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: UHC has received no comments, either written or verbal, supporting or opposing the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is necessary to continue this rule to provide the public with program and participant requirements for the various programs of UHC.

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

HOUSING CORPORATION (UTAH)
ADMINISTRATION
2479 LAKE PARK BLVD
WEST VALLEY CITY UT 84120, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Grant S. Whitaker at the above address, by phone at 801-902-8200, by FAX at 801-902-8350, or by Internet E-mail at gwhitaker@uthc.org

AUTHORIZED BY: Grant S. Whitaker, Senior Vice President

EFFECTIVE: 10/15/2007

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**Housing Corporation (Utah),
Administration
R460-4
Additional Servicing Rules**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 30586
FILED: 10/15/2007, 14:17

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 9, Chapter 4, Part 9 (the Act) is the enabling legislation of the Utah Housing Corporation (UHC). Section 9-4-910 of the Act grants UHC the power to adopt, amend, and repeal rules. Section 9-4-911 of the Act states that UHC shall make rules governing the activities authorized by its enabling legislation.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: UHC has received no comments, either written or verbal, supporting or opposing the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is necessary to continue this rule to provide the public with UHC's rules regarding the transfer of mortgage loan servicing obligations.

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

HOUSING CORPORATION (UTAH)
ADMINISTRATION
2479 LAKE PARK BLVD
WEST VALLEY CITY UT 84120, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Grant S. Whitaker at the above address, by phone at 801-902-8200, by FAX at 801-902-8350, or by Internet E-mail at gwhitaker@uthc.org

AUTHORIZED BY: Grant S. Whitaker, Senior Vice President

EFFECTIVE: 10/15/2007

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**Housing Corporation (Utah),
Administration**

R460-5

**Termination of Eligibility to Participate in
Programs**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 30585
FILED: 10/15/2007, 14:17

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 9, Chapter 4, Part 9 (the Act) is the enabling legislation of the Utah Housing Corporation (UHC). Section 9-4-910 of the Act grants UHC the power to adopt, amend, and repeal rules. Section 9-4-911 of the Act states that UHC shall make rules governing the activities authorized by its enabling legislation.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: UHC has received no comments, either written or verbal, supporting or opposing the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is necessary to continue this rule to provide the public with UHC's rules regarding the termination of participant's eligibility under the various programs of UHC.

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

HOUSING CORPORATION (UTAH)
ADMINISTRATION
2479 LAKE PARK BLVD
WEST VALLEY CITY UT 84120, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Grant S. Whitaker at the above address, by phone at 801-902-8200, by FAX at 801-902-8350, or by Internet E-mail at gwhitaker@uthc.org

AUTHORIZED BY: Grant S. Whitaker, Senior Vice President

EFFECTIVE: 10/15/2007

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**Housing Corporation (Utah),
Administration**

R460-6

Adjudicative Proceedings

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 30583
FILED: 10/15/2007, 14:16

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 9, Chapter 4, Part 9 (the Act) is the enabling legislation of the Utah Housing Corporation (UHC). Section 9-4-910 of the Act grants UHC the power to adopt, amend, and repeal rules. Section 9-4-911 of the Act states that UHC shall make rules governing the activities authorized by its enabling legislation. Subsection 63-46b-1(6) (the Administrative Procedures Act) does not preclude an agency from enacting rules affecting or governing adjudicative proceedings.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: UHC has received no comments, either written or verbal, supporting or opposing the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is necessary to continue this rule to provide the public with a formal statement of UHC's adjudicative proceedings as required by state law.

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

HOUSING CORPORATION (UTAH)
ADMINISTRATION
2479 LAKE PARK BLVD
WEST VALLEY CITY UT 84120, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Grant S. Whitaker at the above address, by phone at 801-902-8200, by FAX at 801-902-8350, or by Internet E-mail at gwhitaker@uthc.org

AUTHORIZED BY: Grant S. Whitaker, Senior Vice President

EFFECTIVE: 10/15/2007

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Housing Corporation (Utah),
Administration
R460-7

Public Petition for Declaratory Orders

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 30582
FILED: 10/15/2007, 14:15

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 9, Chapter 4, Part 9 (the Act) is the enabling legislation of the Utah Housing Corporation (UHC). Section 9-4-910 of the Act grants UHC the power to adopt, amend, and repeal rules. Section 9-4-911 of the Act states that UHC shall make rules governing the activities authorized by its enabling legislation. Subsection 63-46b-21(2) (the Administrative Procedures Act) requires each agency to issue rules regarding declaratory orders.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: UHC has received no comments, either written or verbal, supporting or opposing the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is necessary to continue this rule to provide the public with a formal statement of UHC's procedures for obtaining declaratory orders as required by state law.

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

HOUSING CORPORATION (UTAH)
ADMINISTRATION
2479 LAKE PARK BLVD
WEST VALLEY CITY UT 84120, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Grant S. Whitaker at the above address, by phone at 801-902-8200, by FAX at 801-902-8350, or by Internet E-mail at gwhitaker@uthc.org

AUTHORIZED BY: Grant S. Whitaker, Senior Vice President

EFFECTIVE: 10/15/2007



Housing Corporation (Utah),
Administration
R460-8

Americans with Disabilities Act (ADA)
Complaint Procedures

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 30587
FILED: 10/15/2007, 14:17

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 9, Chapter 4, Part 9 (the Act) is the enabling legislation of the Utah Housing Corporation (UHC). Section 9-4-910 of the Act grants UHC the power to adopt, amend, and repeal rules. Section 9-4-911 of the Act states that UHC shall make rules governing the activities authorized by its enabling legislation.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: UHC has received no comments, either written or verbal, supporting or opposing the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is necessary to continue this rule to provide the public with a formal statement of UHC's procedures providing for prompt and equitable resolution of complaints filed according to Title II of the Americans With Disabilities Act.

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

HOUSING CORPORATION (UTAH)
ADMINISTRATION
2479 LAKE PARK BLVD
WEST VALLEY CITY UT 84120, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Grant S. Whitaker at the above address, by phone at 801-902-8200, by FAX at 801-902-8350, or by Internet E-mail at gwhitaker@uthc.org

AUTHORIZED BY: Grant S. Whitaker, Senior Vice President

EFFECTIVE: 10/15/2007



Natural Resources, Forestry, Fire and
State Lands
R652-121

Wildland Fire Suppression Fund

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 30523
FILED: 10/02/2007, 13:50

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule implements Article XVIII of the Utah Constitution and provides for administration of the Wildland Fire Suppression Fund under the authority of Section 65A-8-207.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule gives the division direction for the consistent administration of the Wildland Fire Suppression Fund and provides the counties with the requirements necessary for the use of the fund dollars for fire suppression. This rule is essential for the continued statutory application of the Wildland Fire Suppression Fund and the health of the Wildland Fire Program. Therefore, this rule should be continued.

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

NATURAL RESOURCES
FORESTRY, FIRE AND STATE LANDS
1594 W NORTH TEMPLE
SUITE 3520
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jennifer Wiglama at the above address, by phone at 801-538-5495, by FAX at 801-533-4111, or by Internet E-mail at jenniferwiglama@utah.gov

AUTHORIZED BY: Richard J Buehler, Interim Director

EFFECTIVE: 10/02/2007



Natural Resources, Wildlife Resources
R657-13
Taking Fish and Crayfish

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 30571
FILED: 10/11/2007, 07:08

**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: Under Sections 23-14-8 and 23-14-19, the Wildlife Board is authorized to provide standards and procedures for taking fish and crayfish.

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 Rule R657-13 were received since 09/20/2002, 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 R657-13 provides the procedures, standards, and requirements for taking fish and crayfish in the state of Utah. The provisions adopted in this rule are effective. Continuation of this rule is necessary for continued success for allowing anglers of Utah to take fish and to protect the resource.

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: 10/11/2007



Natural Resources, Wildlife Resources
R657-16
Aquaculture and Fish Stocking

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 30568
FILED: 10/09/2007, 18:53

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: Under Sections 23-15-9 and 23-15-10, the Wildlife Board is authorized to provide standards and procedures for institutional aquaculture, private fishponds, short-term fishing events, private fish stocking, and displaying aquaculture products or aquatic wildlife in aquaria.

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 Rule R657-16 were received since 09/20/2002, 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 R657-16 provides the procedures, standards, and requirements for: institutional aquaculture, private fish ponds, short-term fishing events, private fish stocking, and displaying aquaculture products or aquatic wildlife in aquaria. The provisions adopted in this rule are effective. Continuation of this rule is necessary for continued success for allowing institutional and private fish ponds, and short-term fishing events.

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: 10/09/2007



Natural Resources, Wildlife Resources
R657-52
Commercial Harvesting of Brine Shrimp
and Brine Shrimp Eggs

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 30569
FILED: 10/09/2007, 18:57

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: Under Sections 23-14-3, 23-14-18, and 23-14-19, the Wildlife Board is authorized and required to regulate and prescribe the means by which wildlife may be taken.

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 Rule R657-52 were received since 09/04/2002, when the rule was created.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-52 provides the procedures, standards, and requirements for commercially harvesting brine shrimp and brine shrimp eggs. The provisions adopted in this rule are effective. Continuation of this rule is necessary for continued success in protecting, conserving, and managing the brine shrimp resource.

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: 10/09/2007



Professional Practices Advisory
Commission, Administration
R686-104
Utah Professional Practices Advisory
Commission Denial of License Due to
Background Check Offenses

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 30551
FILED: 10/05/2007, 13:28

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-6-306(1) directs the Utah Professional Practices Advisory Commission to adopt rules to carry out its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The law continues to require this rule. This rule establishes procedures that are necessary for an applicant to proceed toward licensing when an application or recommendation for licensing identifies offenses in the applicant's criminal background check. Therefore, this rule should be continued.

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

PROFESSIONAL PRACTICES ADVISORY
COMMISSION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

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

EFFECTIVE: 10/05/2007



Public Safety, Driver License
R708-39
Physical and Mental Fitness Testing

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 30580
FILED: 10/15/2007, 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: As per Section 53-3-206, the Driver License Division is required through rulemaking to examine an applicant's physical and mental fitness; eyesight; ability to read and understand simple English used for highway signs; knowledge of the state traffic laws; and other physical and mental abilities the division finds necessary to determine the applicant's fitness to drive a motor vehicle safely on the highways. A doctor's statement may be required when deemed necessary by the division.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued so the division's responsibility as per Section 53-3-206 to make sure those who get a Utah driver license meet the mental and physical requirements necessary to drive a motor vehicle safely on highways and other roadways are met.

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

PUBLIC SAFETY
DRIVER LICENSE
CALVIN L RAMPTON COMPLEX
4501 S 2700 W 3RD FL
SALT LAKE CITY UT 84119-5595, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Vinn Roos at the above address, by phone at 801-965-4456, by FAX at 801-964-4482, or by Internet E-mail at vroos@utah.gov

AUTHORIZED BY: Nannette Rolfe, Director

EFFECTIVE: 10/15/2007



Public Safety, Highway Patrol
R714-110
Permit to Operate a Motor Vehicle in
Violation of Equipment Laws

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 30549
FILED: 10/05/2007, 12:09

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Section 41-6a-1602, which directs the department to prescribe conditions of operation that are necessary to protect the safety of highway users.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: There are certain circumstances where a vehicle owner does not have access to a noncritical equipment item which is necessary to pass a safety inspection. This rule allows our agency to permit these types of vehicles on public roadways on a temporary basis. Therefore, this rule should be continued.

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

PUBLIC SAFETY
HIGHWAY PATROL
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5994, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Joseph Vasquez at the above address, by phone at 801-965-4889, by FAX at 801-322-1817, or by Internet E-mail at jvasquez@utah.gov

AUTHORIZED BY: Lance Davenport, Superintendent

EFFECTIVE: 10/05/2007

◆ ————— ◆
**Public Safety, Highway Patrol
R714-210**

**Standards for Motor Vehicle Air
Conditioning Equipment**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR File No.: 30577
FILED: 10/12/2007, 12:27

**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: This rule is authorized by Subsection 53-1-106(1)(a) and Section 41-6a-1640, which

require that air conditioning equipment be manufactured, installed, and maintained with due regard for the safety of the occupants of a vehicle and the public.

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: With this rule, our department outlines the adoption of federal air conditioning standards which helps protect the occupants of a vehicle and the public. Therefore, this rule should be continued.

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

PUBLIC SAFETY
HIGHWAY PATROL
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5994, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Joseph Vasquez at the above address, by phone at 801-965-4889, by FAX at 801-322-1817, or by Internet E-mail at jvasquez@utah.gov

AUTHORIZED BY: Lance Davenport, Superintendent

EFFECTIVE: 10/12/2007



**Public Safety, Peace Officer Standards
and Training
R728-505**

Service Dog Program Rules

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR File No.: 30576
FILED: 10/12/2007, 12:27

**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: This rule is authorized by Subsection 53-6-105(1)(k) which gives the director of Peace Officer Standards and Training (POST) the authority to establish rules as set forth in this section.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no

written comments submitted to POST from anyone supporting or opposing 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 minimum standards required to train police officers and K-9 (dogs). The rule also sets standards and rules for attendees attending the class. The K-9 program continues at POST, and this rule is necessary to maintain the standard that is set forth in this rule. Therefore, this rule should be continued.

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

PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
410 W 9800 S
SANDY UT 84070, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Steve Winward at the above address, by phone at 801-256-2326, by FAX at 801-256-0600, or by Internet E-mail at swinward@utah.gov

AUTHORIZED BY: Scott T Duncan, Commissioner

EFFECTIVE: 10/12/2007



Regents (Board Of), University of Utah, Parking and Transportation Services

R810-1

University of Utah Parking Regulations

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 30544
FILED: 10/05/2007, 10:03

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 53B-3-103 and 53B-3-107 state that the board may enact regulations governing the conduct of university and college students, faculty, and employees. The board and institutions may enforce these rules and regulations in any reasonable manner, including the assessment of fees, fines, and forfeitures, the collection of which may be by withholding from moneys owed the violator, the imposition of probation, suspension, or expulsion from the institution, the revocation of privileges, the refusal to issue certificates, degrees, and diplomas, through judicial process or any reasonable combination of these alternatives. It is a violation of this section for any person to operate or park a vehicle upon any property owned or controlled by a state institution of higher

education contrary to posted signs authorized by the published rules and regulations of the institution or to block or impede traffic through or on any of these properties.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule defines parking areas, parking restrictions and parking responsibilities on the University campus. This rule allows the university to access fines and penalties for the conduct of faculty, staff, students, and visitors. The existence of this rule gives faculty, staff, students, and visitors due process. Therefore, this rule should be continued.

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

REGENTS (BOARD OF)
UNIVERSITY OF UTAH,
PARKING AND TRANSPORTATION SERVICES
Room 101
1910 E SOUTH CAMPUS DR
SALT LAKE CITY UT 84112-9350, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Patti Trulli Ibholt at the above address, by phone at 801-587-9883, by FAX at 801-581-5253, or by Internet E-mail at patti.trulli-ibholm@ucs.utah.edu

AUTHORIZED BY: Patti Trulli Ibholt, Associate Director

EFFECTIVE: 10/05/2007



Regents (Board Of), University of Utah, Parking and Transportation Services

R810-3

Visitor Parking

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 30545
FILED: 10/05/2007, 10:10

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 53B-3-103 and 53B-3-107 state that the board may enact regulations governing the conduct of university and college students, faculty, and employees. The board and institutions may enforce these rules and regulations in any reasonable

manner, including the assessment of fees, fines, and forfeitures, the collection of which may be by withholding from moneys owed the violator, the imposition of probation, suspension or expulsion from the institution, the revocation of privileges, the refusal to issue certificates, degrees and diplomas, through judicial process or any reasonable combination of these alternatives.

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: Parking at the University of Utah is by permit only for faculty, students, staff, and visitors. This rule covers the policies for visitor parking at the University of Utah. The rule allows the university to access fines and penalties for the conduct of faculty, staff, students, and visitors. The existence of the rule gives these individuals due process. Therefore, this rule should be continued.

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

REGENTS (BOARD OF)
UNIVERSITY OF UTAH,
PARKING AND TRANSPORTATION SERVICES
Room 101
1910 E SOUTH CAMPUS DR
SALT LAKE CITY UT 84112-9350, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Patti Trulli Ibholtm at the above address, by phone at 801-587-9883, by FAX at 801-581-5253, or by Internet E-mail at patti.trulli-ibholm@ucs.utah.edu

AUTHORIZED BY: Patti Trulli Ibholtm, Associate Director

EFFECTIVE: 10/05/2007



Regents (Board Of), University of Utah,
Parking and Transportation Services

R810-4

Registration Policies

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 30546
FILED: 10/05/2007, 10:14

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 53B-3-103 and

53B-3-107 state that the board may enact regulations governing the conduct of university and college students, faculty, and employees. The board and institutions may enforce these rules and regulations in any reasonable manner, including the assessment of fees, fines, and forfeitures, the collection of which may be by withholding from moneys owed the violator, the imposition of probation, suspension, or expulsion from the institution, the revocation of privileges, the refusal to issue certificates, degrees, and diplomas, through judicial process or any reasonable combination of these alternatives.

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: Parking at the University of Utah requires permits for staff, faculty, students, and visitors. This rule outlines registration requirements to obtain a permit. This rule allows us to access fines and penalties for the conduct of faculty, staff, students, and visitors. The existence of the rule gives these individuals due process. Therefore, this rule should be continued.

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

REGENTS (BOARD OF)
UNIVERSITY OF UTAH,
PARKING AND TRANSPORTATION SERVICES
Room 101

1910 E SOUTH CAMPUS DR
SALT LAKE CITY UT 84112-9350, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Patti Trulli Ibholtm at the above address, by phone at 801-587-9883, by FAX at 801-581-5253, or by Internet E-mail at patti.trulli-ibholm@ucs.utah.edu

AUTHORIZED BY: Patti Trulli Ibholtm, Associate Director

EFFECTIVE: 10/05/2007



Regents (Board Of), University of Utah,
Parking and Transportation Services

R810-7

Nonresidents and Out-of-State Plates

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 30547
FILED: 10/05/2007, 10:18

**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: Sections 53B-3-103 and 53B-3-107 state that the board may enact regulations governing the conduct of university and college students, faculty, and employees. The board and institutions may enforce these rules and regulations in any reasonable manner, including the assessment of fees, fines, and forfeitures, the collection of which may be by withholding from moneys owed the violator, the imposition of probation, suspension, or expulsion from the institution, the revocation of privileges, the refusal to issue certificates, degrees, and diplomas, through judicial process or any reasonable combination of these alternatives.

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: University of Utah requires parking permits for staff, faculty, students, and visitors. This rule covers requirements for registration of vehicles from out of state. This rule allows us to access fines and penalties for the conduct of faculty, staff, students, and visitors. The existence of the rule gives these individuals due process. Therefore, this rule should be continued.

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

REGENTS (BOARD OF)
UNIVERSITY OF UTAH,
PARKING AND TRANSPORTATION SERVICES
Room 101
1910 E SOUTH CAMPUS DR
SALT LAKE CITY UT 84112-9350, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Patti Trulli Ibholt at the above address, by phone at 801-587-9883, by FAX at 801-581-5253, or by Internet E-mail at patti.trulli-ibholm@ucs.utah.edu

AUTHORIZED BY: Patti Trulli Ibholt, Associate Director

EFFECTIVE: 10/05/2007



Regents (Board Of), University of Utah,
Parking and Transportation Services
R810-8
Vendor Regulations

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 30548
FILED: 10/05/2007, 10:21

**NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 53B-3-103 and 53B-3-107 state that the board may enact regulations governing the conduct of university and college students, faculty, and employees. The board and institutions may enforce these rules and regulations in any reasonable manner, including the assessment of fees, fines, and forfeitures, the collection of which may be by withholding from moneys owed the violator, the imposition of probation, suspension, or expulsion from the institution, the revocation of privileges, the refusal to issue certificates, degrees, and diplomas, through judicial process or any reasonable combination of these alternatives.

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: University of Utah requires parking permits for staff, faculty, students, and visitors. This rule covers requirements for vendor parking. This rule allows us to access fines and penalties for the conduct of faculty, staff, students, and visitors. The existence of the rule gives these individuals due process. Therefore, this rule should be continued.

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

REGENTS (BOARD OF)
UNIVERSITY OF UTAH,
PARKING AND TRANSPORTATION SERVICES
Room 101
1910 E SOUTH CAMPUS DR
SALT LAKE CITY UT 84112-9350, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Patti Trulli Ibholt at the above address, by phone at 801-587-9883, by FAX at 801-581-5253, or by Internet E-mail at patti.trulli-ibholm@ucs.utah.edu

AUTHORIZED BY: Patti Trulli Ibholt, Associate Director

EFFECTIVE: 10/05/2007



NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. Statute permits an agency to make a rule effective "on any date specified by the agency that is no fewer than seven calendar days after the close of the public comment period . . . , nor more than 120 days after the publication date." Subsection 63-46a-4(9).

Abbreviations

AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Education

Administration

No. 30330 (AMD): R277-437. Student Enrollment Options.
Published: September 1, 2007
Effective: October 10, 2007

No. 30331 (AMD): R277-477-3. Distribution of Funds - Determination of Proportionate Share.
Published: September 1, 2007
Effective: October 10, 2007

No. 30332 (R&R): R277-607. Truancy Prevention.
Published: September 1, 2007
Effective: October 10, 2007

Environmental Quality

Radiation Control

No. 30298 (AMD): R313-15. Standards for Protection Against Radiation.
Published: September 1, 2007
Effective: October 19, 2007

No. 30302 (AMD): R313-19-100. Transportation.
Published: September 1, 2007
Effective: October 8, 2007

No. 30297 (AMD): R313-22. Specific Licenses.
Published: September 1, 2007
Effective: October 19, 2007

Health

Health Care Financing, Coverage and Reimbursement Policy

No. 29535 (NEW): R414-70. Medical Supplies, Durable Medical Equipment, and Prosthetic Devices.
Published: March 15, 2007
Effective: October 10, 2007

No. 29535 (CPR): R414-70. Medical Supplies, Durable Medical Equipment, and Prosthetic Devices.
Published: June 15, 2007
Effective: October 10, 2007

Insurance

Administration

No. 29875 (AMD): R590-152. Medical Discount Program Rule.
Published: May 15, 2007
Effective: October 9, 2007

No. 29875 (CPR): R590-152. Health Discount Programs and Value Added Benefit Rule.
Published: August 15, 2007
Effective: October 9, 2007

Labor Commission

Industrial Accidents

No. 30334 (AMD): R612-2-5. Regulation of Medical Practitioner Fees.
Published: September 1, 2007
Effective: October 9, 2007

Natural Resources

Water Rights

No. 30246 (NEW): R655-15. Administrative Procedures for Distribution Systems and Water Commissioners.
Published: August 15, 2007
Effective: October 5, 2007

Pardons (Board Of)

Administration

No. 30321 (AMD): R671-202. Notification of Hearings.
Published: September 1, 2007
Effective: October 10, 2007

No. 30322 (AMD): R671-520. Treatment of Confidential Testimony.
Published: September 1, 2007
Effective: October 10, 2007

No. 30326 (AMD): R671-522-1. Continuance Due to Pending Criminal Charges.
Published: September 1, 2007
Effective: October 10, 2007

Public Safety

Fire Marshal

No. 30314 (AMD): R710-6. Liquefied Petroleum Gas Rules.

Published: September 1, 2007

Effective: October 9, 2007

School and Institutional Trust Lands

Administration

No. 30323 (AMD): R850-30. Special Use Leases.

Published: September 1, 2007

Effective: October 9, 2007

No. 30324 (AMD): R850-80. Sale of Trust Lands.

Published: September 1, 2007

Effective: October 9, 2007

Tax Commission

Auditing

No. 30328 (AMD): R865-12L-9. Determination of Point of Sale or Use for Sellers and Purchasers Who Make Sales or Purchases From a Location Other Than a Fixed Place of Business in Utah Pursuant to Utah Code Ann. Section 59-12-207.

Published: September 1, 2007

Effective: October 12, 2007

Motor Vehicle Enforcement

No. 30327 (AMD): R877-23V-7. Misleading Advertising Pursuant to Utah Code Ann. Section 41-3-210.

Published: September 1, 2007

Effective: October 12, 2007

Property Tax

No. 30329 (AMD): R884-24P-33. 2007 Personal Property Valuation Guides and Schedules Pursuant to Utah Code Ann. Section 59-2-301.

Published: September 1, 2007

Effective: October 12, 2007

End of the Notices of Rule Effective Dates Section

**RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)**

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2007, including notices of effective date received through October 15, 2007, the effective dates of which are no later than November 1, 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: Due to space constraints, the Keyword (subject) index is not included in this Bulletin.

DAR NOTE: The index may contain inaccurate page number references. Also the index is incomplete in the sense that index entries for Changes in Proposed Rules (CPRs) are not preceded by entries for their parent Proposed Rules. Bulletin issue information and effective date information presented in the index are, to the best of our knowledge, complete and accurate. If you have any questions regarding the index and the information it contains, please contact Nancy Lancaster (801 538-3218), Mike Broschinsky (801 538-3003), or Kenneth A. Hansen (801 538-3777).

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

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R13-2	Access to Records	29771	5YR	04/02/2007	2007-8/119
R13-2	Access to Records	29772	AMD	05/22/2007	2007-8/3
<u>Administrative Rules</u>					
R15-3-5	Statutory Provisions that Require Rulemaking Pursuant to Subsection 63-46a-4(11)	29554	AMD	04/30/2007	2007-6/5
R15-4-10	Estimates of Anticipated Cost or Savings, and Compliance Cost	30111	EMR	07/01/2007	2007-14/38
R15-4-10	Estimates of Anticipated Cost or Savings, and Compliance Costs	30112	AMD	08/24/2007	2007-14/3
<u>Debt Collection</u>					
R21-1	Transfer of Collection Responsibility of State Agencies	30374	5YR	08/29/2007	2007-18/70

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R21-1	Transfer of Collection Responsibility of State Agencies (5YR EXTENSION)	29917	NSC	08/29/2007	Not Printed
R21-2	Office of State Debt Collection Administrative Procedures (5YR EXTENSION)	29918	NSC	08/29/2007	Not Printed
R21-2	Office of State Debt Collection Administrative Procedures	30375	5YR	08/29/2007	2007-18/71
R21-3	Debt Collection Through Administrative Offset (5YR EXTENSION)	29919	NSC	08/29/2007	Not Printed
R21-3	Debt Collection Through Administrative Offset	30376	5YR	08/29/2007	2007-18/71
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R23-1	Procurement of Construction	29965	5YR	05/24/2007	2007-12/59
R23-12	Building Code Appeals Process	30525	5YR	10/03/2007	2007-21/79
R23-19	Facility Use Rules	29964	5YR	05/24/2007	2007-12/59
R23-19	Facility Use Rule	29812	R&R	06/07/2007	2007-9/3
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R27-5	Fleet Tracking	29457	5YR	01/29/2007	2007-4/54
R27-6	Fuel Dispensing Program	29515	5YR	02/14/2007	2007-5/19
R27-8	State Vehicle Maintenance Program	29534	5YR	02/21/2007	2007-6/36
R27-10	Identification Mark for State Motor Vehicles	29939	5YR	05/14/2007	2007-11/84
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R28-7	Surplus Property Rate Schedule	29946	5YR	05/15/2007	2007-11/84
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R35-2-2	Declining Requests for Hearings	29081	AMD	01/05/2007	2006-20/2
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R37-2	Risk Management State Workers' Compensation Insurance Administration	30047	5YR	06/08/2007	2007-13/140
R37-3	Risk Management Adjudicative Proceedings	30048	5YR	06/08/2007	2007-13/141
R37-4	Adjusted Utah Governmental Immunity Act Limitations on Judgment	30565	5YR	10/09/2007	2007-21/79
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R51-2	Administration Procedures for Informal Proceedings Before the Utah Department of Agriculture and Food	29405	5YR	01/11/2007	2007-3/56
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R58-1	Admission and Inspection of Livestock, Poultry, and Other Animals	29912	AMD	08/07/2007	2007-11/4
R58-6	Poultry	29504	5YR	02/08/2007	2007-5/20

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R58-8	Testing and Vaccination of Bovine Livestock for Brucellosis Control	30041	5YR	06/07/2007	2007-13/142
R58-8	Testing and Vaccination of Bovine Livestock for Brucellosis Control	30045	REP	08/07/2007	2007-13/3
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R58-19	Compliance Procedures	30439	5YR	09/12/2007	2007-19/45
R58-22	Equine Infectious Anemia (EIA)	29503	5YR	02/08/2007	2007-5/21
R58-23	Equine Viral Arteritis (EVA)	29342	NEW	02/28/2007	2007-1/5
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<u>Plant Industry</u>					
R68-15	Quarantine Pertaining to Japanese Beetle, (Popillia Japonica)	30475	5YR	09/20/2007	2007-20/65
R68-19	Compliance Procedures	29453	5YR	01/29/2007	2007-4/55
R68-20	Utah Organic Standards	29347	AMD	02/28/2007	2007-1/6
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R70-330	Raw Milk for Retail	30100	AMD	08/07/2007	2007-13/3
R70-350	Ice Cream and Frozen Dairy Foods Standards	29499	5YR	02/05/2007	2007-5/22
R70-360	Procedure for Obtaining a License to Test Milk for Payment	29500	5YR	02/05/2007	2007-5/23
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R70-560	Inspection and Regulation of Cottage Food Production Operations	30062	NEW	08/07/2007	2007-13/7
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<u>Administration</u>					
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R81-1-3	General Policies	30168	NSC	07/30/2007	Not Printed
R81-1-6	Violation Schedule	29439	AMD	03/30/2007	2007-4/4
R81-1-6	Violation Schedule	30166	AMD	08/27/2007	2007-14/4
R81-1-21	Beer Advertising in Event Venues	30169	NSC	07/30/2007	Not Printed
R81-1-25	Sexually-Oriented Entertainers and Stage Approvals	29898	AMD	06/29/2007	2007-10/8
R81-1-26	Criminal History Background Checks	29440	AMD	03/30/2007	2007-4/6
R81-4D-1	Licensing	30167	NSC	07/30/2007	Not Printed
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R105-2	Records Access and Management	30037	5YR	06/05/2007	2007-13/142
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R123-3	State Auditor Adjudicative Proceedings	30616	5YR	10/24/2007	Not Printed
R123-4	Public Petitions for Declaratory Orders	30617	5YR	10/24/2007	Not Printed
R123-5	Audit Requirements for Audits of Political Subdivisions and Nonprofit Organizations.	30623	5YR	10/26/2007	Not Printed

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R151-2	Government Records Access and Management Act Rules	29524	5YR	02/15/2007	2007-5/23
R151-3	Americans With Disabilities Act Rules	29903	5YR	05/01/2007	2007-10/105
R151-33	Pete Suazo Utah Athletic Commission Act Rule	29927	5YR	05/10/2007	2007-11/85
R151-33	Pete Suazo Utah Athletic Commission Act Rule	30164	NSC	07/05/2007	Not Printed
R151-35	Powersport Vehicle Franchise Act Rule	30195	5YR	07/13/2007	2007-15/61
<u>Consumer Protection</u>					
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R152-11	Utah Consumer Sales Practices Act	29470	5YR	02/01/2007	2007-4/55
R152-15	Business Opportunity Disclosure Act Rules	30119	5YR	06/22/2007	2007-14/42
R152-20	New Motor Vehicle Warranties	29862	5YR	04/26/2007	2007-10/105
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R152-22	Charitable Solicitations Act	29427	AMD	04/02/2007	2007-4/8
R152-22	Charitable Solicitations Act	30120	5YR	06/22/2007	2007-14/43
R152-23	Utah Health Spa Services	29238	AMD	01/23/2007	2006-24/3
R152-23	Utah Health Spa Services	30121	5YR	06/22/2007	2007-14/43
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R152-26	Telephone Fraud Prevention Act	29594	5YR	03/05/2007	2007-7/149
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R152-34	Postsecondary Proprietary School Act Rules	30101	5YR	06/15/2007	2007-13/142
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R156-9-302a	Qualifications for Licensure - Examination Requirements	29391	AMD	03/13/2007	2007-3/6
R156-11a	Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act Rules	29013	CPR	01/11/2007	2006-23/87
R156-11a	Cosmetologist/Barber, Esthetician, Electrologist and Nail Technician Licensing Act Rules	29013	AMD	01/11/2007	2006-19/5
R156-11a	Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act Rules	29432	AMD	03/27/2007	2007-4/9
R156-11a	Cosmetologist/Barber, Esthetician, Electrologist and Nail Technician Licensing Act Rule	29810	5YR	04/12/2007	2007-9/33
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R156-17b	Pharmacy Practice Act Rules	29770	AMD	05/24/2007	2007-8/8
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R156-26a	Certified Public Accountant Licensing Act Rules	29473	5YR	02/01/2007	2007-4/56
R156-26a-302b	Qualifications for Licensure - Experience Requirements	30365	NSC	09/13/2007	Not Printed
R156-28	Veterinary Practice Act Rules	29472	5YR	02/01/2007	2007-4/57
R156-31b	Nurse Practice Act Rules	30248	AMD	09/25/2007	2007-16/4
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R156-41	Speech-Language Pathology and Audiology Licensing Act Rules	29471	5YR	02/01/2007	2007-4/57
R156-42a	Occupational Therapy Practice Act Rules	29356	AMD	02/22/2007	2007-2/11
R156-54	Radiology Technologist and Radiology Practical Technician Licensing Act Rules	29396	5YR	01/09/2007	2007-3/56
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R156-56	Utah Uniform Building Standard Act Rules	29357	NSC	01/01/2007	Not Printed
R156-56	Utah Uniform Building Standard Act Rules	29393	AMD	03/13/2007	2007-3/7
R156-56	Utah Uniform Building Standard Act Rules	29745	5YR	03/29/2007	2007-8/119
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R156-56	Utah Uniform Building Standard Act Rules	29866	AMD	07/01/2007	2007-10/10
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R156-60d	Substance Abuse Counselor Act Rules	30369	AMD	10/29/2007	2007-18/12
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R156-75	Genetic Counselor Licensing Act Rules	29397	5YR	01/09/2007	2007-3/58
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R162-2	Exam and License Application Requirements	29831	5YR	04/18/2007	2007-10/107
R162-3	License Status Changes	29833	5YR	04/18/2007	2007-10/108
R162-3-5	Activation	30162	AMD	10/18/2007	2007-14/20
R162-3-6	Renewal and Reinstatement	29736	AMD	05/30/2007	2007-8/20
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R994-401	Payment of Benefits	29959	5YR	05/17/2007	2007-12/70
R994-402	Extended Benefits	29958	5YR	05/17/2007	2007-12/70
R994-403	Claim for Benefits	30141	5YR	06/26/2007	2007-14/60
R994-404	Payments Following Workers' Compensation	29962	5YR	05/22/2007	2007-12/71
R994-405	Ineligibility for Benefits	30142	5YR	06/26/2007	2007-14/61
R994-405	Ineligibility for Benefits	29855	AMD	08/08/2007	2007-10/88
R994-405-3	Professional Employment Organizations (PEO)	30104	AMD	08/08/2007	2007-13/135
R994-406	Fraud, Fault and Nonfault Overpayments	29963	5YR	05/22/2007	2007-12/71
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