

# UTAH STATE BULLETIN

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

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

Division of Administrative Rules, Salt Lake City 84114

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## NOTICES OF PROPOSED RULES

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A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between February 2, 2008, 12:00 a.m., and February 15, 2008, 11:59 p.m. are included in this, the March 1, 2008, 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 Rules being repealed are completely struck out.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 March 31, 2008. 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 June 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.

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

**Administrative Services, Finance**  
**R25-14**  
**Payment of Attorneys Fees in Death  
 Penalty Cases**

**NOTICE OF PROPOSED RULE**

(Amendment)  
 DAR FILE NO.: 31011  
 FILED: 02/15/2008, 16:55

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The amendment to this rule will adjust the rates at which attorneys in death penalty cases are compensated.

**SUMMARY OF THE RULE OR CHANGE:** Maximum rate for attorney fees is \$100 per billable hour not to exceed \$60,000. Payments for individual benchmarks in legal process have been removed in favor of a straight hourly compensation. In addition to attorney fees, the Division of Finance shall increase compensation for reasonable and necessary litigation expenses from \$20,000 to \$25,000. Court must approve any overages of these fees as necessary.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 78-35a-202

**ANTICIPATED COST OR SAVINGS TO:**

- ❖ **THE STATE BUDGET:** Cost to the state budget is dependent upon the number of death penalty cases in the system. This amendment removes benchmark payments in favor of an hourly compensation with additional funds available for reasonable litigation expenses. With this method of payment, moderately higher costs are likely to be incurred.
- ❖ **LOCAL GOVERNMENTS:** This rule does not affect local government because local government does not compensate attorneys in death penalty cases.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** This rule may increase profit for small law firms with attorneys representing clients in death penalty cases. The exact increase is impossible to predict because the number of attorneys from small law firms who will be involved in these post-conviction cases is unknown.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** No associated compliance costs because this amendment does not require further action on the part of any person. It simply changes the rate at which attorneys are compensated.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The amendment to the rule will have no net cost to businesses; however, attorneys who serve as counsel in post-conviction cases will see a possible increase in payment from the state. Kimberly Hood, Executive Director

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

ADMINISTRATIVE SERVICES  
 FINANCE  
 Room 2110 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:

Marilee Richins at the above address, by phone at 801-538-3450, by FAX at 801-538-3244, or by Internet E-mail at MPRICHINS@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 03/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2008

AUTHORIZED BY: John Reidhead, Director

**R25. Administrative Services, Finance.**

**R25-14. Payment of Attorneys Fees in Death Penalty Cases.**

**R25-14-1. Authority and Purpose.**

- (1) This rule is implemented pursuant to Section 78-35a-202.
- (2) The purpose of the rule is to establish the procedures and ~~maximum~~ compensation amounts to be paid for attorneys' fees and litigation expenses by the Division of Finance to legal counsel appointed by district courts to represent indigent persons sentenced to death who request representation to file an action under Title 78, Chapter 35a, Post-Conviction Remedies Act.

(3) All payments under this rule are subject to the availability of funds appropriated by the Utah State Legislature for the purpose of making these payments.

(4) This rule applies to fees and expenses incurred on and following the effective date of this rule.

**R25-14-2. Request for Payment.**

~~[In order to]~~ To obtain payment for attorney[s]' fees and litigation expenses, counsel appointed by a district court, pursuant to Section 78-35a-202(2)(c), shall:

(1) [p]Present to the Division of Finance a certified copy of the district court order of appointment of legal counsel before or at the time the first request for payment is submitted.

(2) Obtain the court's review and written approval certifying that the fees and expenses were both reasonable and necessary for the presentation of the client's claims.

(3) Submit the court's written approval and a request for payment to the Division of Finance. The request for payment must be signed by the appointed counsel [and a signed Request for Payment] verifying the work has been performed as provided in Section R25-14-4 or R25-14-5 [pursuant to the schedule of payments set forth in that section]. The request for payment must be sufficiently itemized to describe the services performed and such other information as may be reasonably required by the Division of



Finance to properly review, evaluate, and process the payment. Original invoices must be submitted for all litigation expenses for which payment is requested. Before making payment, the Division of Finance reserves the right to request additional supporting documentation or to adjust any item of a request for payment when such item conflicts with a rate established in this rule.

#### **R25-14-3. Scope of Services.**

(1) All appointed counsel, by accepting the court appointment to represent an indigent client sentenced to death and by presenting a [R]request for [P]payment to the Division of Finance, agree to provide all reasonable and necessary post-conviction legal services for the client, including the timely filing of an action under the provisions of Title 78, Chapter 35a, Post-Conviction Remedies Act and representing the client in all legal proceedings conducted thereafter including, if requested by the client, an appeal to the Utah Supreme Court.

(2) All appointed counsel agree to accept as full compensation for the legal services performed and litigation costs incurred, the amounts provided in [the Schedule of Payments of Attorneys Fees found in] Section R25-14-4 and R25-14-5.

#### **R25-14-4. Schedule of Payments of Attorneys Fees.**

(1) Attorney fees for appointed counsel shall be paid up to a maximum rate of \$100 per billable hour not to exceed \$60,000 except as provided in subsection (2).

(2) The Division of Finance may pay amounts exceeding the \$60,000 amount allowed by subsection (1) if:

(a) appointed counsel files a request with the court for fees that exceed \$60,000;

(b) appointed counsel serves the request upon the Division of Finance before or on the date of filing the request with the court;

(c) the Division of Finance is allowed to respond to the request; and

(d) the court determines there is sufficient cause to exceed the \$60,000 amount.

(3) The maximum rate of \$100 per billable hour shall include general office overhead, clerical services or other expenses and costs, unless separately billable under R25-14-5. [All counsel appointed to jointly represent a single client shall be paid, in the aggregate, according to the following schedule of payments upon certification to the Division of Finance that the specified legal service was performed or the specified events have occurred:

(1) \$5,000.00 upon appointment by the district court and presentation of a signed Request for Payment to the Division of Finance.

(2) \$5,000.00 upon timely filing a petition for post-conviction relief.

(3) \$10,000.00 after all discovery has been completed, all prehearing motions have been ruled upon, and a date for an evidentiary hearing has been set.

(4) If an evidentiary hearing is required, \$5,000.00 on the date the first witness is sworn.

(5) \$7,500.00 if an appeal is filed from a final order of the district court. \$5,000.00 of the total shall be paid when the brief on behalf of the indigent person is filed and \$2,500.00 when the Utah Supreme Court finally remits the case to the district court.

(6) An additional fee of \$100 per hour, but in no event to exceed \$5,000.00 in the aggregate, shall be paid if:

(a) counsel satisfy the requirements of Rule 4-505, Utah Code of Judicial Administration; and

(b) the district court finds:

(i) that the appointed counsel provided extraordinary legal services that were not reasonably foreseeable at the time of accepting the appointment, such as responding to or filing a petition for interlocutory appeal, and

(ii) the services were both reasonable and necessary for the presentation of the client's claims.

(c) These additional fees shall be paid upon approval by the district court and compliance with the provisions of this rule.]

#### **R25-14-5. Payment of Reasonable Litigation Expenses.**

(1) The Division of Finance shall pay reasonable and necessary litigation expenses not to exceed a total of \$25[0],000.00 in any one case, except as provided in subsection (2), for the following:

(a) Investigator fees, other than mitigation specialist fees, not to exceed \$60 per hour plus reasonable expenses including travel costs;

(b) Mitigation specialist fees not to exceed \$75 per hour plus reasonable expenses including travel costs;

(c) Transcription fees;

(d) Witness costs;

(e) Expert witness fees;

(f) Fees for mental and physical examinations and costs associated therewith;

(g) Costs for voluminous copying by an outside provider;

(h) Mailing costs;

(i) Travel costs of the appointed counsel.

(2) The Division of Finance may pay amounts exceeding the \$25,000 amount allowed by subsection (1) if:

(a) appointed counsel files a request with the court for expenses that exceed \$25,000;

(b) appointed counsel serves the request upon the Division of Finance before or on the date of filing the request with the court;

(c) the Division of Finance is allowed to respond to the request; and

(d) the court determines there is sufficient cause to exceed the \$25,000 amount.

(3) The Division of Finance may pay amounts exceeding the maximum hourly rates allowed by subsection (1) if:

(a) before services are performed, appointed counsel files a request with the court to exceed the maximum hourly rates;

(b) appointed counsel serves the request upon the Division of Finance before or on the date of filing the request with the court;

(c) the Division of Finance is allowed to respond to the request; and

(d) the court determines there is sufficient cause to exceed the maximum rates.

(4) Travel costs, including mileage, per diem for meals, and lodging will be reimbursed based on state rates and criteria published in rule or policy by the Division of Finance. Travel is not considered necessary when the purpose of the trip can reasonably be accomplished in another way, such as by telephone or correspondence.

(5) Costs for time spent creating billing and expense reports, petitions for exemptions or revisions to this rule, and other expenses not directly related to the petitioner's claims are not allowable. [for court approved investigators, expert witnesses, and consultants. Before payment is made for litigation expenses, the appointed counsel must submit a request for payment to the Division of Finance including:

~~— (1) a detailed invoice of all expenses for which payment is requested; and~~  
~~— (2) written approval of the district court certifying that the expenses were both reasonable and necessary for the presentation of the client's claims.]~~

**KEY: attorneys, fees, capital punishment, post-conviction[<sup>§</sup>]**  
**Date of Enactment or Last Substantive Amendment: [January 22, 2004] April 7, 2008**  
**Notice of Continuation: January 17, 2007**  
**Authorizing, and Implemented or Interpreted Law: 78-35a-202**

◆ ————— ◆

## Agriculture and Food, Plant Industry

# R68-17

### Quarantine Pertaining to Necrotic Strain of the Potato Virus Y

**NOTICE OF PROPOSED RULE**  
 (Repeal)  
 DAR FILE No.: 31009  
 FILED: 02/15/2008, 16:01

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The quarantine outlined in Rule R68-17 is no longer applicable to the distribution or management of these pathogens.

**SUMMARY OF THE RULE OR CHANGE:** No seed potatoes are grown in Utah. The Federal Memorandum of Understanding covers the seed production of potatoes if the potatoes seed production were to return to Utah. This rule is repealed in its entirety.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 4-2-2(1)(k)

**ANTICIPATED COST OR SAVINGS TO:**

- ❖ **THE STATE BUDGET:** There are no costs to the state associated with repealing this rule because there is no more seed potato production in Utah.
- ❖ **LOCAL GOVERNMENTS:** There are no costs to local government associated with repealing this rule because there is no more seed potato production in Utah.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** There are no costs to the small businesses associated with repealing this rule because there is no more seed potato production in Utah.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There is no costs to individuals associated with repealing this rule because there is no seed potato production in Utah.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This virus only affects seed potatoes. The Department of Agriculture and Food employees have inspected seed potatoes for Necrotic Strain

of the Potato Virus Y, but because Utah farmers no longer grow seed potatoes for other states, there is no need for this quarantine. Leonard M. Blackham, Commissioner

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

AGRICULTURE AND FOOD  
 PLANT INDUSTRY  
 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 or Clair Allen at the above address, by phone at 801-538-7103 or 801-538-7180, by FAX at 801-538-7126 or 801-538-7189, or by Internet E-mail at kmathews@utah.gov or ClairAllen@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 03/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2008

AUTHORIZED BY: Leonard M. Blackham, Commissioner

#### **R68. Agriculture and Food, Plant Industry.**

~~**[R68-17. Quarantine Pertaining to Necrotic Strain of the Potato Virus Y.**~~

##### ~~**R68-17-1. Authority.**~~

- ~~— A. Promulgated under authority of Subsection 4-2-2(1)(k).~~
- ~~— B. Refer to the Notice of Quarantine, Necrotic Strain of the Potato Virus Y, effective April 15, 1993, issued by Utah Department of Agriculture and Food.~~

##### ~~**R68-17-2. Disease.**~~

~~— Necrotic Strain of the Potato Virus Y, a virus disease of many plant species, mostly in the family Solanaceae.~~

##### ~~**R68-17-3. Areas Under Quarantine.**~~

- ~~— A. The Canadian provinces listed below are hereby considered regulated areas due to the confirmed presence of the Necrotic Strain of the Potato Virus Y:~~
  - ~~— 1. New Brunswick~~
  - ~~— 2. Nova Scotia~~
  - ~~— 3. Ontario~~
  - ~~— 4. Prince Edward Island~~
  - ~~— 5. Quebec~~
- ~~— B. Any areas not mentioned above and subsequently found to be infested.~~

##### ~~**R68-17-4. Articles and Commodities Under Quarantine.**~~

- ~~— The following are hereby declared to be regulated articles, hosts and possible carriers of the Necrotic Strain of the Potato Virus Y:~~
  - ~~— A. Potatoes for propagation.~~
  - ~~— B. Plants of the family Solanaceae.~~
  - ~~— C. Any other plant, plant part, article, or means of conveyance when it is determined by the Commissioner of the Department of Agriculture and Food or the Commissioner's duly authorized agent to~~

~~present a hazard of introducing the Necrotic Strain of the Potato Virus Y into the State of Utah.~~

**~~R68-17-5. Restrictions.~~**

~~— All articles and commodities under quarantine are prohibited entry into Utah from an area under quarantine.~~

**~~R68-17-6. Exemptions.~~**

~~— Table stock and processing potatoes from quarantined areas may be shipped to Utah, provided they are treated with a sprout inhibitor registered for use in the State of Utah.~~

**~~R68-17-7. Disposition of Violations.~~**

~~— Any or all potato fields planted with seed potatoes from quarantined areas and any or all shipments of lots of quarantined articles or commodities listed in R68-17-4, arriving in Utah in violation of this quarantine shall immediately be sent out of the state, destroyed, or treated by a method in a manner as directed by the Commissioner of the Utah Department of Agriculture and Food or his duly authorized agent. Treatment shall be performed at the expense of the owner, or owners, or their duly authorized agent.~~

**KEY:** quarantine

**Date of Enactment or Last Substantive Amendment:** 1994

**Notice of Continuation:** June 13, 2003

**Authorizing, and Implemented or Interpreted Law:** 4-2-2(1)(i); 4-2-2(1)(ii)]



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

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 30953

FILED: 02/06/2008, 13:36

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The division and the Barber, Cosmetology/Barbering, Esthetics, Electrology and Nail Technology Licensing Board are proposing amendments to the rule to change the required licensing examinations for all license classifications governed by this rule from state theory and practical examinations to the National Interstate Council of State Board of Cosmetology (NIC) theory and practical examinations.

SUMMARY OF THE RULE OR CHANGE: In Subsection R156-11a-102(24), the definition for UCBI (Utah Cosmetologist/Barber Instructor Licensing) Examination is being deleted as it is no longer necessary with the change in required examinations.

In Section R156-11a-302a, changes are made throughout this section with respect to all license classifications to require the respective NIC theory and practical examinations. Additions are also made with respect to equivalent examinations approved by other state licensing authorities and transition provisions regarding prior examinations taken by applicants for licensure.

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The division will incur minimal costs of approximately \$150 to reprint the rule once the proposed changes are made effective. Any costs incurred will be absorbed in the division's current budget.

❖ LOCAL GOVERNMENTS: The proposed amendments do not apply to local governments; therefore, no costs or savings are anticipated. The proposed amendments only apply to applicants for licensure as a barber, cosmetologist/barber, esthetician, electrologist, or nail technician.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The proposed amendments do not apply to small businesses.

The proposed amendments only apply to applicants for licensure as a barber, cosmetologist/barber, esthetician, electrologist, or nail technician. Due to the change from a state examination to a national examination, the division has determined each applicant for licensure in the classifications identified above will see an increase of approximately \$22 per applicant. The division estimates this increase will affect about 5,000 applicants per year in the various license classifications for an aggregate increased cost of \$110,000.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to applicants for licensure as a barber, cosmetologist/barber, esthetician, electrologist, or nail technician. Due to the change from a state examination to a national examination, the Division has determined each applicant for licensure in the classifications identified above will see an increase of approximately \$22 per applicant.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Daniel T. Jones at the above address, by phone at 801-530-6767, by FAX at 801-530-6511, or by Internet E-mail at dantjones@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/31/2008

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 3/03/2008 at 9:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2008

AUTHORIZED BY: F. David Stanley, Director

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

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

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

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

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

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

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

(3) "BCA acid" means bicloroacetic acid.

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

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

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

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

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

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

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

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

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

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

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

(10) "Extraction" means the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(22) "TCA acid" means trichloroacetic acid.

(23) "Unprofessional conduct" is further defined, in accordance with Section 58-1-501, in Section R156-11a-502.

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

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

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

~~(1) [A single examination is adopted for instructors of all disciplines addressed in this chapter. That examination is to be known as the "Utah Cosmetologist/Barber Instructor Licensing Examination (UCBIL).] Applicants for each classification listed below shall pass the respective examination with a passing score as determined by the examination provider.~~

~~(2)a) Applicants for licensure as a barber shall pass the National Interstate Council of State Boards of Cosmetology (NIC) Barber Theory and Practical Examinations.[-~~

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

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

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

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

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

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

~~(4)b) Applicants for licensure as a cosmetologist/barber shall pass the NIC Cosmetology/Barber Theory and Practical Examinations.[-~~

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

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

~~— (c) pass any cosmetology/barber theory and practical examination approved by the licensing authority of another state.~~

~~(5) Applicants for licensure as a cosmetologist/barber instructor shall:~~

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

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

~~(6)c) Applicants for licensure as an electrologist shall pass the NIC Electrologist Theory and Practical Examinations.[-~~

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

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

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

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

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

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

~~(8)d) Applicants for licensure as a basic esthetician shall pass the NIC Esthetics Theory and Practical Examinations.[-~~

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

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

~~— (c) pass an esthetics theory and practical examination approved by the licensing authority of another state.]~~

~~(9)e) Applicants for licensure as a master esthetician shall pass the NIC Master Esthetician Theory and Esthetics Practical Examinations.[-~~

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

~~— (b) pass the Utah Master Esthetician Practical Examination with a score of at least 75%; or~~

~~— (c) pass a master esthetician theory and practical examination approved by the licensing authority of another state.]~~

~~(10)f) Applicants for licensure as a barber instructor, cosmetologist/barber instructor, electrology instructor, [an] esthetician instructor, or nail technology instructor shall pass the NIC Instructor Examination.[-~~

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

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

~~(11)g) Applicants for licensure as a nail technician shall pass the NIC Nail Technician Theory and Practical Examinations.[-~~

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

~~— (b) pass the Utah Nail Technician Practical Examination with a score of at least 75%; or~~

~~— (c) pass a nail technician theory and practical examination approved by the licensing authority of another state.~~

~~(12) Applicants for licensure as a nail technician instructor shall:~~

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

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

~~(2) Any equivalent theory, practical or instructor examination approved by the licensing authority of any other state is acceptable for any of the examinations specified in Subsection R156-11a-302a(1).~~

(3) Transition Provisions - Prior Examinations.

Equivalent examinations taken and passed under prior versions of this rule are also acceptable for any of the examinations specified in Subsection R156-11a-302a(1).

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

**Date of Enactment or Last Substantive Amendment: [August 21, 2007]2008**

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

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



Commerce, Real Estate  
**R162-2-2**  
 Licensing Procedure

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 31003

FILED: 02/15/2008, 14:17

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to put applicants seeking license renewal on notice that they may not have a finding of fraud, misrepresentation, or deceit entered against them related to activities requiring a real estate license by any court of competent jurisdiction or any government agency, unless the finding was explicitly considered when approving the applicant's initial license or previous license renewals.

SUMMARY OF THE RULE OR CHANGE: Adding requirement that an applicant for license renewal may not have a finding of fraud, misrepresentation, or deceit entered against them related to activities requiring a real estate license by any court of competent jurisdiction or any government agency, unless the finding was explicitly considered when approving the applicant's initial license or previous license renewals.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 61-2-5.5(1)(a) and 61-2-6(1)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The proposed rule amendment has no impact on the state budget as it establishes requirements for license renewal.
- ❖ LOCAL GOVERNMENTS: None--Rules made regarding requirements for license renewal have no impact on local governments.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The only persons who are affected by establishing requirements for license renewal are those renewing their licenses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It could make it more difficult for certain applicants to become licensed, but that loss to potential applicants is not determinable.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing established a provision automatically disqualifying applicants who have had a finding of fraud, misrepresentation, or deceit entered against them by a court or a governmental agency. Although this provision will make it more difficult for certain applicants to become licensed, it is unclear how many potential applicants would be affected or how the fiscal impact of that effect could be estimated. Francine Giani, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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](mailto: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 03/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2008

AUTHORIZED BY: Mark Steinagel, Director

**R162. Commerce, Real Estate.****R162-2. Exam and License Application Requirements.****R162-2-2. Licensing Procedure.**

2.2. Within 90 days after successful completion of the exam, the applicant shall return to the Division each of the following:

2.2.1. A report of the examination indicating that both portions of the exam have been passed within a six-month period of time.

2.2.2. The license application form required by the Division. The application form shall include the licensee's business and home address.

A post office box without a street address is unacceptable as a business or home address. The licensee may designate any address to be used as a mailing address.

2.2.3. The non-refundable fees which will include the appropriate license fee as authorized by Section 61-2-9(5) and the Recovery Fund fee as authorized by Section 61-2a-4.

2.2.4. Documentation indicating successful completion of the required education taken within the year prior to licensing. If the applicant has been previously licensed in another state which has substantially equivalent licensing requirements, he may apply to the Division for a waiver of all or part of the educational requirement.

2.2.4.1. Candidates for the license of sales agent will successfully complete 90 classroom hours of approved study in principles and practices of real estate. Experience will not satisfy the education requirement. Membership in the Utah State Bar will waive this requirement. The Division may waive all or part of the educational requirement by virtue of equivalent education taken while completing a college undergraduate or postgraduate degree program, regardless of the date of the degree, or by virtue of other equivalent real estate education if the other real estate education was taken within 12 months prior to application.

2.2.4.2. Candidates for the license of associate broker or principal broker will successfully complete 120 classroom hours of approved study consisting of at least 24 classroom hours in brokerage management, 24 classroom hours in advanced appraisal, 24 classroom hours in advanced finance, 24 hours in advanced property management and 24 classroom hours in advanced real estate law. Experience will not satisfy the education requirement. The Division may waive all or part of the educational requirement by virtue of equivalent education taken while completing a college undergraduate or postgraduate degree program, regardless of the date of the degree, or by virtue of other equivalent real estate education if the other real estate education was taken within 12 months prior to application.

2.2.5. The principal broker and associate broker applicant will submit the forms required by the Division documenting a minimum of three years licensed real estate experience and a total of at least 60

points accumulated within the five years prior to licensing. A minimum of two years (24 months) and at least 45 points will be accumulated from Tables I and/or II. The remaining 15 points may be accumulated from Tables I, II or III.

TABLE I - REAL ESTATE TRANSACTIONS

RESIDENTIAL - points can be accumulated from either the selling or the listing side of a real estate closing:	
(a) One unit dwelling	2.5 points
(b) Two- to four-unit dwellings	5 points
(c) Apartments, 5 units or over	10 points
(d) Improved lot	2 points
(e) Vacant land/subdivision	10 points
COMMERCIAL	
(f) Hotel or motel	10 points
(g) Industrial or warehouse	10 points
(h) Office building	10 points
(i) Retail building	10 points
(j) Leasing of commercial space	5 points

TABLE II - PROPERTY MANAGEMENT

RESIDENTIAL	
(a) Each unit managed	.25 pt/month
COMMERCIAL - hotel/motel, industrial/warehouse, office, or retail building	
(b) Each contract OR each separate property address or location for which licensee has direct responsibility	1 pt/month

2.2.6. The Principal Broker may accumulate additional experience points by having participated in real estate related activities such as the following:

TABLE III - OPTIONAL

Real Estate Attorney	1 pt/month
CPA-Certified Public Accountant	1 pt/month
Mortgage Loan Officer	1 pt/month
Licensed Escrow Officer	1 pt/month
Licensed Title Agent	1 pt/month
Designated Appraiser	1 pt/month
Licensed General Contractor	1 pt/month
Bank Officer in Real Estate Loans	1 pt/month
Certified Real Estate Prelicensing Instructor	.5 pt/month

2.2.7. If the review of an application has been performed by the Division and the Division has denied the application based on insufficient experience, and if the applicant believes that the Experience Points Tables do not adequately reflect the amount of the applicant's experience, the applicant may petition the Real Estate Commission for reevaluation by making a written request within 30 days after the denial stating specific grounds upon which relief is requested. The Commission shall thereafter consider the request and issue a written decision.

2.2.8. An applicant previously licensed in another state will provide a written record of his license history from that state and documentation of disciplinary action, if any, against his license.

2.2.9. Qualifications of License Applicants. An applicant for a new license may not:

(a) have been convicted of, entered a plea in abeyance to, or completed any sentence of confinement on account of, any felony within five years preceding the application; or

(b) have been convicted of, entered a plea in abeyance to, or completed any sentence of confinement on account of, any misdemeanor involving fraud, misrepresentation, theft, or dishonesty within three years preceding the application.

2.2.10 Qualifications for Renewal. An applicant for license renewal, or for reinstatement of an expired license, may not have: ~~during the term of the applicant's last license or during the period between license expiration and application to reinstate an expired license, been convicted of, or entered a plea in abeyance to, a felony.~~

(a) been convicted of or entered a plea in abeyance to a felony during the term of the last license or during the period between license expiration and application to reinstate an expired license; or

(b) a finding of fraud, misrepresentation or deceit entered against the applicant, related to activities requiring a real estate license, by any court of competent jurisdiction or any government agency, unless the finding was explicitly considered by the Division in approving the applicant's initial license or previous license renewals.

2.2.11 Determining fitness for licensure. In determining whether an applicant who has not been disqualified by Subsections 2.2.9 or 2.2.10 meet the requirements of honesty, integrity, truthfulness, reputation and competency required for a new or a renewed license, the Commission and the Division will consider information they consider necessary to make this determination, including the following:

2.2.11.1. Whether an applicant has been denied a license to practice real estate, property management, or any regulated profession, business, or vocation, or whether any license has been suspended or revoked or subjected to any other disciplinary sanction by this or another jurisdiction;

2.2.11.2. Whether an applicant has been guilty of conduct or practices which would have been grounds for revocation or suspension of license under Utah law had the applicant then been licensed;

2.2.11.3. Whether a civil judgment has been entered against the applicant based on a real estate transaction, and whether the judgment has been fully satisfied;

2.2.11.4. Whether a civil judgment has been entered against the applicant based on fraud, misrepresentation or deceit, and whether the judgment has been fully satisfied.

2.2.11.5 Whether an applicant has ever been convicted of, or entered a plea in abeyance to, any criminal offense, or whether any criminal charges against the applicant have ever been resolved by a diversion agreement or similar disposition;

2.2.11.6. Whether restitution ordered by a court in a criminal case has been fully satisfied;

2.2.11.7. Whether the parole or probation in a criminal case or the probation in a licensing action has been completed and fully served; and

2.2.11.8. Whether there has been subsequent good conduct on the part of the applicant. If, because of lapse of time and subsequent good conduct and reputation or other reason deemed sufficient, it shall appear to the Commission and the Division that the interest of the public will not likely be in danger by the granting of a license, the Commission and the Division may approve the applicant relating to honesty, integrity, truthfulness, reputation and competency.

**KEY: real estate business**

**Date of Enactment or Last Substantive Amendment:** ~~June 21, 2006~~ 2008

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

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

## Commerce, Real Estate

# R162-8-4

## School Conduct and Standards of Practice

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31001

FILED: 02/15/2008, 14:11

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this amendment is to require certified schools to provide written disclosure to the prospective student that applicants must disclose any criminal history by answering a questionnaire as part of a prelicensing exam; that licenses issued by the division are conditional pending the completion of a background check and that failure to adequately disclose criminal history will result in immediate and automatic license revocation; applicants with a criminal history described in Subsection R162-2-2(2.2.9) do not qualify for a license; applicants with a criminal history other than as described in Subsection R162-2-2(2.2.9) will be considered on a case-by-case basis.

**SUMMARY OF THE RULE OR CHANGE:** This amendment requires certified schools to provide information to prospective students that criminal history must be disclosed as part of a prelicensing exam and that failure to disclose criminal history described in Subsection R162-2-2(2.2.9) will result in automatic revocation.

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

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** None--There is no impact to the state budget because the proposed amendment only clarifies disclosures to be made by certified real estate schools.

❖ **LOCAL GOVERNMENTS:** None--Rules made regarding disclosures made by certified real estate schools have no impact on local governments.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The only small businesses affected by clarifying disclosure requirements are real estate schools, certified by the state to provide prelicensing education. Schools are currently required to make disclosures to students regarding the ability to get a license and this rule clarifies what disclosures are required. Because disclosures are already required and this rule clarifies those disclosures. This rule will have no cost impact on real estate schools.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** As explained "Small Businesses" above, there will be no compliance cost for making disclosures.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** No fiscal impact to businesses is anticipated by this rule filing which establishes additional disclosures to be made by certified schools. Francine Giani, Executive Director

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

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

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

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](mailto: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 03/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2008

AUTHORIZED BY: Mark Steinagel, Director

### **R162. Commerce, Real Estate.**

#### **R162-8. Prelicensing Education.**

##### **R162-8-4. School Conduct and Standards of Practice.**

8.4.1 In order to maintain good standing and renew a certification, a course sponsor shall:

8.4.1.1 teach the approved course of study as outlined in the State Approved Course Outline;

8.4.1.2 require each student to attend the required number of hours and pass a final examination;

8.4.1.3 maintain a record of each student's attendance for a minimum of three years after enrollment;

8.4.1.4 not accept a student for a reduced number of hours without first having a written statement from the Division which defines the exact number of hours the student needs;

8.4.1.5 not make any misrepresentation in its advertising about any course of instruction, and shall be able to provide substantiation of any claims made. All advertising and public notices shall be free of statements or implications which do not enhance the dignity and integrity of the real estate profession. A school shall not make disparaging remarks about a competitor's services or methods of operation;

8.4.1.6 limit approved guest lecturers who are experts in related fields to a total of 20% of the instructional hours per approved course. A guest lecturer shall provide evidence of professional qualifications to the Division prior to being used as a guest lecturer;



8.4.1.7 within 15 calendar days after the occurrence of any material change in the school which would affect its approval, the school shall give the Division written notice of that change;

8.4.1.8 not attempt by any means to obtain or use the questions on the prelicensing examinations unless the questions have been dropped from the current exam bank;

8.4.1.9 not give any valuable consideration to a real estate brokerage for having referred students to the school. A school shall not accept valuable consideration from a brokerage for having referred students to the brokerage;

8.4.1.9.1 If the school agrees, real estate brokerages may be allowed to solicit for agents at the school. No solicitation may be made during the class time nor during the student break time. Solicitation may be made only after the regularly scheduled class so that no student will be obligated to stay for the solicitation;

8.4.1.10 use only certified instructors or guest lecturers who have been registered with the Division;

8.4.1.11 provide the instructor with the approved content outline for each course and shall assure the content has been taught;

8.4.1.12 provide a course completion certificate in the form approved by the Division to each student upon the student's completion of the prelicensing course;

8.4.1.13 furnish to the Division a current roster of the school's approved instructors and guest lecturers. A school shall provide an updated roster to the Division each time there is a change in school instructors or guest lecturers;

8.4.1.14 give no more than eight credit hours per day to any student;

8.4.1.15 ~~[provide a written disclosure to any prospective student, prior to accepting payment for a prelicense course, stating that: a) a student with a criminal history may possibly not qualify for a license; b) an applicant with a criminal history may be required to appear at a hearing before the Utah Real Estate Commission and the Director of the Division of Real Estate to seek approval to license; and there is no guarantee that such an applicant will be approved; and c) all applicants for a sales agent license will be required to submit to the Division with their applications fingerprint cards that will be used in the criminal background check; ]~~Prior to accepting payment from a prospective student for a pre-licensing education course, a certified school shall provide a written disclosure to the prospective student stating: a) applicants for licensure must disclose any criminal history by answering a questionnaire as part of the pre-license exam; b) applicants for licensure must submit fingerprint cards to the Division and consent to a criminal background check; c) licenses issued by the Division are conditional pending the completion of the background check and that failure to accurately disclose a criminal history will result in an immediate and automatic license revocation; d) applicants with a criminal history described in subsection R162-2-2(2.2.9) do not qualify for a license; and e) applicants with a criminal history other than as described in subsection R162-2-2(2.2.9) will be considered on a case-by-case basis and may be required to appear at an administrative hearing to determine qualifications for licensure.

8.4.1.15.1 The school shall be required to obtain the student's signature on the written disclosure required by Section 8.4.1.15 acknowledging receipt of the disclosure. The disclosure form and acknowledgement shall be retained in the school's records and made available for inspection by the Division for a minimum of three years following the date upon which the student completed the prelicensing course; and

8.4.2 A school's owners and directors shall be responsible for the quality of instruction in the school and for adherence to the state statutes and administrative rules regarding school and instructor certification.

**KEY: real estate business**

**Date of Enactment or Last Substantive Amendment:** ~~May 30, 2007~~**2008**

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

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



## Commerce, Real Estate **R162-12** Utah Housing Opportunity Restricted Account

### NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 31000

FILED: 02/15/2008, 13:36

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this new rule is to allow qualified entities to apply to the Division of Real Estate for a distribution of funds from the Utah Housing Opportunity Restricted Account to be used to provide support to organizations that create affordable housing for those in severe need.

**SUMMARY OF THE RULE OR CHANGE:** This new rule provides for definitions of "Utah Housing Opportunity Restricted Account" and "Qualified entity"; and outlines requirements that must be met for applications for funds from the Utah Housing Opportunity Restricted Account. The rule also outlines how the division will select recipients of funds.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 61-2-28

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** None--There will be no impact to the state budget because the funds will come from contributions made to the Division of Motor Vehicles for the Utah Housing opportunity special license group plate.

❖ **LOCAL GOVERNMENTS:** None--Rules made regarding regulation of real estate licensees or the Utah Housing Opportunity Restricted Account have no impact on local governments.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** None--The only persons who are affected by creating a process for disbursing funds from the Utah Housing Opportunity Restricted Account are those that either voluntarily choose to contribute to the account by obtaining a Utah Housing Opportunity special group license plate and those charitable organizations which voluntarily chose to apply

for a disbursement of funds. Presumably, charitable organizations who receive a disbursement will save an equal amount from their existing budgets that could then be used in other funding areas.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Any costs associated with applying for a disbursement of funds would be nominal.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing implements S.B. 199, 2007 General Session, by enacting procedures for organizations to apply and receive funds from the Utah Housing Opportunity Restricted Account. No fiscal impact on businesses is anticipated by this rule filing beyond those anticipated in the passage of S.B. 199. Francine Giani, Executive Director (DAR NOTE: S.B. 199 (2007) is found at Chapter 325, Laws of Utah 2007, and was effective 04/30/2007.)

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 03/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2008

AUTHORIZED BY: Mark Steinagel, Director

**R162. Commerce, Real Estate.**

**R162-12. Utah Housing Opportunity Restricted Account.**

**R162-12-1. Authority and Definitions.**

12.1.1 The following administrative rules are promulgated under the authority granted by Sections 61-2-5.5(1)(a) and 61-2-28.

12.1.2 Terms used in these rules are defined as follows:

(a) "Utah Housing Opportunity Restricted Account" means the restricted account created in the General Fund into which the following monies are deposited: contributions to the Department of Motor Vehicles for Utah Housing Opportunity special group license plates in accordance with Section 41-1a-422, private contributions, donations or grants from public or private entities, and interest and earnings on the funds in the account.

(b) "Qualified entity" means a charitable organization that qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code, and that provides support to organizations that create

affordable housing for those in severe need as a primary part of their mission.

**R162-12-2. Proposals.**

12.2.1 No later than August 1 of each year, a qualified entity may apply to the Division for a distribution of funds from the Utah Housing Opportunity Restricted Account to be used to provide support to organizations that create affordable housing for those in severe need.

12.1.2 An applicants shall provide to the Division as part of an application:

(a) contact information for the applicant;

(b) proof that the entity is tax exempt under Section 501(c)(3), Internal Revenue Code;

(c) proof that the entity provides support to organizations that create affordable housing for those in severe need as a primary part of its mission;

(d) a statement of the purpose for which the application is submitted, along with an explanation of how the entity would use a disbursement of money to promote affordable housing for those in severe need; and

(e) an explanation of the internal management controls and financial controls of the entity that would insure that any funds received would be used only for authorized purposes.

**R162-12-3. Selection of Recipient.**

12.3.1 The Division shall annually select one applicant to receive a distribution from the Utah Housing Opportunity Restricted Account. The Division shall select the recipient based on which applicant can, in the opinion of the Division, most effectively and efficiently use the funds to promote affordable housing for those in severe need.

12.3.2 The disbursement to the successful applicant shall be made no later than December 31 each year.

**KEY: Utah Housing Opportunity Restricted Account  
Date of Enactment or Last Substantive Amendment: 2008  
Authorizing, and Implemented or Interpreted Law: 61-2-28**



Commerce, Real Estate  
**R162-207-6**  
Determining Fitness for Renewal

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 31002

FILED: 02/15/2008, 14:14

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to put applicants seeking mortgage officer and principal lending manager license renewal on notice that in order to qualify for renewal an applicant may not have finding of fraud, misrepresentation, or deceit entered against them related to activities requiring a mortgage officer license by a court or any government agency unless the finding was considered when approving the applicant's initial license or previous license renewals.

SUMMARY OF THE RULE OR CHANGE: Adding the requirement that in order to qualify for renewal of a mortgage officer or principal lending manager license, an applicant may not have a finding of fraud, misrepresentation, or deceit entered against them related to activities requiring a mortgage officer license by any court or any government agency unless the finding was considered when approving the applicant's initial license or previous license renewals.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2c-103(3) and Section 61-2c-205

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--The proposed amendment has no impact on the state budget as it establishes requirements for license renewal for license applicants.

❖ LOCAL GOVERNMENTS: None--Rules made regarding requirements for license renewal have no impact on local governments.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The only persons who are affected by establishing requirements for license renewal are those renewing their licenses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It could make it more difficult for certain applicants to become licensed, but that loss to potential applicants is not determinable.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing established a provision automatically disqualifying applicants who have had a finding of fraud, misrepresentation, or deceit entered against them by a court or a governmental agency. Although this provision will make it more difficult for certain applicants to become licensed, it is unclear how many potential applicants would be affected or how the fiscal impact of that effect could be estimated. Francine Giani, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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](mailto: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 03/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2008

AUTHORIZED BY: Mark Steinagel, Director

**R162. Commerce, Real Estate.**

**R162-207. License Renewal.**

**R162-207-6. Determining Fitness for Renewal.**

207.6 Qualifications for Renewal. In order to qualify for renewal, all mortgage officer and principal lending manager applicants, and all directors, executive officers, and managing partners of any entity applicant, and anyone who occupies a position or performs functions similar to a director, executive officer, manager, or managing partner of any entity applicant, shall meet the following qualifications. None of these persons may have ~~], during the term of the last license or during the period between license expiration and application to reinstate an expired license, been convicted of, or entered a plea in abeyance to, a felony.]~~

(a) been convicted of, or entered a plea in abeyance to, a felony; or during the term of the last license or during the period between license expiration and application to reinstate an expired license;

(b) a finding of fraud, misrepresentation or deceit entered against the applicant, related to activities requiring a mortgage license, by any court of competent jurisdiction or any government agency, unless the finding was explicitly considered by the Division in approving the applicant's initial license or previous license renewals.

207.6.1 Determining fitness for renewal. In determining whether an applicant who has not been disqualified by Subsection 207.6 meets the requirements of good moral character, honesty, integrity, and truthfulness, the commission and the division shall determine fitness for renewal in accordance with Section 202.5.2 above.

**KEY: residential mortgage loan origination**

**Date of Enactment or Last Substantive Amendment: ~~May 1, 2007~~ 2008**

**Authorizing, and Implemented or Interpreted Law: 61-2c-103(3); 61-2c-202(4)(a)(ii)**

◆ ————— ◆

**Commerce, Real Estate**  
**R162-210-4**  
**Rules of Conduct for Certified Schools**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 31004

FILED: 02/15/2008, 14:19

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to require certified schools to provide written disclosure to a prospective student that the student must disclose any criminal history by answering a questionnaire as part of a prelicensing exam; submit fingerprint cards to the division; consent to a criminal background check and that licenses are conditional pending

the completion of a criminal background check and that failure to accurately disclose a criminal history will result in an immediate and automatic license revocation. Applicants with a criminal history other than as described in Subsection R162-202-5(202.5.1) will be considered on a case-by-case basis and may be required to appear at an administrative hearing.

**SUMMARY OF THE RULE OR CHANGE:** This amendment requires certified schools to provide information to prospective students that criminal history must be disclosed as part of a preclicensing exam and that failure to disclose criminal history will result in automatic revocation and that applicants with criminal history other than as described in Section R162-202-5(202.5.1) will be considered on a case-by-case basis and may be required to appear at an administrative hearing.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 61-2c-103(6)

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** None--The proposed amendment has no impact on the state budget because the state makes no expenditure in clarifying disclosures to be made by mortgage education schools.

❖ **LOCAL GOVERNMENTS:** None--Rules made regarding disclosures made by certified mortgage education schools have no impact on local governments.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The only small businesses affected by clarifying disclosure requirements are mortgage schools, certified by the state to provide preclicensing education. Schools are currently required to make disclosures to students regarding the ability to get a license and this rule clarifies what disclosures are required. Because disclosures are already required and this rule clarifies those disclosures, this rule will have no cost impact on mortgage schools.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** As explained under "Small Businesses" above, there will be no compliance cost for making disclosures.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** No fiscal impact to businesses is anticipated by this rule filing, which established additional disclosures to be made by certified schools. Francine Giani, Executive Director

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

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

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

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 03/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2008

AUTHORIZED BY: Mark Steinagel, Director

## **R162. Commerce, Real Estate.**

### **R162-210. Certification of Preclicensing Education Providers.**

#### **R162-210-4. Rules of Conduct for Certified Schools.**

210.4.1 A school shall teach the approved course of study as outlined in the Standard Course Outline approved by the Utah Residential Mortgage Regulatory Commission.

210.4.2 A school shall require each student to attend the required number of hours.

210.4.3 A school shall maintain a record of each student's attendance for a minimum of five years after enrollment.

210.4.4 A school shall not accept a student for a number of hours that is less than the full preclicensing curriculum without first having a written statement from the Division indicating the exact number of hours that an applicant for licensure by reciprocity is required by the Division to complete.

210.4.5 A school shall not make any misrepresentation in its advertising about any course of instruction, and shall be able to provide substantiation of any claims made in its advertising. School advertising and public notices shall not denigrate the mortgage profession and shall not make disparaging remarks about a competitor's services or methods of operation.

210.4.6 Guest Lecturers. No more than 20% of the required preclicensing education hours may be provided by guest lecturers. Guest lecturers shall be experts in the field on which they provide instruction. Prior to using any guest lecturer, a certified school shall provide to the Division the name of the guest lecturer and a resume which defines the knowledge and expertise of the guest lecturer, or other evidence of professional qualifications of the guest lecturer.

210.4.7 Minimum class time. A school shall not give a student credit for more credit hours of education than the student has actually completed. A credit hour is defined as 50 minutes of instruction within a 60 minute time period. A 10 minute break will be given for each 50 minutes of instruction.

210.4.8 Maximum class hours per day. Education credit will be limited to a maximum of eight credit hours per day.

210.4.9 Limitation on Non-lecture Methods of Instruction. Absent special approval from the Division: (a) Non-lecture methods of instruction will be limited to 50% of the total credit hours of the preclicensing curriculum; (b) Non-lecture methods of instruction will have an accompanying workbook for the student to complete during the instruction. The schools shall submit copies of the workbooks to the Division prior to using a non-lecture method of instruction; and (c) A school must have a certified instructor available to answer student questions within 48 hours after a non-lecture method of instruction has been used.

210.4.10 Proof of Course Integrity for Distance Education Courses. Distance education courses will be reviewed on a case by case basis and will be approved only if, in the opinion of the Division, assurance of the following can be provided: a) There is a method to insure that the person actually completing the course is the student who is to receive credit for the course; b) The course provides no fewer

hours of actual instruction than the number of credit hours that will be granted for the course; and c) There is a method to insure that the student comprehends the material.

210.4.11 Challenge by Examination. A student cannot challenge a course or any part of a course of study by examination in lieu of attendance at the course.

210.4.12 College Credit Hour Equivalents. A college or a university that provides Division-approved prelicensing education courses may schedule those courses within its regular quarter or semester schedule. A college quarter hour credit is the equivalent of 10 classroom hours of prelicensing education, and a college semester hour credit is the equivalent of 15 classroom hours of prelicensing education.

210.4.13 Within 15 calendar days after the occurrence of any material change in the information provided in the school's application for certification, the school shall give the Division written notice of that change.

210.4.14 A school shall not attempt by any means to obtain or to use in its educational offerings the questions from the prelicensing examination unless the questions have been dropped from the current bank of exam questions.

210.4.15 A school shall not give any valuable consideration to an individual or entity licensed with the Division under the Utah Residential Mortgage Practices Act for having referred students to the school, nor shall a school accept valuable consideration from an individual or entity licensed with the Division under the Utah Residential Mortgage Practices Act for having referred students to a licensed mortgage entity.

210.4.16 Licensed mortgage entities may be permitted by a school to solicit prospective mortgage officers at the school, provided that no solicitation may be made during the class time or the 10-minute breaks that are permitted during every hour of instruction. Such solicitation may be made only after the regularly scheduled class time has concluded. No student may be required to attend any such solicitation.

210.4.17 A school shall use only certified instructors or guest lecturers. The school shall notify the Division about which class sessions the guest lecturers will teach.

210.4.18 A school's owners and directors shall be responsible for the quality of instruction in the school and for adherence to the state laws and regulations regarding school and instructor certification.

210.4.19 School directors shall provide the instructor for each course with the required content outline for the course and shall assure that the required subject matter has been taught.

210.4.20 Disclosure Requirements Regarding Criminal History. For the purposes of this rule, criminal history is defined as any felony or misdemeanor convictions, any pleas in abeyance or diversion agreements, or any pending criminal charges.

210.4.20.1 Prior to accepting payment from a prospective student for a pre-licensing education course, a certified school shall provide a written disclosure to the prospective student stating: a) applicants for licensure must disclose any criminal history by answering a questionnaire as part of the mortgage exam; b) applicants for licensure must submit fingerprint cards to the Division and consent to a criminal background check; c) licenses issued by the Division are conditional pending the completion of the background check and failure to accurately disclose a criminal history will result in an immediate and automatic license revocation; d) applicants with a criminal history described in Subsection R162-202-5(202.5.1) do not qualify for a license; and e) applicants with a criminal history other than as described in Subsection R162-202-5(202.5.1) will be considered on a case-by-case basis and may be

required to appear at an administrative hearing to determine qualifications for licensure. [~~Prior to accepting payment from a prospective student for a pre-licensing education course, a certified school shall provide a written disclosure to the prospective student stating that: a) a student with a criminal history may not qualify for a license; b) an applicant with a criminal history may be required to appear at a hearing before the Utah Residential Mortgage Regulatory Commission and the Director of the Division of Real Estate to obtain approval to license in light of the criminal history, and there is no guarantee that such an applicant will be approved; and c) all applicants for licensure will be required to submit to the Division with their applications fingerprint cards that will be used in criminal background checks.~~]

210.4.20.2 The school shall be required to obtain the student's signature on the written disclosure required by Section 210.4.20.1 acknowledging receipt of the disclosure. The disclosure form and acknowledgement shall be retained in the school's records and made available for inspection by the Division for a minimum of two years following the date upon which the student completes the pre-licensing course.

**KEY: residential mortgage loan origination**

**Date of Enactment or Last Substantive Amendment: [November 3, 2004]2008**

**Authorizing, and Implemented or Interpreted Law: 61-2c-103(6)**

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## Corrections, Administration R251-304 Contract Procedures

### NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 30980

FILED: 02/13/2008, 09:04

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule establishes minimum standards for contractors who work on correctional projects. The changes clarify those standards.

**SUMMARY OF THE RULE OR CHANGE:** The changes to this rule clarify the employee information given to the Department of Corrections (UDC) by contractors working on correctional projects. It also changes the UDC provided training required for contractors to an as needed basis.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 64-13-25

**ANTICIPATED COST OR SAVINGS TO:**

- ❖ **THE STATE BUDGET:** There will be no cost or savings to the state budget because UDC employees involved in the training, when required, will receive their normal salary, regardless of time spent with contractors. This is not an overtime situation.
- ❖ **LOCAL GOVERNMENTS:** There will be no cost or savings to a local government budget from this amendment because local

governments are not involved in the contract process, the training, or as contractors.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** There is a potential for savings by small businesses because the rule clarification which exempts small business contractors from required training under certain conditions could save them money based on the time and pay scales used by the small business. Because the exemption is conditional, it would apply only to some of the businesses and workers.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The amendments do not impose any compliance costs.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule change could potentially reduce costs to attend training if not deemed necessary. Thomas Patterson, Executive Director

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

CORRECTIONS  
ADMINISTRATION  
14717 S MINUTEMAN DR  
DRAPER UT 84020-9549, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Gary Ogilvie at the above address, by phone at 801-545-5514, by FAX at 801-545-5523, or by Internet E-mail at [gogilvie@utah.gov](mailto:gogilvie@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 04/14/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 04/21/2008

AUTHORIZED BY: Thomas E. Patterson, Executive Director

## **R251. Corrections, Administration.**

### **R251-304. Contract Procedures.**

#### **R251-304-2. Definitions.**

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

(2) "Contractor" means any person or organization contracting with the Department to provide goods or services.

(3) "Department" means the Utah State Department of Corrections (UDC).

(4) "Executive Director" means the executive director of the Department of Corrections/designee.

~~(5) "Monitor" means to scrutinize or check systematically on a periodic or ongoing basis.~~

~~(6) "Review" means the process, culminating in a written report, of inspecting and examining contract performance at least annually.~~

#### **R251-304-3. Policy.**

It is the policy of the Department that:

(1) contractors shall provide all services due under a contract as an independent contractor;

(2) contractors shall have no actual or implied authority to bind the State of Utah, any of its political subdivisions, or the Department of Corrections to any agreement, settlement, or understanding whatsoever;

(3) no provision of a contract shall be construed to bring contractors or their officers, agents, employees, volunteers, or subcontractors (if any) within the coverage of the Utah Governmental Immunity Act, Title 63, Section 30;

(4) all contractors' officers, employees, subcontractors, agents, or volunteers providing services shall be appropriately licensed and ~~shall~~ as may be necessary by the type of services provided, successfully complete a training session offered by UDC prior to contract implementation;

(5) contractors shall allow authorized UDC personnel full access to contract-related records with or without notice during contractors' regular business hours;

(6) contractors shall indemnify, hold harmless, and release the State of Utah and its officers, agents, and employees from and against all losses, damages, injuries, lawsuits and other proceedings arising out of the breach of, or performance under, the contract by contractors and their officers, agents, employees, subcontractors, and volunteers;

(7) all contracts shall be monitored throughout the contract period and reviewed at least annually;

(8) contracts may be terminated by the Department or the contractor with or without cause;

(9) contractors shall comply with all state and local regulatory requirements, including the following:

(a) zoning ordinances,

(b) building codes,

(c) applicable health codes,

(d) life and safety codes,

(e) professional licenses,

(f) business licenses, or

(g) other applicable federal, state, and local laws;

(10) UDC shall have the right to deny contractors, their agents, employees, and volunteers, or the agents, employees, and volunteers of their subcontractors, if any, access to premises controlled, held, leased, or occupied by UDC, if, in the sole judgment of UDC, such personnel pose a threat to UDC's legitimate security interests;

(11) prior to signing the contract, contractors shall disclose to UDC the names and state job titles of any of their agents, officers, partners, volunteers, or employees who are also employees of the State of Utah;

(12) UDC reserves the right to reject contractors' use of any person who, in the opinion of the Department, represents a threat to legitimate departmental interests;

(13) at the time the contract is awarded, contractors shall provide ~~to~~ UDC ~~for~~ names and birth dates of employees for a criminal records check ~~[the names]~~, and other information requested, including ~~birth dates and~~ social security numbers of all contractors' officers, employees, agents, and volunteers who will be providing services under contracts; and, during the contract period, contractors shall provide the same information to UDC on their new officers, employees, agents, and volunteers;

(14) contractors and UDC shall allow members of the general public to inspect Department contracts during regular business hours;

(15) public inquiries to contractors regarding specific offenders shall be referred to UDC; and

(16) decisions to terminate contracts may be appealed by contractors to the Executive Director of the Department of Corrections; the Director of Purchasing; or the District Court of the State of Utah.

**KEY: corrections, contracts**

**Date of Enactment or Last Substantive Amendment:** ~~February 19, 2003~~ **2008**

**Notice of Continuation:** February 21, 2003

**Authorizing, and Implemented or Interpreted Law:** 64-13-25



Education, Administration  
**R277-484**  
 Data Standards

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 31005

FILED: 02/15/2008, 14:44

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is amended to provide changes to required dates, add reports, and delete obsolete reports. The amended rule also provides minor wording changes.

**SUMMARY OF THE RULE OR CHANGE:** The amendments include changes to definitions, changes and additions involving required reports, and adjustments to deadlines. References to the Utah Education Association have been deleted.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsections 53A-1-401(3) and 53A-1-301(3)(d) and (e)

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** There are no anticipated costs or savings to the state budget. Submission of data by LEAs (local education agencies) to the Utah State Office of Education does not cost or save the state money.

❖ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local government. LEAs have been required to submit data to the Utah State Office of Education and will continue to do so.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** There are no anticipated costs or savings to small businesses and persons other than businesses. The rule requires LEAs to submit data and does not involve small businesses or persons other than businesses.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for affected persons. Data will continue to be submitted consistent with the rule as it has in the past.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There is no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

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

EDUCATION  
ADMINISTRATION

250 E 500 S

SALT LAKE CITY UT 84111-3272, or  
at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2008

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

**R277. Education, Administration.**

**R277-484. Data Standards.**

**R277-484-1. Definitions.**

A. "Annual Financial Report" means an account of LEA revenue and expenditures by source and fund sufficient to meet the reporting requirements specified in Section 53A-1-301(~~2~~3)(d)(~~+~~) through (~~+~~) and (e).

B. "Annual Program Report" means an account of LEA revenue and expenditures by source and program sufficient to meet the reporting requirements specified in Section 53A-1-301(~~2~~3)(d)(~~+~~) through (~~+~~) and (e).

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

D. "Computer Aided Credentials of Teachers in Utah System (CACTUS)" means the database maintained on all licensed Utah educators. The database includes information such as:

- (1) personal directory information;
- (2) educational background;
- (3) endorsements;
- (4) employment history;
- (5) professional development information;
- (6) completion of employee background checks; and
- (7) a record of disciplinary action taken against the educator.

E. "Data Clearinghouse File" means the electronic file of student level data submitted by LEAs to the USOE in the layout specified by the USOE.

F. "Data Warehouse" means the database of demographic information, course taking, and test results maintained by the USOE on all students enrolled in Utah schools.

G. "EDEN" means the Education Data Exchange Network, the mechanism by which state education agencies are mandated as of the 200~~6~~8-0~~7~~9 school year to submit data to the U.S. Department of Education.

H. "ESEA" means the federal Elementary and Secondary Education Act, also known as the No Child Left Behind Act.

I. "LEA" means local education agency, which may be either a public school district or a charter school.

J. "MSP" means Minimum School Program, the set of state support K-12 public school funding programs.

K. "MST" means Mountain Standard Time.

L. "USOE" means Utah State Office of Education.

M. "Year" means both the school year and the fiscal year for LEAs in Utah, which runs from July 1 through June 30.

N. "YICSIS" means the Youth In Custody Student Information System.

#### **R277-484-2. Authority and Purpose.**

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, and by Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities and specifically allows the Board to interrupt disbursements of state aid to any LEA which fails to comply with rules.

B. The Board, through its chief executive officer, the State Superintendent of Public Instruction, is required to perform certain data collection related duties essential to the operation of statewide educational accountability and financial systems as mandated in state and federal law.

C. The purpose of this rule is to support the operation of required educational accountability and financial systems by ensuring timely submission of data by LEAs.

#### **R277-484-3. Deadlines for Data Submission.**

LEAs shall submit data to the USOE through the following reports by 5:00 p.m. MST on the date and in the format specified by the USOE:

~~[A. January 24 - Adult Education - midyear report for current year.~~  
[A. February 28 - Community Development and Renewal Agency and/or Redevelopment Agency Taxing Entity Committee Representative List - Business Services.

B. June 15

(1) Immunization Status Report (to Utah Department of Health) - final;

(2) Safe School Incidents Report - for current year.

C. June 29 - CACTUS - final update for current year.

~~D. [July 10, beginning with the 2007-08 school year (due July 15 for the 2006-07 school year)]~~  
July 15

(1) Adult Education - final report for prior year;

~~(1) [2] Bus Driver Credentials Report - for current year - [Financial and] Business Services;~~

~~(2) [2] Classified Personnel Report - for prior year - [Financial and] Business Services;~~

~~(3) [4] Data Clearinghouse File - final comprehensive update for prior year - Data Assessment, and Accountability;~~

~~(4) [5] Driver Education Report - for prior year - Educator Quality;~~

~~(5) [6] ESEA Choice and Supplemental Services Report - for prior year;~~

~~(6) [7] Fee Waivers Report - for prior year;~~

~~(7) [8] Fire Drill Compliance Statement - for prior year;~~

~~(8) [9] Home Schooled Students Report - for prior year;~~

~~(9) [10] Teacher Benefits Report - for prior year;~~

~~(10) [11] Pupil Transportation Statistics - for prior year:~~

~~(a) Bus Inventory Report;~~

~~(b) Year End Pupil Transportation Statistics Reports.~~

~~[E. August 24 - Adult Education - final report for prior year.~~  
F. September 15[-]

~~(1) Membership Audit Report - for prior year[-];~~

~~(2) Adult Education - Financial Audit for prior year.~~

[G] F. October 1

(1) Annual Financial Report (AFR) - for prior year;

(2) Annual Program Report (APR) - for prior year.

~~[H] G. October 15~~

~~(1) Data Clearinghouse File - update as of October 1 for current year.~~

~~(2) YICSIS - update as of October 1 for current year.~~

~~[H] H. November 1~~

~~(1) Data Clearinghouse File - optional revised final comprehensive update for prior year;~~

~~(2) Enrollment and Transfer Student Documentation Audit Report - for current year;~~

~~(3) Immunization Status Report - for current year;~~

~~(4) Pupil Transportation Statistics for state funding;~~

~~(a) Schedule A1 (Miles, Minutes, Students Report) - projected for current year;~~

~~(b) Schedule B (Miscellaneous Expenditure Report) - for prior year[-];~~

~~(5) Negotiations report - for current year.~~

~~[J] I. November 15~~

~~(1) CACTUS - update for current year; and~~

~~(2) Free and Reduced Price Lunch Enrollment Survey - as of October 31 for current year.~~

~~[K] J. November 30 - Financial Audit Report - for prior year.~~

~~[L] K. December 15 - Data Clearinghouse File - update as of December 1 for current year.~~

#### **R277-484-4. Adjustments to Deadlines.**

A. Deadlines that fall on a weekend[-] or state holiday[-] or Utah Education Association convention day in a given year shall be moved to the date of the first workday after the date specified in Section 3 for that year.

B. An LEA may seek an extension of a deadline to ensure continuation of funding and provide more accurate input to allocation formulas by submitting a written request to the USOE. The request shall be received by the USOE State Director of School Finance and Statistics at [the at] least 24 hours before the specified deadline in Section 3 and include:

(1) The reason(s) why the extension is needed;

(2) The signatures of the LEA business administrator and the district superintendent or charter school director; and

(3) The date by which the LEA shall submit the report.

C. In processing the request for the extension, the USOE State Director of School Finance and Statistics shall:

(1) Take into consideration the pattern of LEA compliance with reporting deadlines and the urgency of the use which depends on the data to be submitted, consult with other USOE staff who have knowledge relevant to the situation of the LEA; and either

(2) Approve the request and allow the MSP fund transfer process to continue; or

(3) Recommend denial of the request and forward it the USOE Associate Superintendent for [Data and] Business Services for a final decision on whether to stop the MSP fund transfer process.

D. If, after receiving an extension, the LEA fails to submit the report by the agreed date, the MSP fund transfer process shall be stopped and the procedure described in Section 6 shall apply.

E. Extensions shall apply only to the report(s) and date(s) specified in the request.

F. Exceptions - Deadlines for the following reports may not be extended:

(1) June 29 CACTUS Update;

(2) July [40] 15 Final Data Clearinghouse File - final comprehensive update for prior year [beginning 2007-08 school year



~~and July 15 for 2006-07 school year only]-~~ Data Assessment, and Accountability;~~and]~~

(3) November 1 error corrected Data Clearinghouse File~~[-]; and~~

(4) November 15 CACTUS - update for current year.

**R277-484-8. Financial Consequences of Failure to Submit Reports on Time.**

A. If an LEA fails to submit a report by its deadline as specified in Section 3, the USOE shall stop the MSP fund transfer process on the day after the deadline, unless the LEA has obtained an extension of the deadline in accordance with the procedure described in Section 7, to the following extent:

(1) 10% of the total monthly MSP transfer amount in the first month, 25% in the second month, and 50% in the third and subsequent months for any report other than June 15 Immunization Status report.

(2) Loss of up to 1.0 WPU from Kindergarten or Grades 1-12 programs, depending on the grade level and aggregate membership of the student, in the current year Mid Year Update for each student whose prior year immunization status was not accounted for in accordance with Utah Code 53A-11-301 as of June 15.

B. If the USOE has stopped the MSP fund transfer process for an LEA, the USOE shall:

(1) upon receipt of a late report from that LEA, restart the transfer process within the month (if the report is submitted by 10:00 a.m. on or before the tenth working day of the month) or in the following month (if the report is submitted after 10:00 a.m. on or after the tenth working day of the month); and

(2) inform the appropriate Board Committee at its next regularly scheduled Committee meeting.

(3) inform the chair of the governing board if LEA staff are not responsive in correcting ongoing problems with data.

**KEY: data standards, reports, deadlines**

**Date of Enactment or Last Substantive Amendment:** ~~November 7, 2007~~**2008**

**Authorizing, and Implemented or Interpreted Law:** Art X Sec 3; 53A-1-401(3); 53A-1-301(~~2~~**3**)(~~d~~**d**) and (e)



**Health, Health Systems Improvement,  
Emergency Medical Services**

**R426-15-203**

**Vehicle Supply Requirements**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 30954

FILED: 02/06/2008, 13:46

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The change updates the rule to reflect current standards of care practiced in emergency medical services (EMS).

SUMMARY OF THE RULE OR CHANGE: The changes remove obsolete medications from the mandatory required lists for each level of service; adds medications to reflect current standards of care; and creates an optional medication category to allow agencies to more effectively structure their drug lists to meet the needs of their communities by allowing the addition of drugs from the list without the need of a rule waiver.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 8a

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be no cost or savings to the state budget from this rule change because it neither increases or decreases workload.

❖ LOCAL GOVERNMENTS: The changes may reduce the cost of maintaining a long list of required drugs that are not used by the service but were required under existing rule. The estimated savings could be as high as \$350 per agency or \$84,050 per year statewide. The change is structured to allow a transition period from the former drug to the new required drug. This will allow the agency to replace the drugs through attrition. The replacement drugs are similar in cost. Since agencies can bill for drugs and supplies at a price that is fair and competitive with similar products in the local area, there will be no increased overall cost to agencies.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: No small businesses with less than 50 employees are affected by this rule. The changes may reduce the cost of maintaining a long list of required drugs that are not used by the service but were required under existing rule. The estimated savings could be as high as \$350 per agency or \$1,400 per year statewide. The change is structured to allow a transition period from the former drug to the new required drug. This will allow the agency to replace the drugs through attrition. The replacement drugs are similar in cost. Since agencies can bill for drugs and supplies at a price that is fair and competitive with similar products in the local area, there will be no increased overall cost to agencies. Individuals who are treated by EMS providers will experience a negligible change in costs for drugs used in their treatment because the most commonly used drugs have similar costs on the existing and new drug lists.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The change is structured to allow a transition period from the former drug to the new required drug. This will allow the agency to replace the drugs through attrition. The replacement drugs are similar in cost. Since agencies can bill for drugs and supplies at a price that is fair and competitive with similar products in the local area, there will be no increased overall cost to agencies.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The transition period contained in the rule change allows for the transition from former to new drug requirements through attrition. This will minimize the potential cost of compliance. The new required drugs are similar in cost as the drug being replaced. The reduction in the number of required drugs has the potential to reduce costs to the agencies. A. Richard Melton, Acting Executive Director

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

HEALTH  
HEALTH SYSTEMS IMPROVEMENT,  
EMERGENCY MEDICAL SERVICES  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY UT 84116-3231, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Guy Dansie at the above address, by phone at 801-538-9171, by FAX at 801-538-6808, or by Internet E-mail at gdansie@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 03/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2008

AUTHORIZED BY: David N. Sundwall, Executive Director

**R426. Health, Health Systems Improvement, Emergency Medical Services.**

**R426-15. Licensed and Designated Provider Operations.**

**R426-15-203. Vehicle Supply Requirements.**

(1) In accordance with the licensure or designation type and level, the permittee shall carry on each permitted vehicle the minimum quantities of supplies, medications, and equipment as described in this subsection. Optional items are marked with an asterisk.

**EQUIPMENT AND SUPPLIES FOR BASIC QUICK RESPONSE**

2 Blood pressure cuffs, one adult, one pediatric  
2 Stethoscopes, one adult and one pediatric or combination  
2 Heavy duty shears  
2 Universal sterile dressings, 9"x5", 10"x8", 8"x9", or equivalent

12 Gauze pads, sterile, 4"x4"

8 Bandages, self-adhering, soft roller type, 4"x5 yards or equivalent

2 Rolls of tape

4 Cervical collars, one adult, one child, one infant, plus one other size

2 Triangular bandages

2 Boxes of gloves, one box non-sterile and one box latex free or equivalent

~~2 Concentrated oral glucose tubes or equivalent~~

1 Portable jump kit stocked with appropriate medical supplies

**AIRWAY EQUIPMENT AND SUPPLIES**

1 Portable or fixed suction, with wide bore tubing and rigid pharyngeal suction tip

2 Bag mask ventilation units, one adult, one pediatric, with adult, child, and infant size masks

1 Baby syringe, bulb type, separate from the OB kit

3 Oropharyngeal airways, with one adult, one child, and one infant size

3 Nasopharyngeal airways, one adult, one child, and one infant

2 Non-rebreather or partial non-rebreather oxygen masks, one adult and one pediatric

1 Nasal cannula, adult

1 Portable oxygen apparatus, capable of metered flow with adequate tubing

**AUTOMATIC DEFIBRILLATOR EQUIPMENT AND SUPPLIES**

1 Defibrillator, automatic portable battery operated, per vehicle or response unit

2 Sets of electrode pads for defibrillation

**REQUIRED DRUGS**

650mg Aspirin

2 Epinephrine auto-injectors, one standard and one junior  
(Preloaded syringes with age appropriate dosage of epinephrine 1:1000 is an acceptable substitute for auto-injectors)

2 Concentrated oral glucose tubes or equivalent

50 Grams Activated Charcoal

**OPTIONAL DRUGS**

Acetaminophen elixir 160mg/5ml

Nerve Antidote Kits (Mark I Kits or DuoDote)

**EQUIPMENT AND SUPPLIES FOR AN INTERMEDIATE QUICK RESPONSE**

2 Blood pressure cuffs, one adult, one pediatric

2 Stethoscopes, one adult and one pediatric or combination

2 Heavy duty shears

2 Universal sterile dressings, 9"x5", 10"x8", 8"x9", or equivalent

12 Gauze pads, sterile, 4"x4"

8 Bandages, self-adhering, soft roller type, 4"x5 yards or equivalent

2 Rolls of tape

4 Cervical collars, one adult, one child, one infant, plus one other size

2 Triangular bandages

2 Boxes of gloves, one box non-sterile and one box latex free or equivalent

2 Concentrated oral glucose tubes or equivalent

1 Portable jump kit stocked with appropriate medical supplies

1 Glucose measuring device

**AIRWAY EQUIPMENT AND SUPPLIES**

1 Portable or fixed suction, with wide bore tubing and rigid pharyngeal suction tip

2 Bag mask ventilation units, one adult, one pediatric, with adult, child, and infant size masks

1 Baby syringe, bulb type, separate from the OB kit

3 Oropharyngeal airways, with one adult, one child, and one infant size

3 Nasopharyngeal airways, one adult, one child, and one infant

2 O2 masks, non-rebreather or partial non-rebreather, one adult and one pediatric

1 Nasal cannula, adult

1 Portable oxygen apparatus, capable of metered flow with adequate tubing

2 Small volume nebulizer container for aerosol solutions

1 Laryngoscope with batteries curved and straight blades with bulbs and two extra batteries and two extra bulbs\*

1 Water based lubricant, one tube or equivalent\*

7 Endotracheal tubes, one each: cuffed 8, 7.5, 7, 6, uncuffed 5, 4, 3\*

2 Stylets, one adult and one pediatric\*

1 Device for securing the endotracheal tube\*

2 Endotracheal tube confirmation device\*

2 Flexible sterile endotracheal suction catheters from 5-12 french\*

2 Oro-nasogastric tubes, one adult, and one pediatric \*

**AUTOMATIC DEFIBRILLATOR EQUIPMENT AND SUPPLIES**

1 Defibrillator, automatic portable battery operated, per vehicle or response unit

2 Sets of electrode pads for defibrillation

**IV SUPPLIES**

10 Alcohol or Iodine preps

2 IV start kits or equivalent

12 Over-the-needle catheters, two each, sizes 14g, 16g, 18g, 20g, 22g and 24g

2 Arm boards, two different sizes

2 IV tubings with micro drip chambers

3 IV tubings with standard drip chambers

5 Extension tubings

4 Syringes, one 30 or 60cc, one 10cc, one 5cc, and one 3cc

1 Sharps container

1 Safety razor

1 Vacutainer holder

4 Vacutainer tubes

**REQUIRED DRUGS**

2 25gm Activated Charcoal

1 2.5mg preloaded Albuterol Sulfate[~~or equivalent~~]

2 Atropine Sulfate 1mg each

~~[+]~~2 25gm preloaded[~~20mg/cc~~] Dextrose 50% or Glucagon (must have at least 1 D50)

1 1cc (1mg/1cc) Epinephrine 1:1,000

2 Epinephrine 1:10,000 1mg each

2 Naloxone HCL 2mg each[~~or equivalent~~]

1 bottle[~~or~~] 0.4mg Nitroglycerine (tablets or spray)

650mg Aspirin

4,000cc Ringers Lactate or Normal Saline

**OPTIONAL DRUGS**

Acetaminophen elixir 160mg/5ml

Nerve Agent Antidote kits (Mark I Kits or DuoDote)

CyanoKit

**EQUIPMENT AND SUPPLIES FOR A BASIC AMBULANCE**

2 Blood pressure cuffs, one adult, one pediatric

2 Stethoscopes, one adult and one pediatric or combination

2 Pillows, with vinyl cover or single use disposable pillows

2 Emesis basins, emesis bags, or large basins

1 Fire extinguisher, with current inspection sticker, of the dry chemical type with a rating of 2A10BC or halogen extinguisher of minimum weight 2.5 - 10 pounds

2 Head immobilization devices or equivalent

2 Lower extremity traction splints or equivalent, one adult and one pediatric

2 Non-traction extremity splints, one upper, one lower, or PASG pants

2 Spine boards, one short and one long (Wood must be coated or sealed)

2 Heavy duty shears

2 Urinals, one male, one female, or two universal

1 Printed Pediatric Reference Material

2 Blankets

2 Sheets

6 Towels

2 Universal sterile dressings, 9"x5", 10"x8", 8"x9", or equivalent

12 Gauze pads, sterile, 4"x4"

8 Bandages, self-adhering, soft roller type, 4"x5 yards or equivalent

2 Rolls of tape

4 Cervical collars, one adult, one child, one infant, plus one other size

2 Triangular bandages

2 Boxes of gloves, one box non-sterile and one box latex free or equivalent

1 Obstetrical kit, sterile

[~~2 Concentrated oral glucose tubes or equivalent~~]

2 Occlusive sterile dressings or equivalent

1 Car seat, approved by Federal Safety standard

1 Portable jump kit stocked with appropriate medical supplies

2 Preventive T.B. transmission masks

2 Protective eye wear (goggles or face shields)

2 Full body substance isolation protection, or one for each crew member

1 Thermometer or equivalent

1 Water based lubricant, one tube or equivalent

2 Biohazard bags

1 Disinfecting agent for cleaning vehicle and equipment of body fluids

1 Glucose measuring device

**AIRWAY EQUIPMENT AND SUPPLIES**

1 Portable or fixed suction, with wide bore tubing and rigid pharyngeal suction tip

2 Bag mask ventilation units, one adult, one pediatric, with adult, child, and infant size masks

1 Baby syringe, bulb type, separate from the OB kit

3 Oropharyngeal airways, with one adult, one child, and one infant size

3 Nasopharyngeal airways, one adult, one child, and one infant

4 Non-rebreather or partial non-rebreather oxygen masks, two adult and two pediatric

2 Nasal cannulas, adult

1 Portable oxygen apparatus, capable of metered flow with adequate tubing

1 Permanent large capacity oxygen delivery system

**AUTOMATIC DEFIBRILLATOR EQUIPMENT AND SUPPLIES**

1 Defibrillator, automatic portable battery operated, per vehicle or response unit

2 Sets of electrode pads for defibrillation

**REQUIRED DRUGS**

1 500cc Irrigation solution

650mg Aspirin

2 Epineph[e]rine auto-injectors, one standard and one junior (Preloaded syringes with age appropriate dosage of epinephrine 1:1000 is an acceptable substitute for auto-injectors)

2 Concentrated oral glucose tubes or equivalent

50 Grams Activated Charcoal

**OPTIONAL DRUGS**

Acetaminophen elixir 160mg/5ml

Nerve Antidote Kits (Mark I Kits or DuoDote)

**EQUIPMENT AND SUPPLIES FOR AN INTERMEDIATE AMBULANCE**

2 Blood pressure cuffs, one adult, one pediatric

2 Stethoscopes, one adult and one pediatric or combination

2 Pillows, with vinyl cover or single use disposable pillows

2 Emesis basins, emesis bags, or large basins

1 Fire extinguisher, with current inspection sticker, of the dry chemical type with a rating of 2A10BC or halogen extinguisher of minimum weight 2.5 - 10 pounds

2 Head immobilization devices or equivalent

2 Lower extremity traction splints or equivalent, one adult and one pediatric

2 Non-traction extremity splints, one upper, one lower, or PASG pants

2 Spine boards, one short and one long (Wood must be coated or sealed)

2 Heavy duty shears

2 Urinals, one male, one female, or two universal

1 Printed Pediatric Reference Material

2 Blankets

2 Sheets

6 Towels

2 Universal sterile dressings, 9"x5", 10"x8", 8"x9", or equivalent

12 Gauze pads, sterile, 4"x4"

8 Bandages, self-adhering, soft roller type, 4"x5 yards or equivalent

2 Rolls of tape

4 Cervical collars, three adult and one pediatric or equivalent

2 Triangular bandages

2 Boxes of gloves, one box non-sterile and one box latex free or equivalent

1 Obstetrical kit, sterile

2 Concentrated oral glucose tubes or equivalent

2 Occlusive sterile dressings or equivalent

1 Car seat, approved by Federal Safety standard

1 Portable jump kit stocked with appropriate medical supplies

2 Preventive T.B. transmission masks

2 Protective eye wear (goggles or face shields)

2 Full body substance isolation protection or one for each crew member

1 Thermometer or equivalent

2 Biohazard bags

1 Disinfecting agent for cleaning vehicle and equipment of body fluids

1 Glucose measuring device

**AIRWAY EQUIPMENT AND SUPPLIES**

1 Portable or fixed suction, with wide bore tubing and rigid pharyngeal suction tip

2 Bag mask ventilation units, one adult, one pediatric, with adult, child, and infant size masks

1 Baby syringe, bulb type, separate from the OB kit

3 Oropharyngeal airways, with one adult, one child, and one infant size

3 Nasopharyngeal airways, one adult, one child, and one infant

4 Non-rebreather or partial non-rebreather oxygen masks, two adult and two pediatric

2 Nasal cannulas, adult

1 Portable oxygen apparatus, capable of metered flow with adequate tubing

1 Permanent large capacity oxygen delivery system

2 Small volume nebulizer container for aerosol solutions

1 Laryngoscope with batteries curved and straight blades with bulbs and two extra batteries and two extra bulbs \*

1 Water based lubricant, one tube or equivalent\*

7 Endotracheal tubes, one each: cuffed 8, 7.5, 7, 6, uncuffed 5, 4, 3\*

2 Stylets, one adult and one pediatric\*

1 Device for securing the endotracheal tube\*

2 Endotracheal tube confirmation device\*

2 Flexible sterile endotracheal suction catheters from 5-12 french\*

2 Oro-nasogastric tubes, one adult, and one pediatric \*

**AUTOMATIC DEFIBRILLATOR EQUIPMENT AND SUPPLIES**

1 Defibrillator, automatic portable battery operated, per vehicle or response unit

2 Sets of electrode pads for defibrillation

**IV SUPPLIES**

10 Alcohol or Iodine preps

2 IV start kits or equivalent

12 Over-the-needle catheters, two each, sizes 14g, 16g, 18g, 20g, 22g and 24g

2 Arm boards, two different sizes

2 IV tubings with micro drip chambers

3 IV tubings with standard drip chambers

5 Extension tubings

4 Syringes, one 30 or 60cc, one 10cc, one 5cc, and one 3cc

1 Three-way stopcock

1 Sharps container

1 Safety razor

1 Vacutainer holder

4 Vacutainer tubes

2 Intraosseous needles, two each, 15 or 16, and 18 guage\*

**REQUIRED DRUGS**

2 25gm Activated Charcoal

2 2.5mg premixed Albuterol Sulfate[~~or equivalent~~]

2 Atropine Sulfate 1mg each

2 Dextrose 50% or Glucagon (must have at least 1 D50)

4 1cc (1mg/1cc) Epinephrine 1:1,000

2 Epinephrine 1:10,000 1mg each

2 100 mg preload Lidocaine

2 10mg Morphine Sulfate

2 Naloxone HCL 2mg each[~~or equivalent~~]

1 bottle or 0.4mg Nitroglycerine (tablets or spray)

1 2gm Lidocaine IV Drip

1 500cc Irrigation solution

650mg Aspirin

4,000cc Ringers Lactate or Normal Saline

**OPTIONAL DRUGS**

Acetaminophen elixir 160mg/5ml

Fentanyl

Midazolam

Nubain

Promethazine

Zofran

Nerve Agent Antidote kits (Mark I Kits or DuoDote)

CyanoKit

**EQUIPMENT AND SUPPLIES FOR AN INTERMEDIATE ADVANCED AMBULANCE**

2 Blood pressure cuffs, one adult, one pediatric

2 Stethoscopes, one adult and one pediatric or combination

2 Pillows, with vinyl cover or single use disposable pillows

2 Emesis basins, emesis bags, or large basins

1 Fire extinguisher, with current inspection sticker, of the dry chemical type with a rating of 2A10BC or halogen extinguisher of minimum weight 2.5 - 10 pounds

2 Head immobilization devices or equivalent

- 2 Lower extremity traction splints or equivalent, one adult and one pediatric
  - 2 Non-traction extremity splints, one upper, one lower, or PASG pants
  - 2 Spine boards, one short and one long (Wood must be coated or sealed)
  - 2 Heavy duty shears
  - 2 Urinals, one male, one female, or two universal
  - 1 Printed Pediatric Reference Material
  - 2 Blankets
  - 2 Sheets
  - 6 Towels
  - 2 Universal sterile dressings, 9"x5", 10"x8", 8"x9", or equivalent
  - 12 Gauze pads, sterile, 4"x4"
  - 8 Bandages, self-adhering, soft roller type, 4"x5 yards or equivalent
  - 2 Rolls of tape
  - 4 Cervical collars, three adult and one pediatric or equivalent
  - 2 Triangular bandages
  - 2 Boxes of gloves, one box non-sterile and one box latex free or equivalent
  - 1 Obstetrical kit, sterile
  - 2 Concentrated oral glucose tubes or equivalent
  - 4 Occlusive sterile dressings or equivalent
  - 1 Car seat, approved by Federal Safety standard
  - 1 Portable jump kit stocked with appropriate medical supplies
  - 2 Preventive T.B. transmission masks
  - 2 Protective eye wear (goggles or face shields)
  - 2 Full body substance isolation protection or one for each crew member
  - 1 Thermometer or equivalent
  - 2 Biohazard bags
  - 1 Disinfecting agent for cleaning vehicle and equipment of body fluids
  - 1 Glucose measuring device
- AIRWAY EQUIPMENT AND SUPPLIES**
- 1 Portable or fixed suction, with wide bore tubing and rigid pharyngeal suction tip
  - 2 Bag mask ventilation units, one adult, one pediatric, with adult, child, and infant size masks
  - 1 Baby syringe, bulb type, separate from the OB kit
  - 3 Oropharyngeal airways, with one adult, one child, and one infant size
  - 3 Nasopharyngeal airways, one adult, one child, and one infant
  - 2 Magill forceps, one adult and one child
  - 4 Non-rebreather or partial non-rebreather oxygen masks, two adult and two pediatric
  - 2 Nasal cannulas, adult
  - 1 Portable oxygen apparatus, capable of metered flow with adequate tubing
  - 1 Oxygen saturation monitor
  - 1 Permanent large capacity oxygen delivery system
  - 2 Small volume nebulizer container for aerosol solutions
  - 1 Laryngoscope with batteries curved and straight blades with bulbs and two extra batteries and two extra bulbs
  - 1 Water based lubricant, one tube or equivalent
  - 7 Endotracheal tubes, one each: cuffed 8, 7.5, 7, 6, uncuffed 5, 4, 3
  - 2 Stylets, one adult and one pediatric.
  - 1 Device for securing the endotracheal tube
  - 2 Endotracheal tube confirmation device

- 2 Flexible sterile endotracheal suction catheters from 5-12 french
  - 2 Oro-nasogastric tubes, one adult, and one pediatric
- DEFIBRILLATOR EQUIPMENT AND SUPPLIES**
- 1 Portable cardiac monitor/defibrillator/pacer with adult and pediatric capabilities
  - 2 Sets Electrodes or equivalent
  - 2 Sets Combination type defibrillator pads or equivalent
  - 2 Combination type TCP Pads or equivalent
- IV SUPPLIES**
- 10 Alcohol or Iodine preps
  - 2 IV start kits or equivalent
  - 12 Over-the-needle catheters, two each, sizes 14g, 16g, 18g, 20g, 22g and 24g
  - 2 Arm boards, two different sizes
  - 2 IV tubings with micro drip chambers
  - 3 IV tubings with standard drip chambers
  - 5 Extension tubings
  - 4 Syringes, one 30 or 60cc, one 10cc, one 5cc, and one 3cc
  - 1 Three-way stopcock
  - 1 Sharps container
  - 1 Safety razor
  - 1 Vacutainer holder
  - 4 Vacutainer tubes
  - 2 Intraosseous needles, two each, 15 or 16, and 18 guage
- REQUIRED DRUGS**
- 2 25gm Activated Charcoal
  - [—] 3 ~~6mg Adenosine~~
  - ] 2 2.5mg premixed Albuterol Sulfate or equivalent
  - 2 Atropine Sulfate 1mg
  - 2 Dextrose 50% or Glucagon (must have 1 D50)
  - 2 10mg [vials
  - ] ~~either Diazepam or Midazolam, or both. However, Diazepam is not required after July 1, 2008~~
  - 1 Epinephrine 1:1,000 15mg or equivalent
  - 2 Epinephrine 1:10,000 1mg each
  - [—] 2 ~~Furosemide 40mg each~~
  - ] 2 100 mg preload Lidocaine
  - 2 10mg Morphine Sulfate
  - 2 Naloxone HCL 2mg each [—or equivalent]
  - 1 Bottle [—] 0.4mg Nitroglycerine (tablets or spray)
  - 1 2gm Lidocaine IV Drip
  - 1 500cc Irrigation solution
  - 650mg Aspirin
  - 4,000cc Ringers Lactate or Normal Saline
- OPTIONAL DRUGS**
- Acetaminophen elixir 160mg/5ml
  - Adenosine
  - Fentanyl
  - Furosemide
  - Promethazine
  - Zofran
  - Nerve Agent Antidote kits (Mark I Kits or DuoDote)
  - CyanoKit
- EQUIPMENT AND SUPPLIES FOR PARAMEDIC SERVICES**
- 2 Blood pressure cuffs, one adult, one pediatric
  - 2 Stethoscopes, one adult and one pediatric or combination
  - 1 Thermometer or equivalent
  - 1 Glucose measuring device
  - 2 Head immobilization devices or equivalent
  - 2 Lower extremity traction splints or equivalent, one adult and one pediatric

2 Non-traction extremity splints, one upper, one lower, or PASG pants

2 Spine boards, one short and one long. Wooden boards must be coated or sealed

1 Full body pediatric immobilization device. (Paramedic transfer units excluded)

2 Heavy duty shears

2 Blankets

2 Towels

2 Universal sterile dressings, 9"x5", 10"x8", 8"x 9", or equivalent

12 Gauze pads, sterile, 4" x 4".

8 Bandages, self-adhering, soft roller type, 4"x 5 yards or equivalent

2 Rolls of tape

4 Cervical collars, three adult and one pediatric or equivalent

2 Triangular bandages

2 Boxes of gloves, one box non-sterile and one box latex free or equivalent

2 Pairs Sterile gloves

1 Obstetrical kits, sterile

4 Occlusive sterile dressings or equivalent

1 Portable jump kit stocked with appropriate medical supplies

2 Emesis basins, emesis bags, or large basins

1 Printed Pediatric Reference Material

**AIRWAY EQUIPMENT AND SUPPLIES**

1 Portable or fixed suction, with wide bore tubing and rigid pharyngeal suction tip

1 Oxygen saturation monitor

1 Baby syringe, bulb type separate from the OB kit

1 Laryngoscope with batteries curved and straight blades with bulbs and two extra batteries and two extra bulbs

1 Water based lubricant, one tube or equivalent

18 Endotracheal tubes, two each, uncuffed 3, 4 and 5, cuffed 5.5, 6, 6.5, 7, 7.5, 8

1 Device for securing the endotracheal tube

2 Endotracheal tube confirmation devices

2 Flexible sterile endotracheal suction catheters from 5-12 french

3 Oropharyngeal airways, one adult, one child, and one infant size

3 Nasopharyngeal airways, one adult, one child, and one infant size

2 Magill forceps, one child and one adult

1 Portable oxygen apparatus, capable of metered flow with adequate tubing

2 Oro-nasogastric tubes, one adult, and one pediatric

4 Non-rebreather or partial non-rebreather oxygen masks, two adult and two pediatric

2 Nasal cannulas, adult

2 Bag mask ventilation units, one adult, one pediatric, with adult, child, and infant size masks

2 Stylettes, one pediatric and one adult

2 Tongue blades

1 Meconium aspirator

1 Cricothyroidotomy kit or equivalent

2 Small volume nebulizer container for aerosol solutions

**DEFIBRILLATOR EQUIPMENT AND SUPPLIES**

1 Portable cardiac monitor/defibrillator/pacer with adult and pediatric capabilities

2 Sets Electrodes or equivalent

2 Sets Combination type defibrillator pads or equivalent

2 Sets Electrode wire sets or equivalent. (One only for paramedic transfer service)

2 Combination type TCP Pads or equivalent

**IV SUPPLIES**

10 Alcohol or iodine preps

2 IV start kits or equivalent

12 Over-the-needle catheters, two each, sizes 14g, 16g, 18g, 20g, 22g, 24g

4 Intraosseous needles, two each, 15 or 16 gauge and two 18 guage

2 Arm boards, two different sizes

2 IV tubings with micro drip chambers

3 IV tubings with standard drip chambers

2 IV tubings with blood administration sets

5 Extension tubings

6 Syringes with luer lock, two each 3cc, 10cc, 60cc

1 Cath tipped syringe, 30cc or 60cc

2 Three-way stopcocks

1 Sharps container

1 Vacutainer holder

2 Vacutainer multiple sample luer adapters

4 Vacutainer tubes

**SAFETY AND PERSONAL PROTECTION EQUIPMENT**

2 Preventive T.B. transmission masks

2 Protective eye wear (goggles or face shields)

2 Biohazard bags

2 Full body substance isolation protection or one for each crew member

1 Disinfecting agent for cleaning vehicle and equipment of body fluids

2 Protective headware

2 Pair leather gloves

2 Reflective safety vests or equivalent

**REQUIRED DRUGS**

2 [~~Bottles~~]Activated Charcoal 25gm each

2 Albuterol Sulfate 2.5mg pre-mixed [~~or equivalent~~]

2 Atropine Sulfate 1mg

650mg Aspirin

2 Dextrose 50% or Glucagon (must have at least 1 D50)

2 10 mg of either Diazepam [40mg each] or Midazolam, or both. However, Diazepam is not required after July 1, 2008.

2 Diphenhydramine 50mg each

2 either Dopamine HCL 400mg each or 2 mics/ml Epinephrine drip (2cc Epinephrine 1:1000 to 1000cc LR or NS), or both

1 Epinephrine 1:1,000 15mg [~~or equivalent~~]

2 Epinephrine 1:10,000 1mg each

[~~2 Furosemide 40mg each~~]Fentanyl 200 mcg

2 Lidocaine 100mg each or 450mg Amioderone or both

1 Lidocaine IV drip 2g

[~~2 Meperidine 100mg each~~]

] 2 Morphine Sulfate 10mg each

4 Naloxone HCL 2mg each [~~or equivalent~~]

] 1 Bottle Nitroglycerine 0.4mg [~~or equivalent~~](tablets or spray)

[~~2 Oxytocin 20units each~~]

] 2 Promethazine HCL 25mg each or Zofran 8mg, or both

1 Sodium Bicarbonate 10mEq

2 Sodium Bicarbonate 50mEq each

1 Irrigation solution, 500cc

[~~4 Ammonia capsules~~]

] 4,000cc Ringers Lactate or Normal Saline

[4] Normal Saline for injection/inhalation [~~nebulizer and saline locks~~]

OPTIONAL DRUGS

Acetaminophen 160mg/5ml

Adenosine

Atrovent

Calcium Chloride

Furosemide

Haldol

Lorazepam

Magnesium Sulfate

Meperidine

Oxytocin

Vasopressin

Nerve Agent Antidote kits (Mark I Kits or DuoDote)

CyanoKit

(2) If a licensed or designated agency desires to carry different equipment, supplies, or medication from the vehicle supply requirements, it must submit a written request from the off-line medical director to the Department requesting the variance. The request shall include:

- (a) a detailed training outline;
- (b) protocols;
- (c) proficiency testing;
- (d) support documentation;
- (e) local EMS Council or committee comments; and
- (f) a detailed letter of justification.

(3) All equipment, except disposable items, shall be so designed, constructed, and of such materials that under normal conditions and operations, it is durable and capable of withstanding repeated cleaning.

The permittee:

(a) shall clean the equipment after each use in accordance with OSHA standards;

(b) shall sanitize or sterilize equipment prior to reuse;

(c) may not reuse equipment intended for single use;

(d) shall clean and change linens after each use; and

(e) shall store or secure all equipment in a readily accessible and protected manner and in a manner to prevent its movement during a crash.

(4) The permittee shall have all equipment tested, maintained, and calibrated in accordance with the manufacturer's standards.

(a) the permittee shall document all equipment inspections, testing, maintenance, and calibrations. Testing or calibration conducted by an outside service shall be documented and available for Department review.

(b) a permittee required to carry any of the following equipment shall perform monthly inspections to ensure its ability to function correctly:

- (i) defibrillator, manual or automatic;
- (ii) autovent;
- (iii) infusion pump;
- (iv) glucometer;
- (v) flow restricted, oxygen-powered ventilation devices;
- (vi) suction equipment;
- (vii) electronic Doppler device;
- (viii) automatic blood pressure/pulse measuring device;
- (ix) pulse oximeter.

(c) for all pieces of required equipment that require consumables for the operation of the equipment; power supplies; electrical cables, pneumatic power lines, hydraulic power lines, or related connectors, the

permittee shall perform monthly inspections to ensure their correct function.

(5) A licensee shall:

(a) store all medications according to the manufacturers' recommendations for temperature control and packaging requirements; and

(b) return to the supplier for replacement any medication known or suspected to have been subjected to temperatures outside the recommended range.

**KEY: emergency medical services**

**Date of Enactment or Last Substantive Amendment: [~~November 1, 2005~~2008**

**Notice of Continuation: October 1, 2004**

**Authorizing, and Implemented or Interpreted Law: 26-8a**

◆ ————— ◆

## Health, Center for Health Data, Health Care Statistics

### R428-13-4

## Submission of Performance Measures

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 30956

FILED: 02/07/2008, 12:47

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** An updated reference to the current (2008) HEDIS (Health Plan Employer Data and Information Set) Compliance Audit: Standards, Policies and Procedures, published by the National Committee for Quality Assurance, is needed to reflect revised guidelines and requirements. Certified auditors use the information in this manual when verifying HEDIS data submitted by health maintenance organizations and health plans for subsequent reporting by the Office of Health Care Statistics.

**SUMMARY OF THE RULE OR CHANGE:** The amendment updates the incorporated reference, HEDIS Compliance Audit: Standards, Policies, and Procedures from "2002" to "2008" in Subsection R428-13-4(7), and corrects a minor punctuation error.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 26, Chapter 33a

**THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL:** 2008: Volume 5: HEDIS Compliance Audit: Standards, Policies, and Procedures

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** This amendment will have no fiscal impact on the department or the state budget since the changes do not modify any current requirement with a financial impact.

❖ LOCAL GOVERNMENTS: The proposed changes would not have any impact on any local government budget since the changes do not modify any current requirement with a financial impact.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The proposed changes would not have any financial impact on other persons since the changes do not create additional work for those affected by the amendment.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons associated with the proposed rule changes since the changes do not create additional work for those affected by the amendment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No unacceptable fiscal impact is expected on businesses impacted by this rule change. This will be evaluated after the public has an opportunity to comment. David N. Sundwall, MD, Executive Director

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

HEALTH  
CENTER FOR HEALTH DATA,  
HEALTH CARE STATISTICS  
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:

Sam Vanous at the above address, by phone at 801-538-7074, by FAX at 801-538-9916, or by Internet E-mail at [svanous@utah.gov](mailto:svanous@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 04/14/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 04/21/2008

AUTHORIZED BY: David N. Sundwall, Executive Director

**R428. Health, Center for Health Data, Health Care Statistics.**  
**R428-13. Health Data Authority. Audit and Reporting of HMO Performance Measures.**

**R428-13-4. Submission of Performance Measures.**

(1) Each HMO and health plan shall compile and submit HEDIS data to the Office according to this rule.

(2) By July 1 of each year, all HMOs and health plans shall submit to the Office audited HEDIS data for the preceding calendar year.

(3) Each HMO and health plan shall contract with an independent audit agency certified by the NCQA to verify the HEDIS data prior to the HMO's or health plan's submitting it to the Office.

(4)

(5) Each HMO and health plan may employ the rotation strategy for HEDIS measures developed and updated by NCQA.

(6) If an HMO or health plan presents "Not Reported (NR)" for required measures, it must document why it did not report the required measure.

(7) The auditor shall follow the guidelines and procedures contained in 200[2]8: Volume 5: HEDIS Compliance Audit: Standards, Policies, and Procedures<sup>[2]</sup> published by NCQA, which is incorporated by reference.

(8) Each HMO and health plan shall cause its contracted audit agency to submit a copy of the audit agency's report by July 1 of the submission year to the Office.

(9) Each HMO and health plan shall cause its contracted audit agency to submit a copy of the audit agency's final report by August 15 of the submission year to the Office. The final report shall incorporate the HMO's or health plan's comments.

**KEY: health, health planning, health policy**

**Date of Enactment or Last Substantive Amendment: ~~August 14, 2002~~ 2008**

**Notice of Continuation: March 10, 2003**

**Authorizing, and Implemented or Interpreted Law: 26-33a**



## Human Services, Recovery Services **R527-928** Lost Checks

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 30982

FILED: 02/13/2008, 12:50

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for this amendment is to add the department's authority and purpose for rulemaking and renumber, in the text, Section 35A-1-502 to 35A-3-603 and Section 62A-11-201 to 35A-3-601.

SUMMARY OF THE RULE OR CHANGE: This amendment adds a new first section to show the department's authority and purpose for the rule. It also change the references at the bottom of the rule to the renumbered code situations.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 35A-3-603, 35A-3-601, 62A-11-104, and 62A-11-107

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The proposed changes to the rule are for clarification purposes only and do not affect the current procedures. Therefore, no additional financial impact on any state programs is anticipated.

❖ LOCAL GOVERNMENTS: There is no cost to the local government because administrative rules of the Office of Recovery Services/Child Support Services (ORS/CSS) do not apply to local government. Local government is not responsible for monitoring or issuing checks for the office.



❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The basic requirements of the current rule will not change when the proposed amendment becomes effective. Consequently, there should not be any additional financial impact on those individuals.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** No person or entity affected by this rule should incur any additional costs as a result of the proposed changes because the basic procedures remain the same.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule addresses the conditions for issuing a new check to an individual when he has lost or had stolen a prior check. Businesses are not addressed in this rule or the proposed changes and it not anticipated the changes will create any fiscal impact on them.  
Lisa Michelle Church, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
HUMAN SERVICES  
RECOVERY SERVICES  
515 E 100 S  
SALT LAKE CITY UT 84102-4211, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
LeAnn Wilber at the above address, by phone at 801-536-8950, by FAX at 801-536-8833, or by Internet E-mail at [lwilber@utah.gov](mailto:lwilber@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 03/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2008

AUTHORIZED BY: Mark Brasher, Director

**R527. Human Services, Recovery Services.**

**R527-928. Lost Checks.**

**R527-928-1. Authority and Purpose.**

1. The Department of Human Services is authorized to create rules necessary for the provision of social services by Section 62A-1-111 and 62A-11-107.

2. The purpose of this rule is to specify the responsibility and procedures for the Office of Recovery Services/Child Support Services for issuing a new check that has been lost or stolen.

**R527-928-[4]2. Responsibility for Collection and Investigation.**

ORS shall be responsible for the collection and investigation of lost or stolen Department of Human Services checks. The term check and warrant are used interchangeably.

**R527-928-[2]3. Cashing Department of Human Services Issued Checks.**

The Department of Human Services has specific policy concerning the replacement of department issued checks which have

been reported as lost or stolen and on which a stop payment has been placed or where the check has been returned as a forged check to the financial institution or store.

The Department will only replace a department issued check for any bank or store if all of the following conditions have been met:

1. An employee of the cashing establishment personally observed the payee endorse the check. This includes the original payee and any third party to whom the payee may have made the check payable.

2. An employee of the cashing establishment examined a picture bearing governmental issued media presented by the payee and was satisfied that the person presenting the check is in fact the payee. Examples of acceptable identification are, a Utah Motor Vehicle Operator's License or a Utah Identification card. Identification must be obtained for all payees endorsing the check. The employee must note the source of the identification and the identification number on the check.

3. The employee who approved the cashing of the check must have made an identifying mark, such as initials, which will identify the employee in the event legal action is initiated at a later date.

4. The replacement check to the cashing establishment must be requested within 120 days of the date of notification of the stop payment.

**KEY: public assistance programs, banks and banking, fraud**  
**Date of Enactment or Last Substantive Amendment:** ~~February 15, 2001~~ 2008

**Notice of Continuation:** November 29, 2007

**Authorizing, and Implemented or Interpreted Law:** 70A-3; ~~35A-1-502~~ 35A-3-601; 35A-3-603; 62A-11-104; 62A-11-107; ~~62A-11-201~~



**Insurance, Administration**  
**R590-153**  
**(Changed to R592-6)**  
**Unfair Inducements and Marketing**  
**Practices in Obtaining Title Insurance**  
**Business**

**NOTICE OF PROPOSED RULE**  
(Amendment)

DAR FILE NO.: 31010  
FILED: 02/15/2008, 16:36

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being changed for several reasons: 1) to update the rule to keep up with changes in the title and escrow marketplace; 2) to move it to a Title and Escrow Commission rule (change to Rule R592-6); and 3) to make technical changes.

SUMMARY OF THE RULE OR CHANGE: The Authority section provides reference to the Title and Escrow Commissions authority to write rules; the Purpose and Scope sections have been combined; the Definition section has been put in alphabetical order, and a new definition included for "Flip transactions". Several subsections in Sections R590-153-4

and R590-153-5 have been moved, without change to the text. Subsection R590-153-5(R) dealing with information packets has been deleted since they are no longer being collected by the department nor charged for by industry due to expense for such things being reduced due to technology. Subsection R590-153-5(P) is also being deleted since it is no longer an issue. Subsection R590-153-6(G) is being changed to clarify that the education programs provided referred to are continuing education programs. Commissioner is being changed to Commission throughout the rule to comply with the transfer of this rule from the Insurance Department to the Title and Escrow Commission. Other technical changes are also being made.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-2-404

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: This amendment will have no fiscal impact on the Insurance Department or the state's budget. The changes will not result in additional or reduced fees to the department, nor will it result in a change in the workload of department staff.

❖ LOCAL GOVERNMENTS: Since this rule deals solely with the relationship between the department and their licensees, it will have no impact on local governments.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: This amendment will have no fiscal impact on small businesses. The majority of the changes deal with the moving of subsections, change in outlining and rule references, and the deletion of subsections that are no longer issues in the title business. The changes will not require additional filings, fees, or reprinting of forms for any businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule will have no fiscal impact on consumers or licensees. The majority of the changes deal with the moving of subsections within the rule, change in outlining and rule references, and the deletion of subsections that are no longer issues in the title business. Since the changes should have no fiscal impact on the title business, there should be no fiscal impact on their consumers.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/31/2008

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 3/10/2008 at 9:00 AM, House Building (behind the Capitol), Room W130, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2008

AUTHORIZED BY: Jilene Whitby, Information Specialist

**[R590]R592. Insurance, [Administration]Title and Escrow Commission.**

**[R590-153]R592-6. Unfair Inducements and Marketing Practices in Obtaining Title Insurance Business.**

**[R590-153-1]R592-6-1. Authority.**

This rule is promulgated pursuant to Section ~~[31A-2-201(3)(a)]31A-2-404(2)~~, ~~[in]which authorizes the Title and Escrow Commission (Commission) to [the commissioner is empowered to]make rules [to implement]for the administration of the Insurance Code[- and pursuant to the specific authority of Section 31A-23a-402(8), which authorizes the commissioner to define unfair methods of competition or any other unfair or deceptive act or practice in the business of insurance]~~related to title insurance, including rules related to standards of conduct for a title licensee.

**[R590-153-2]R592-6-2. Purpose and Scope.**

(1) The purpose of this rule is to identify certain practices, which the ~~[commissioner]Title and Escrow Commission~~ finds ~~[provide]creates~~ unfair inducements for the placement of title insurance business and as such constitute unfair methods of competition. These practices include~~[- but are not limited to,]~~ the payment of expenses that are considered normal, customary, reasonable and recurring in the operation of a client of a title insurer, agency or producer.

(2) This rule applies to all title insurers, title insurance agencies, title insurance producers and all employees, representatives and any other party working for or on behalf of said entities whether as a full time or part time employee or as an independent contractor.

**[R590-153-3. Scope.**

~~— This rule applies to all title insurers, title insurance agencies and title insurance producers and all employees, representatives and any other party working for or on behalf of said entities whether as a full time or part time employee or as an independent contractor.~~

**R590-153-4]R592-6-3. Definitions.**

For the purpose of this rule the ~~[commissioner]Commission~~ adopts the definitions as set forth in Sections 31A-1-301 and 31A-2-402, and the following:

~~[-A-](1) "Bona fide real estate transaction" means:~~

~~\_\_\_\_\_ (a) a preliminary title report is issued to a seller or listing agent in conjunction with the listing of a property; or~~

~~\_\_\_\_\_ (b) a commitment for title insurance is ordered, issued, or distributed in a purchase and sale transaction showing the name of the proposed buyer and the sales price, or in a loan transaction showing the proposed lender and loan amount.~~

~~(2) "Business activities" shall include, sporting events, sporting activities, musical and art events. In no case shall such business activities rise to the level of ceremonies, for example: award banquets, recognition events or similar activities sponsored by or for clients, or include travel by air or other commercial transportation.~~

~~(3) "Business meals" shall include breakfast, brunch, lunch, dinner, cocktails, and tips. In no case shall such business meals rise to the level of ceremonies, for example: awards banquets, recognition events or similar activities sponsored by or for clients.~~

~~(4) "Client" means any person, or group, who influences, or who may influence, the placement of title insurance business or who is engaged in a business, profession or occupation of:~~

~~[(+)](a) buying or selling interests in real property;~~

~~[(2)](b) making loans secured by interests in real property; and~~

~~[(3)](c) [shall include but not be limited to]including real estate agents, real estate brokers, mortgage brokers, lending or financial institutions, builders, developers, sub-dividers, attorneys, consumers, escrow companies and the employees, agents, representatives, solicitors and groups or associations of any of the foregoing.~~

~~[(B-)](5) "Discount" means the furnishing or offering to furnish title insurance, services constituting the business of title insurance or escrow services for a total charge less than the amounts set forth in the applicable rate schedules filed pursuant to Section 31A-19a-203 or 31A-19a-209.~~

~~(6) "Flip transaction" means a series of real estate transactions for the same parcel of property where a final sale or closing provides the funds to complete the previous transactions.~~

~~(7) "Official trade association publication" means:~~

~~(a) a membership directory, provided its exclusive purpose is that of providing the distribution of an annual roster of the association's members to the membership and other interested parties; or~~

~~(b) an annual, semiannual, quarterly or monthly publication containing information and topical material for the benefit of the members of the association.~~

~~[(C-)](8) "Trade Association" means a recognized association of persons, a majority of whom are clients or persons whose primary activity involves real property.]~~

~~D. "Business meals" shall include, but are not limited to, breakfast, brunch, lunch, dinner, cocktails and tips. In no case shall such business meals rise to the level of ceremonies, for example, awards banquets, recognition events or similar activities sponsored by or for clients.~~

~~E. "Official Trade Association Publication" means:~~

~~(1) a membership directory, provided its exclusive purpose is that of providing the distribution of an annual roster of the association's members to the membership and other interested parties; or~~

~~(2) an annual, semiannual, quarterly or monthly publication containing information and topical material for the benefit of the members of the association.~~

~~F. "Business Activities" shall include, but are not limited to, sporting events, sporting activities, music and art events. In no case shall such business activities rise to the level of ceremonies, for example award banquets, recognition events or similar activities sponsored by or for clients, or include travel by air, or other commercial transportation.~~

~~G. "Bona fide real estate transaction" means:~~

~~(1) a preliminary title report is issued to a seller or listing agent in conjunction with the listing of a property, or~~

~~(2) a commitment for title insurance is ordered, issued, or distributed in a purchase and sale transaction showing the name of the~~

~~proposed buyer and the sales price, or in a loan transaction showing the proposed lender and loan amount.]~~

#### **~~[R590-153-5]~~[R592-6-4. Unfair Methods of Competition, Acts and Practices.**

The ~~[commissioner]~~Commission finds that providing or offering to provide any of the following benefits by parties identified in Section ~~[R590-153-3]~~[R592-6-2] to any client, either directly or indirectly, except as specifically allowed in Section ~~[R590-153-6]~~[R592-6-5] below, is a material and unfair inducement to obtaining title insurance business and constitutes an unfair method of competition indirectly, except as specifically allowed in Section the business of title insurance prohibited under Section 31A-23a-402:

~~[(A-)](1) The furnishing of a title insurance commitment without one of the following:~~

~~[(+)](a) sufficient evidence in the file of the title insurer, agency or producer that a bona fide real estate transaction exists; or~~

~~[(2)](b) payment in full at the time the title insurance commitment is provided.~~

~~[(B-)](2) The paying of any charges for the cancellation of an existing title insurance commitment issued by a competing organization, unless that commitment discloses a defect which gives rise to a claim on an existing policy.~~

~~[(C-)](3) Furnishing escrow services pursuant to Section 31A-23a-406[;]:~~

~~(a) for a charge less than the charge filed pursuant to Section 31A-19a-209(5); or~~

~~(b) the filing of charges for escrow services with the Utah Insurance [commissioner]Commissioner (commissioner), which are less than the actual cost of providing the services.~~

~~[(D-)](4) Waiving all or any part of established fees or charges for services, which are not the subject of rates or escrow charges filed with the commissioner.~~

~~[(E-)](5) Deferring or waiving any payment for insurance or escrow services otherwise due and payable, including ["]holding for resale["] and flip transactions.~~

~~[(F-)](6) Furnishing services not reasonably related to a bona fide title insurance or escrow, settlement, or closing transaction, including[; but not limited to computer services;] non-related delivery services, accounting assistance, legal counseling.~~

~~[(G-)](7) The paying for, furnishing, or waiving all or any part of the rental or lease charge for space, which is occupied by any client.~~

~~[(H-)](8) Renting or leasing space from any client, regardless of the purpose, at a rate which is excessive or inadequate when compared with rental or lease charges for comparable space in the same geographic area, or paying rental or lease charges based in whole or in part on the volume of business generated by any client.~~

~~[(I-)](9) Furnishing any part of a title insurer's agency's or producer's facilities, for example, conference rooms or meeting rooms, to a client or its trade association without receiving a fair rental or lease charge comparable to other rental or lease charges for facilities in the same geographic area.~~

~~(10) The co-habitation or sharing of office space with a client of a title insurance producer.~~

~~(11) Furnishing all or any part of the time or productive effort of any employee of the title insurer, agency or producer, for example, secretary, clerk, messenger or escrow officer, to any client.~~

~~[(J-)](12) Paying for all or any part of the salary of a client or an employee of any client.~~

~~[K.](13)~~ Paying, or offering to pay, either directly or indirectly, salary, commissions or any other consideration to any employee who is at the same time licensed as a real estate agent or real estate broker or as a mortgage lender or mortgage company subject to 31A-2-405 and R592-5.

~~[L.](14)~~ Paying for the fees or charges of a professional, for example, an appraiser, surveyor, engineer or attorney, whose services are required by any client to structure or complete a particular transaction.

~~[M.](15)~~ Sponsoring, cosponsoring, subsidizing, contributing fees, prizes, gifts, food or otherwise providing anything of value for an activity of a client, except as allowed under Subsection ~~[R590-153-6(F)]R592-6-5(6)~~ of a client. Activities include ~~[but are not limited to]~~ "open houses" at homes or property for sale, meetings, breakfasts, luncheons, dinners, conventions, installation ceremonies, celebrations, outings, cocktail parties, hospitality room functions, open house celebrations, dances, fishing trips, gambling trips, sporting events of all kinds, hunting trips or outings, golf or ski tournaments, artistic performances and outings in recreation areas or entertainment areas.

~~[N.](16)~~ Sponsoring, co-sponsoring, subsidizing, supplying prizes or labor, except as allowed under Subsection ~~[R590-153-6(C)]R592-6-5(2)~~ or otherwise providing things of value for promotional activities of a client. Title insurers, agencies or producers may attend activities of a client if there is no additional cost to the title insurer, agency or producer other than their own entry fees, registration fees, meals, etc., and provided that these fees are no greater than those charged to clients or others attending the function.

~~[O.](17)~~ Providing gifts or anything of value to a client in connection with social events such as birthdays or job promotions ~~[except as provided in Subsection R590-153-6(H)]~~. A letter or card in these instances will not be interpreted as providing a thing of value.

~~[P. Providing either directly or indirectly, a compensating balance or deposit in a lending institution either for the express or implied purpose of influencing the placement or steering of title insurance business by such lending institution. This does not preclude transactions with lending institutions, which are in the normal course of business.~~

~~Q. Furnishing any part of a title insurer's, agency's or producer's facilities, for example, conference rooms or meeting rooms, to a client or trade association without receiving a fair rental or lease charge comparable to other rental or lease charges for facilities in the same geographic area.~~

~~R. Furnishing information packets, listing kits, "farm" packages, reports, or any form of title evidence without first filing a specimen form copy with the commissioner and specifying a rate for which the form is available. The rate may not be less than the actual cost of producing the information and the material furnished.~~

~~S.](18)~~ Paying for any advertising on behalf of a client.

~~[T.](19)~~ Advertising jointly with a client on subdivision or condominium project signs, or signs for the sale of a lot or lots in a subdivision or units in a condominium project. A title insurer, agency or producer may advertise independently that it has provided title insurance for a particular subdivision or condominium project but may not indicate that all future title insurance will be written by that title insurer, agency or producer.

~~[U.](20)~~ Advertisements may not be placed in a publication, including an Internet web page and its links, that is hosted, published, produced for, distributed by or on behalf of a client.

(21) A donation may not be made to a charitable organization created, controlled or managed by a client.

(22) A direct or indirect benefit provided to a client which is not specified in Section ~~[R590-153-6]R592-6-5~~ below, will be investigated by the department for the purpose of determining whether it should be defined by the ~~[commissioner]Commission~~ as an unfair inducement under Section 31A-23a-402(8).

~~[V. Donations to charitable organizations must:~~

~~— (1) not be paid in cash; and~~

~~— (2) if paid by negotiable instrument, be made payable only to the charitable organization; and~~

~~— (3) be distributed directly to the charitable organization; and~~

~~— (4) not provide any benefit to a client.~~

~~[W.](23)~~ Title insurers, agencies and producers who have ownership in, or control of, other business entities, including I.R.C. Section 1031 qualified intermediaries, may not use those other business entities to enter into any agreement, arrangement, or understanding or to pursue any course of conduct, designed to avoid the provisions of this rule.

### **[R590-153-6]R592-6-5. Permitted Advertising and Business Entertainment.**

Except as specifically prohibited in Section R592-6-4 above, the following are permitted: ~~[A. A title insurer, agency or producer may furnish the following without charge, and without additions, addenda or attachments which may be construed as reaching conclusions of the insurer, agency or producer regarding matters of marketable ownership or encumbrances:~~

~~— (1) A copy of an existing plat map; or~~

~~— (2) Tax information covering a specific parcel of real estate, for example, tax identification number, assessed owner, assessed value of land and improvements, or the latest tax amount; or~~

~~— (3) other information regarding real property which the county recorder's office provides to the public free of charge, or at a nominal charge, and in the exact format and content as provided by the county recorder's office.~~

~~B.](1)~~ Advertisements by title insurers, agencies or producers must comply with the following:

~~[(4)](a)~~ The advertisement must be purely self-promotional ~~[.]; and~~

~~[(2)~~ Advertisements may not be placed in a publication, including an Internet web page and its links, that is hosted, published, produced for, distributed by or on behalf of a client except as allowed under R590-153-6(B)(3).

~~— (3)](b)~~ Advertisements in official trade association publications are permissible as long as any title insurer, agency or producer has an equal opportunity to advertise in the publication and at the standard rates other advertisers in the publication are charged.

~~[C.](2)~~ A title, insurer, agency or producer may donate time to serve on a trade association committee and may also serve as an officer for the trade association.

~~[D.](3)~~ A title insurer, agency or producer may have two self-promotional open houses per calendar year for each of its owned or occupied facilities, including branch offices. The title insurer, agency or producer may not expend more than \$15 per guest per open house. The open house may take place on or off the title insurer's, agency's or producer's premises but may not take place on the client's premises.

(4) Donation to charitable organizations must:

(a) not be paid in cash;

(b) if paid by a negotiable instrument, be made payable only to the charitable organization;

(c) be distributed directly to the charitable organization; and

~~(d)~~ not provide any benefit to a client.

~~(E-)(5)~~ A title insurer, agency or producer may distribute self-promotional items having a value of \$5 or less to clients, consumers and members of the general public. These self-promotional items shall be novelty gifts which are non-edible and may not be personalized or bear the name of the donee. Self-promotional items may only be distributed in the regular course of business. Self-promotional items may not be given to clients or trade associations for redistribution by these entities.

~~(F-)(6)~~ A title insurer, agency or producer may make expenditures for business meals or business activities on behalf of any person, whether a client or not, as a method of advertising, if the expenditure meets all the following criteria:

~~(4-)(a)~~ ~~(F)~~the person representing the title insurer, agency or producer must be present during the business meal or business activity[-];

~~(2-)(b)~~ ~~(F)~~there is a substantial title insurance business discussion directly before, during or after the business meal or business activity[-];

~~(3-)(c)~~ ~~(F)~~the total cost of the business meal, the business activity, or both is not more than \$100 per person, per day[-];

~~(4-)(d)~~ ~~(N)~~no more than three individuals from an office of a client may be provided a business meal or business activity by a title insurer, agency or producer in a single day[-]; and

~~(5-)(e)~~ ~~(F)~~the entire business meal or business activity may take place on or off the title insurer's, agency's or producer's premises, but may not take place on the client's premises.

~~(G-)(7)~~ A title insurer, agency or producer may conduct continuing [educational]education programs that are approved by the Commission, with the concurrence of the commissioner or the Utah Division of Real Estate under the following conditions:

~~(4-)(a)~~ ~~(F)~~the continuing [educational]education program shall address only title insurance, escrow or other topics directly related thereto[-];

~~(2-)(b)~~ ~~(F)~~the continuing [educational]education program must be of at least one hour in duration[-];

~~(3-)(c)~~ ~~(F)~~for each hour of continuing education, \$15 or less per person may be expended, including the cost of meals and refreshments[-]; and

~~(4-)(d)~~ ~~(N)~~no more than one such continuing [educational]education program may be conducted at the office of a client per calendar quarter.

~~(H-)(8)~~ A title insurer, agency or producer may acknowledge a wedding, birth or adoption of a child, or funeral of a client or members of his/her immediate family with flowers or gifts not to exceed \$75.

~~(I-)(9)~~ Any other advertising and/or business entertainment must be requested in writing and approved in advance and in writing by the ~~commissioner~~ Commission.

#### ~~R590-153-7~~ R592-6-6. Enforcement Date.

The commissioner will begin enforcing the provisions of this rule 45 days from the effective date of the rule.

#### ~~R590-153-8~~ R592-6-7. Severability.

If any provision or clause of this rule or its application to any person or situation is held invalid, such invalidity may not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

**KEY: title insurance**

**Date of Enactment or Last Substantive Amendment:** ~~August 8, 2007~~ **2008**

**Notice of Continuation:** November 9, 2007

**Authorizing, and Implemented or Interpreted Law:** ~~31A-2-201;~~ **31A-23a-402**



## Natural Resources, Wildlife Resources R657-23-5 Hunter Education Instructor Training

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 30955

FILED: 02/07/2008, 09:12

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is being amended to remove the reference to an internal policy and replace with suitable text.

**SUMMARY OF THE RULE OR CHANGE:** The reference to division policy W-6-LAW-15 has been removed from the text and replaced with "assessing suitability to work with children under the age of 18 years and to serve as an instructor".

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 23-19-11 and 23-19-12

#### ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** This rule is being amended to remove the reference to an internal policy and replace it with suitable text. The Division of Wildlife Resources (DWR) determines that this amendment does not create a cost or savings impact to the state budget or DWR's budget.
- ❖ **LOCAL GOVERNMENTS:** None--This filing does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** This rule is being amended to remove an internal policy reference. Therefore, this amendment does not impose any additional requirements on other persons, nor generate a cost or savings impact to other persons.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** This amendment removes an internal division policy reference and replaces it with suitable text. There are not any additional compliance costs associated with this amendment.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The amendments to this rule do not create an impact on businesses. Michael R. Styler, Executive Director

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2008

AUTHORIZED BY: James F Karpowitz, Director

**R657. Natural Resources, Wildlife Resources.**

**R657-23. Utah Hunter Education Program.**

**R657-23-5. Hunter Education Instructor Training.**

(1) A person must be 21 years of age or older to become a certified hunter education instructor.

(2) Completion of a hunter education instructor course requires a person to: EITHER

(a) attend the 18 hour classroom course conducted by a trainer;  
(b) pass a criminal background check ~~[according to Division policy W-6-LAW-15]~~ assessing suitability to work with children under the age of 18 years and to serve as an instructor;

(c) obtain a passing score of at least 80% on a written test; and  
(d) obtain a passing score of at least 50% on a shooting practical test.

OR

(a) Complete the Division's online instructor course.  
(b) Pass a criminal background check ~~[according to Division policy W-6-LAW-15]~~ assessing suitability to work with children under the age of 18 years and to serve as an instructor;

(c) Attend a 6 hour workshop conducted by a trainer.  
(d) Obtain a passing score of at least 75% on a written test; and  
(e) Obtain a passing score of at least 50% on a shooting practical test.

(3) The division shall issue a hunter education instructor card to each individual who successfully completes the hunter education instructor course.

**KEY: wildlife, game laws, hunter education**

**Date of Enactment or Last Substantive Amendment: [February 7], 2008**

**Notice of Continuation: December 6, 2007**

**Authorizing, and Implementing or Interpreted Law: 23-19-11**

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**End of the Notices of Proposed Rules Section**

## NOTICES OF CHANGES IN PROPOSED RULES

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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 March 31, 2008. At its option, the agency may hold public hearings.

From the end of the waiting period through June 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 Section 63-46a-6; and Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

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

**Environmental Quality, Radiation  
Control  
R313-12-111  
Submission of Electronic Copies**

**NOTICE OF CHANGE IN PROPOSED RULE**

DAR File No.: 30774  
Filed: 02/06/2008, 14:28

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this change in proposed rule is to require the submission of electronic copies of reports and other documentation sent to the Executive Secretary of the Radiation Control Board. Public comments were received and they have resulted in changes to the proposed rule.

**SUMMARY OF THE RULE OR CHANGE:** Public comments were received on the proposed amendment under DAR No. 30774 from the December 1, 2007, Bulletin. The Radiation Control Board approved the filing of a notice of change in proposed rule. Changes are proposed so that the rule does not apply to public comments received during a formal public comment period; to correspondence received from individuals or organizations that are not currently regulated by the agency, unless that correspondence is about proposing an activity or facility that would be subject to agency regulation; and to documents used to make payments to the agency. The rule was changed so that electronic copies of security-sensitive information do not need to be submitted. To add clarity, the format of the rule was changed. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the December 1, 2007, issue of the Utah State Bulletin, on page 4. 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:** Sections 19-3-104 and 19-3-108

**ANTICIPATED COST OR SAVINGS TO:**

- ❖ **THE STATE BUDGET:** No impact to the state budget is anticipated since this requirement specifies computer software and hardware that the state currently uses.
- ❖ **LOCAL GOVERNMENTS:** A few local government agencies are Radioactive Material Licensees. As such, they send submissions to the Executive Secretary of the Radiation Control Board. There may be a cost for some local government agencies, but the amount is unknown because the Executive Secretary has no information about the computer software and hardware used by the affected local government agency. The Executive Secretary chose to provide a narrative explanation rather than a dollar estimate

because of the lack of information about the computer software and hardware used by an affected local government agency.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** Some small businesses and persons other than businesses are Radioactive Material Licensees. As such, they send submissions to the Executive Secretary of the Radiation Control Board. There may be a cost for some small businesses and persons other than businesses, but the amount is unknown because the Executive Secretary has no information about the computer software and hardware used by small businesses and persons other than businesses. The Executive Secretary chose to provide a narrative explanation rather than a dollar estimate because of the lack of information about the computer software and hardware used by small businesses and persons other than businesses.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Persons affected by this rule may have a cost to be compliant with the requirement to send submissions in an electronic format. The cost for an affected person is unknown because the Executive Secretary of the Radiation Control Board has no information about the computer software and hardware used by the person. The Executive Secretary chose to provide a narrative explanation rather than a dollar estimate because of the lack of information about the computer software and hardware used by an affected person.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** A small number of Utah businesses may be affected by the proposed rule due to incompatible computer software and hardware. The rule is expected to have a minimal financial impact on business. The specific amount is unknown, but it is likely to be less than \$1,000 per licensee. Richard W. Sprott, Executive Director

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

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

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

Craig Jones at the above address, by phone at 801-536-4264, by FAX at 801-533-4097, or by Internet E-mail at [cwjones@utah.gov](mailto:cwjones@utah.gov)

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 03/31/2008.**

**THIS RULE MAY BECOME EFFECTIVE ON: 04/11/2008**

**AUTHORIZED BY: Dane Finerfrock, Director**



**R313. Environmental Quality, Radiation Control.**

**R313-12. General Provisions.**

**R313-12-111. Submission of Electronic Copies.**

(1) All ~~official~~ submissions to the Executive Secretary not exempt in paragraph R313-12-111(5) shall also be submitted to the Executive Secretary in electronic format. This requirement extends to all attachments to these documents.

(2) The electronic copy shall be a true, accurate, searchable and reproducible copy of the official submission, except that it need not include signatures or professional stamps.

(3) All electronic copies shall be submitted on a CD or DVD nonrewritable disc, except that documents smaller than ~~25~~<sup>one</sup> megabytes may be submitted by email ~~to an appropriate Division of Radiation Control staff member~~.

(4) All documents shall be submitted in one of the following electronic formats, at the choice of the submitter:

(a) ~~a~~<sup>A</sup> searchable PDF document (a document that may be read and searched using Adobe Reader); or

(b) ~~a~~<sup>A</sup> Microsoft Word document.

(5) The requirements of this rule do not apply to: ~~[-]~~

~~(a) X-ray registration applications; [-]~~

~~(b) [s] Submissions shorter than 25 pages unless otherwise ordered by the Executive Secretary. [-] The Executive Secretary may also waive the requirements of R313-12-111(1) for good cause. [-]~~

~~(c) Public comments received during a formal public comment period;~~

~~(d) Correspondence received from individuals or organizations that are not currently regulated by the agency, unless that correspondence is about proposing an activity or facility that would be subject to agency regulation; and~~

~~(e) Documents used to make payments to the agency.~~

(6) If an official submission includes information for which business confidentiality is claimed ~~or that is security-sensitive~~, this requirement applies only to that portion of the submission for which ~~business~~ no confidentiality is ~~not~~ claimed.

~~(7) The Executive Secretary may waive the requirements of R313-12-111(1) for good cause.~~

**KEY: definitions, units, inspections, exemptions**

**Date of Enactment or Last Substantive Amendment: 2008**

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

**Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-3-108**



**End of the Notices of Changes in Proposed Rules Section**

## NOTICES OF 120-DAY (EMERGENCY) RULES

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An agency may file a 120-DAY (EMERGENCY) RULE when it finds that the regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (Subsection 63-46a-7(1)).

As with a PROPOSED RULE, a 120-DAY RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the 120-DAY RULE including the name of a contact person, justification for filing a 120-DAY RULE, anticipated cost impact of the rule, and legal cross-references. A row of dots in the text (· · · · ·) indicates that unaffected text was removed to conserve space.

A 120-DAY RULE is effective at the moment the Division of Administrative Rules receives the filing, or on a later date designated by the agency. A 120-DAY RULE is effective for 120 days or until it is superseded by a permanent rule.

Because 120-DAY RULES are effective immediately, the law does not require a public comment period. However, when an agency files a 120-DAY RULE, it usually files a PROPOSED RULE at the same time, to make the requirements permanent. Comment may be made on the proposed rule. Emergency or 120-DAY RULES are governed by Section 63-46a-7; and Section R15-4-8.

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### Health, Health Care Financing **R410-14-17** Agency Review

#### NOTICE OF 120-DAY (EMERGENCY) RULE

DAR File No.: 30981  
FILED: 02/13/2008, 12:30

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This change is necessary to comply with "superior agency" provisions found under the Utah Administrative Procedures Act (UAPA).

**SUMMARY OF THE RULE OR CHANGE:** This amendment adds a provision to the rule that explains the procedure for review of Department of Workforce Services (DWS) final agency orders.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 63-46b-12 and 13

**ANTICIPATED COST OR SAVINGS TO:**

- ❖ **THE STATE BUDGET:** There is no budget impact because this change only complies with agency review provisions found under UAPA. It does not affect costs for Medicaid services or payments to Medicaid providers.
- ❖ **LOCAL GOVERNMENTS:** There is no budget impact because local governments do not conduct administrative review procedures for Medicaid clients.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** There is no impact to other persons and small businesses because this change only complies with agency review provisions found under UAPA. It does not affect costs for Medicaid services or payments to Medicaid providers.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs because this change only complies with agency review provisions found under UAPA. It does not affect costs for Medicaid services or payments to Medicaid providers.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This emergency rule will not have a fiscal impact on businesses. The change assures that regulated entities will have full appeal rights consistent with state law. David N. Sundwall, MD, Executive Director

**EMERGENCY RULE REASON AND JUSTIFICATION:** REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law. The department must add "superior agency" provisions to this rule to comply with state requirements found under UAPA.

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

**HEALTH  
HEALTH CARE FINANCING  
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

**THIS RULE IS EFFECTIVE ON:** 02/15/2008

**AUTHORIZED BY:** David N. Sundwall, Executive Director

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**R410. Health, Health Care Financing.****R410-14. Administrative Hearing Procedures.****R410-14-17. Agency Review.**

An aggrieved person may move for reconsideration of DHCF's final administrative action, in accordance with Section 63-46b-12 and 13. A person may seek review of a DWS final agency order concerning eligibility for medical assistance by filing a written request for review with DHCF in accordance with Section 63-46b-12.

**KEY: [m]Medicaid****Date of Enactment or Last Substantive Amendment: February 15, 2008****Notice of Continuation: October 29, 2007****Authorizing, and Implemented or Interpreted Law: 26-1-24; 26-1-5; 26-18-2.3; 63-46b-1**

**End of the Notices of 120-Day (Emergency) Rules Section**

# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by *Utah Code* Section 63-46a-9 (1998).

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## Agriculture and Food, Marketing and Development **R65-2** Utah Cherry Marketing Order

### FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 31007  
FILED: 02/15/2008, 15:04

### 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: Promulgated under authority of Subsection 4-2-2(1)(e), this rule sets requirements for the uniform grading of cherries for fresh, frozen, or brine markets; sold or offered for sale by producers or handlers. Such grading standards shall not be established below any minimum standards now prescribed by law for this state.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Utah Cherry Marketing board met and agreed that the rule should stay as it is written; and the law continues to require this rule. Therefore, this rule should be continued.

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

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

### DIRECT QUESTIONS REGARDING THIS RULE TO:

Clair Allen or Kathleen Mathews at the above address, by phone at 801-538-7180 or 801-538-7103, by FAX at 801-538-7189 or 801-538-7126, or by Internet E-mail at ClairAllen@utah.gov or kmathews@utah.gov

AUTHORIZED BY: Leonard M. Blackham, Commissioner

EFFECTIVE: 02/15/2008



## Agriculture and Food, Marketing and Development **R65-5** Utah Red Tart and Sour Cherry Marketing Order

### FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 31008  
FILED: 02/15/2008, 15:04

### 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: Promulgated under authority of Section 4-2-2(1)(e), this rule sets requirements for the uniform grading of cherries for fresh, frozen, or brine markets; sold or offered for sale by producers or handlers. Such grading standards shall not be established below any minimum standards now prescribed by law for this state.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Utah Red Tart and Sour Cherry Marketing board met and agreed that the rule should stay as it is written, and the law requires this rule. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Clair Allen or Kathleen Mathews at the above address, by phone at 801-538-7180 or 801-538-7103, by FAX at 801-538-7189 or 801-538-7126, or by Internet E-mail at ClairAllen@utah.gov or kmathews@utah.gov

AUTHORIZED BY: Leonard M. Blackham, Commissioner

EFFECTIVE: 02/15/2008

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**Agriculture and Food, Plant Industry**  
**R68-5**  
**Grain Inspection**

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 31006  
FILED: 02/15/2008, 15:03

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Promulgated under authority of Subsection 4-2-2(2), this rule outlines the grain inspection fees, Utah standards for safflower, and the specification for grading safflower grown in Utah.

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 comments on this rule. The Utah Grain Inspection Service in Ogden, Utah has used these standards which were created because no federal standards were in place.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: There has been no opposition to this rule because the safflower grade has met grain industry requirements. The law requires this rule. Therefore, this rule should be continued.

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

AGRICULTURE AND FOOD  
PLANT INDUSTRY  
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 or Clair Allen at the above address, by phone at 801-538-7103 or 801-538-7180, by FAX at 801-538-7126 or 801-538-7189, or by Internet E-mail at kmathews@utah.gov or ClairAllen@utah.gov

AUTHORIZED BY: Leonard M. Blackham, Commissioner

EFFECTIVE: 02/15/2008

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**Corrections, Administration**  
**R251-304**  
**Contract Procedures**

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 30952  
FILED: 02/05/2008, 06:21

**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: This rule is authorized by Section 64-13-25, which requires the Utah Department of Corrections (UDC) to establish minimum standards for the organization and operation of correctional programs.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: UDC did not receive any comments on this rule during the last five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued so that contract standards will be in place to assist in the safety and security of persons and property during construction work on UDC projects.

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

CORRECTIONS  
ADMINISTRATION  
14717 S MINUTEMAN DR  
DRAPER UT 84020-9549, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 Gary Ogilvie at the above address, by phone at 801-545-5514, by FAX at 801-545-5523, or by Internet E-mail at gogilvie@utah.gov

AUTHORIZED BY: Thomas E. Patterson, Executive Director

EFFECTIVE: 02/05/2008

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

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

EFFECTIVE: 02/08/2008

Environmental Quality, Air Quality  
**R307-101**  
 General Requirements

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE No.: 30959  
 FILED: 02/08/2008, 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 19-2-104(1)(a) authorizes the Air Quality Board to make rules "...regarding the control, abatement, and prevention of air pollution from all sources..." Rule R307-101 includes definitions used throughout all the rules contained in Title R307 that are written under Section 19-2-104. Without these definitions, the remaining rules would be unenforceable.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Rule R307-101 was amended once since the last five-year review under DAR No. 30697. No comments were received on that amendment. No other comments were received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section R307-101-2 includes all the definitions that apply throughout all the rules contained in R307. Without them, the remaining rules would be unenforceable, so this rule should be continued. In addition, Rule R307-101 is a component of Utah's State Implementation Plan, and cannot be deleted without EPA approval.

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

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

Environmental Quality, Air Quality  
**R307-102**  
 General Requirements: Broadly Applicable Requirements

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE No.: 30960  
 FILED: 02/08/2008, 13:34

**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 19-2-104(1)(a) allows the Air Quality Board to make rules regarding emission of air pollutants, and Subsection 19-2-104(1)(c) sets forth the kinds of information that sources of air pollution must provide, as addressed in Section R307-102-1. Section R307-102-4 is authorized by Section 19-2-113, and sets forth conditions under which the Air Quality Board may authorize variances from Title R307. The federal Clean Air Act, 42 U.S.C. 7401, requires that sources of air pollution not reduce the pay of any employee under certain circumstances, as addressed in Section R307-102-5.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-102 is needed to specify the conditions for issuing variances, for confidentiality of information submitted, and to require that information be made available to the Air Quality Board; and should be continued. In addition, Rule R307-102 is a component of Utah's State Implementation Plan, and cannot be deleted without EPA approval.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@utah.gov

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

EFFECTIVE: 02/08/2008

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## Environmental Quality, Air Quality R307-115 General Conformity

### FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 30961  
FILED: 02/08/2008, 13:35

### 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: As specified in Subsection 19-2-104(3)(q), the Air Quality Board may "meet the requirements of federal air pollution laws". One of those laws is 40 CFR Part 93, Subpart B, which is incorporated by reference by Rule R307-115. 40 CFR Part 93 Subpart B requires that no agency of the federal government support in any way any activity, with some exceptions, that does not conform to any state's implementation plan to protect air quality. 40 CFR 93.150 states that the provisions of 40 CFR Part 93 Subpart B "...establish the conformity criteria and procedures necessary to meet the (Clean Air) Act requirements until such time as the required conformity revision (by the State) is approved by the Environmental Protection Agency (EPA). A state's conformity provisions must contain criteria and procedures that are no less stringent than the requirements established in this subpart." Utah chose to meet this requirement by incorporating by reference the federal provisions.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Rule R307-115 was amended once since the last five-year review under DAR No. 30698. No comments were received on that amendment. No other comments were received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-115 is required by 40 CFR Part 93, Subpart B. In addition, Rule R307-115 is a component of Utah's State Implementation Plan, and cannot be deleted without EPA approval. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@utah.gov

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

EFFECTIVE: 02/08/2008

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## Environmental Quality, Air Quality R307-170 Continuous Emission Monitoring Program

### FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 30962  
FILED: 02/08/2008, 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: The Air Quality Board is allowed by Subsection 19-2-104(1)(c) to make rules "...requiring persons engaged in operations which result in air pollution to: (i) install, maintain, and use emission monitoring devices, as the board finds necessary; (ii) file periodic reports containing information relating to the rate, period of emission, and composition of the air contaminant; and (iii) provide access to records relating to emissions which cause or contribute to air pollution." Also, Subsection 19-2-104(3)(q) allows the Board to "...meet the requirements of federal air pollution laws." Federal provisions that require certain sources to conduct continuous monitoring include federal Clean Air Act Title IV, the Acid Rain program. In addition, 40 CFR Part 51, Appendix P, states that "This appendix P sets forth the minimum requirements for continuous emission monitoring and recording that each State Implementation Plan must include in order to be approved under the provisions of 40 CFR 51.165(b)." Rule R307-170 meets these provisions by specifying how certain sources of air pollution must comply with federal and state requirements to install and operate equipment that continuously monitors certain pollutants; it is approved by EPA as a part of Utah's state implementation plan.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Rule R307-170 was amended once since the last five-year review under DAR No. 30699. No comments were received on that amendment. No other comments were received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-170 ensures that large sources of air pollution do not exceed emission limits for air pollutants that are harmful to human health. In addition, Rule R307-170 is a component of Utah's State Implementation Plan, and cannot be deleted without EPA approval. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@utah.gov

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

EFFECTIVE: 02/08/2008



## Environmental Quality, Air Quality **R307-202** Emission Standards: General Burning

### FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 30963  
FILED: 02/08/2008, 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 19-2-104(1)(a) allows the Air Quality Board to make rules "...regarding the control, abatement, and prevention of air pollution from all sources...." Rule R307-202 sets forth the conditions under which burning of yard clippings is allowed, forbids burning at community waste disposal sites. and the burning of trash or garbage. Rule R307-202 does not regulate fireplaces or outdoor grills.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Rule R307-202 was proposed for amendment once since the last five-year review under DAR No. 27292. There were two comments received about that proposed rulemaking. One comment supported the proposed change. However, the other comment was adverse to the proposal, because it removed an exemption that allowed a regulated entity to dispose of highly volatile materials by open burning. RESPONSE: Due to comments received on the proposed amendment the Air Quality Board decided it would be best if the amendment was allowed to lapse and the previous version of Rule R307-202 remained in effect. Ted Black, Weber County Fire Marshal petitioned the Board to revise Rule R307-202. Specifically, he asked that the board define horticultural and agricultural operations used in Section R307-202-1, and he asked the board to provide more flexibility to the 30-day notification that is found in Subsection R307-202-5(3). RESPONSE: The board has not made an explicit definition of what horticultural and agricultural operations are, relying instead upon definitions already contained in statute. Additionally, it was determined that the existing rule already provides the flexibility requested, and Mr. Black was notified of that determination; therefore, the rule was not revised. No other comments were received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Due to the comments received during the public comment period the proposed amendment was allowed to lapse, and the previous version of Rule R307-202 was reinstated. Rule R307-202 is necessary to specify time windows when local officials may allow burning for yard cleanup, and to set forth the kinds of burning for which permits are not needed; and should be continued. In addition, Rule R307-202 is a component of Utah's State Implementation Plan, and cannot be deleted without EPA approval.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@utah.gov

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

EFFECTIVE: 02/08/2008





Environmental Quality, Air Quality  
**R307-203**  
 Emission Standards: Sulfur Content of  
 Fuels

**FIVE YEAR NOTICE OF REVIEW AND  
 STATEMENT OF CONTINUATION**

DAR FILE NO.: 30964  
 FILED: 02/08/2008, 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: Rule R307-203 establishes the maximum amount of sulfur that may be contained in coal and oil burned in industrial processes and residential heating, thus holding down the emissions of sulfur dioxide from these processes. Subsection 19-2-104(1)(a) authorizes the Air Quality Board to make rules "...regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminant source."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Without this rule, users could burn coal or oil with higher sulfur content, thus emitting more sulfur dioxide into the atmosphere. Sulfur dioxide is harmful to human health so this rule should be continued. In addition, Rule R307-203 is a component of Utah's State Implementation Plan, and cannot be deleted without EPA approval.

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

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

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

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

EFFECTIVE: 02/08/2008



Environmental Quality, Air Quality  
**R307-220**  
 Emission Standards: Plan for  
 Designated Facilities

**FIVE YEAR NOTICE OF REVIEW AND  
 STATEMENT OF CONTINUATION**

DAR FILE NO.: 30965  
 FILED: 02/08/2008, 13:42

**NOTICE OF REVIEW AND  
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-2-104(3)(q) allows the Air Quality Board to implement the requirements of federal air pollution laws. Under Section 111(d) of the Clean Air Act (42 U.S.C. 7411(d)), EPA issues standards of performance for existing sources at the time standards are issued for new sources, and states are required to prepare plans and rules to implement the standards for existing sources. Rule R307-220 incorporates by reference the Utah Plans written to meet this requirement.

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 last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-220 is required by 42 U.S.C. 7411(d) (Clean Air Act 111(d)). Therefore, this rule should be continued.

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

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

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

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

EFFECTIVE: 02/08/2008



Environmental Quality, Air Quality  
**R307-221**  
 Emission Standards: Emission  
 Controls for Existing Municipal Solid  
 Waste Landfills

**FIVE YEAR NOTICE OF REVIEW AND  
 STATEMENT OF CONTINUATION**

DAR FILE NO.: 30966  
 FILED: 02/08/2008, 13:43

**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: Subsection 19-2-104(3)(q) allows the Air Quality Board to implement the requirements of federal air pollution laws. Under Section 111(d) of the Clean Air Act (42 U.S.C. 7411(d)), EPA issues standards of performance for existing sources at the time standards are issued for new sources, and states are required to prepare plans and rules to implement the standards for existing sources. Rule R307-221 implements the standards for existing Municipal Solid Waste Landfills, as required by 40 CFR 60.30c through 60.36c. The corresponding plan is incorporated by reference in Section R307-220-2. Rule R307-221 also includes necessary definitions, emission restrictions, control device specifications, and a compliance schedule, as required by 40 CFR 60.30c through 60.36c.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Rule R307-221 was amended once since the last five-year review under DAR No. 30701. No comments were received on that amendment. No other comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-221 is required by 40 CFR 60.30c through 60.36c. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at [MCARLILE@utah.gov](mailto:MCARLILE@utah.gov)

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

EFFECTIVE: 02/08/2008

Environmental Quality, Air Quality  
**R307-222**  
 Emission Standards: Existing  
 Incinerators for Hospital, Medical,  
 Infectious Waste

**FIVE YEAR NOTICE OF REVIEW AND  
 STATEMENT OF CONTINUATION**

DAR FILE NO.: 30967  
 FILED: 02/08/2008, 13:44

**NOTICE OF REVIEW AND  
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-2-104(3)(q) allows the Air Quality Board to implement the requirements of federal air pollution laws. Under Section 111(d) of the Clean Air Act (42 U.S.C. 7411(d)), EPA issues standards of performance for existing sources at the time standards are issued for new sources, and states are required to prepare plans and rules to implement the standards for existing sources. Rule R307-222 implements the standards for existing Incinerators for Hospital, Medical, Infectious Waste, as required by 40 CFR Subpart Ce. The corresponding plan is incorporated by reference in Section R307-220-3. Rule R307-222 also includes necessary definitions, emission restrictions, control device specifications, and a compliance schedule, as required by 40 CFR 60 Subpart Ce.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Rule R307-222 was amended once since the last five-year review under DAR No. 30702. No comments were received on that amendment. No other comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-222 is required by 40 CFR Part 60, Subpart Ce and the Clean Air Act, 42 U.S.C. 7411(d). Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@utah.gov

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

EFFECTIVE: 02/08/2008

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## Environmental Quality, Air Quality

### **R307-223**

#### Emission Standards: Existing Small Municipal Waste Combustion Units

##### **FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 30968  
FILED: 02/08/2008, 13:45

##### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-2-104(3)(q) allows the Air Quality Board to implement the requirements of federal air pollution laws. Under Section 111(d) of the Clean Air Act (42 U.S.C. 7411(d)), EPA issues standards of performance for existing sources at the time standards are issued for new sources, and states are required to prepare plans and rules to implement the standards for existing sources. Rule R307-223 implements the standards for existing Incinerators for Small Municipal Waste Combustion Units, as required by 40 CFR Part 60, Subpart BBBB. The corresponding plan is incorporated by reference in Section R307-220-4. Rule R307-223 also includes necessary definitions, emission restrictions, control device specifications, and a compliance schedule, as required by 40 CFR Part 60, Subpart BBBB. The only source in Utah that is regulated by the Plan and Rule R307-223 is Wasatch Energy Systems in Davis County.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Rule R307-223 was amended once since the last five-year review under DAR No. 30703. No comments were received on that amendment. No other comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-223 is required by 40 CFR Part 60, Subpart BBBB. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@utah.gov

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

EFFECTIVE: 02/08/2008

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## Environmental Quality, Air Quality

### **R307-224**

#### Mercury Emission Standards: Coal-Fired Electric Generating Units

##### **FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 30969  
FILED: 02/08/2008, 13:46

##### **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 specified in Subsection 19-2-104(3)(q), the Air Quality Board may "meet the requirements of federal air pollution laws". Nationwide reductions of mercury (Hg) emissions from certain coal-fired electric generating units are required by 40 CFR Part 60, subparts B and HHHH, and by the Designated Facilities Plan for coal-fired electric generating units, incorporated by reference at Section R307-220-5. Rule R307-224 regulates mercury emissions from any coal-fired electric generating unit as defined in 40 CFR 60.24.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Rule R307-224 was amended once since its creation under DAR No. 30704. No comments were received on that amendment. No other comments have been received since the creation of Rule R307-224.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-224 is required by 40 CFR Part 60, subparts B and HHHH. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at [MCARLILE@utah.gov](mailto:MCARLILE@utah.gov)

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

EFFECTIVE: 02/08/2008

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Environmental Quality, Air Quality  
**R307-250**  
Western Backstop Sulfur Dioxide  
Trading Program

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE NO.: 30970  
FILED: 02/08/2008, 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: Subsection 19-2-104(1)(a) authorizes the Air Quality Board to make rules "...regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminant source." Subsection 19-2-104(3)(e) states that the board may "prepare and develop a comprehensive plan or plans for the prevention, abatement, and control of air pollution in this state". Rule R307-250 is required to implement the provisions of the State Implementation Plan (SIP), Section XX, the Regional Haze Plan. The Plan is required under 40 CFR Part 51, Subpart P, Visibility. The Plan requires a backstop trading program for emissions of sulfur dioxide from large sources, and Rule R307-250 sets forth the requirements sources would have to meet if the program is ever triggered.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received since the creation of Rule R307-250.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-250 is required to implement the provisions of the State Implementation Plan (SIP), Section XX, the Regional Haze Plan, required under 40

CFR Part 51, Subpart P. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at [MCARLILE@utah.gov](mailto:MCARLILE@utah.gov)

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

EFFECTIVE: 02/08/2008

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Environmental Quality, Air Quality  
**R307-310**  
Salt Lake County: Trading of Emission  
Budgets for Transportation Conformity

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE NO.: 30971  
FILED: 02/08/2008, 13:51

**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 19-2-104(1)(a) allows the Air Quality Board to make rules "...regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminant source." In addition, Subsection 19-2-104(3)(e) allows the Board to "...prepare and develop a comprehensive plan or plans for the prevention, abatement, and control of air pollution in this state." Rule R307-310 protects the public health by setting forth a mechanism to trade PM10 for NOx to demonstrate conformity with Salt Lake County PM10 SIP.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Rule R307-310 was amended once since the last five-year review under DAR No. 30705. No comments were received on that amendment. No other comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-310 establishes

a conformity budget for Salt Lake County because the PM10 SIP did not. This budget allows continued funding of transportation projects in Salt Lake County. Rule R307-310 will no longer be needed after the EPA approves the new conformity budget, which is established in the PM10 maintenance plan adopted by the Air Quality Board on 07/06/2005. In addition, Rule R307-310 is a component of Utah's State Implementation Plan, and cannot be deleted without EPA approval. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@utah.gov

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

EFFECTIVE: 02/08/2008

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## Environmental Quality, Air Quality **R307-801** Asbestos

### FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 30972  
FILED: 02/08/2008, 13:52

### 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 19-2-104(1)(d) states that the Air Quality Board may make rules to implement Subchapter II, Asbestos Hazard Emergency Response (AHERA), of the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), and to review and approve asbestos management plans submitted by local education agencies. Subsections 19-2-104(3)(r) and (s) allow the Board to establish work practice, certification, and clearance air sampling requirements for persons who: (i) contract to conduct demolition, renovation, salvage, encapsulation work involving friable asbestos-containing materials, or asbestos inspections; or (ii) conduct such work in areas to which the public has access or in school buildings subject to AHERA; and to establish certification requirements for inspectors, management planners, abatement project designers, contractors, or workers under AHERA. Rule R307-801

establishes procedures and requirements for asbestos projects and training programs, for certification of persons engaged in asbestos activities, and work practice standards for such work.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Rule R307-801 was amended once since the last five-year review under DAR No. 30707. No comments were received on that amendment. No other comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Without Rule R307-801, Utah would not have authority to implement the federal requirements; implementation would be carried out by the Environmental Protection Agency. The specific authorizations in Subsections 19-2-104(1)(d) and 19-2-104(3)(r) and (s) clearly indicate that the Legislature prefers that the Division of Air Quality implement the program. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@utah.gov

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

EFFECTIVE: 02/08/2008

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## Environmental Quality, Air Quality **R307-840** Lead-Based Paint Accreditation, Certification and Work Practice Standards

### FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 30973  
FILED: 02/08/2008, 13:52

### 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: Rule R307-840 implements Subsection 19-2-104(1)(i) which authorizes the Air Quality Board to make rules to "implement the lead-based paint requirements for training, certification, and performance of 15 U.S.C. 2601 et seq., Toxic Substances Control Act, Subchapter IV--Lead Exposure Reduction, Sections 402 and 404."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Rule R307-840 was amended three times since the last five-year review. Under DAR No. 26282 that was effective 08/06/2003, no comments were received on that amendment. Under DAR No 28131 that was effective 11/03/2005, no comments were received on that amendment. Under DAR No. 30708 that was effective 02/08/2008, no comments were received on that amendment. No other comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Without Rule R307-840, Utah would not have authority to implement the federal requirements; implementation would be carried out by the Environmental Protection Agency. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at [MCARLILE@utah.gov](mailto:MCARLILE@utah.gov)

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

EFFECTIVE: 02/08/2008



## Environmental Quality, Solid and Hazardous Waste

# R315-301

## Solid Waste Authority, Definitions, and General Requirements

### FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 30990  
FILED: 02/14/2008, 11:54

### NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-6-104(1)(i) of the Solid and Hazardous Waste Act (Act) requires that the solid waste program provided for in the Act meet the qualifications for primacy under the federal rules. The requirements established in Rule R315-301 are part of the basis of this program. Section 19-6-105 allows for rules that establish standards for the storage, collection, transport, recovery, treatment, and disposal of solid waste and establishes provisions prohibiting disposal in places other than those approved. Section 19-6-108 requires approval of operation plans for disposal facilities. Rule R315-301 establishes part of the framework to meet the requirements of the Solid and Hazardous Waste Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: A proposed change to the rule was published in September of 2003. One comment was received in relation to the proposed change and the comment was in support of the proposed change. Proposed changes in the rule were also published in December of 2006. No comments were received during the comment period. During the two comment periods on modifications to Rule R315-301, no adverse comments were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-301 contains the definitions and the basic prohibitions against disposal of waste except in sites that are approved and contain the necessary design, engineering, and closure elements that will provide protection to public health and the environment. The rule is also the foundation of the permit program required by the Solid and Hazardous Waste Act. 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:

Ralph Bohn at the above address, by phone at 801-538-6794, by FAX at 801-538-6715, or by Internet E-mail at [Rbohn@utah.gov](mailto:Rbohn@utah.gov)

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 02/14/2008



## Environmental Quality, Solid and Hazardous Waste

### **R315-302**

#### Solid Waste Facility Location Standards, General Facility Requirements, and Closure Requirements

##### **FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 30986  
FILED: 02/14/2008, 11:50

##### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-6-104(1)(i) of the Solid and Hazardous Waste Act requires that the solid waste program provided for in the Act meet the qualifications for primacy under the federal rules. The requirements established in Rule R315-302 are part of the basis of this program. Subsection 19-6-104(3)(a) requires that the type of solid waste and tonnage of solid waste generated in the state be determined. Rule R315-302 contains the requirements as to how this is to be accomplished. Subsection 19-6-104(4) requires that rules be established that set siting criteria for nonhazardous solid waste disposal facilities. Section 19-6-105 allows for rules to establish standards for the storage, collection, transport, recovery, treatment, and disposal of solid waste and to establish rules prohibiting disposal in places other than those approved. Section 19-6-108 requires approval of operations plans for disposal facilities. Rule R315-302 establishes part of the framework required to meet the requirements of the Solid and Hazardous Waste Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Proposed changes to the rule were published in September 2003 and December 2006. One comment was received during the 2006 public notice period. The comment related to the change made in the rule to incorporate the statutory requirements (Section 9-8-404) to conduct a historical investigation of a site prior to a state agency taking action related to the site, such as issuing a permit. No comments were received during the 2003 comment period.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-302 contains siting requirements for solid waste disposal facilities and the general outline of the operations, monitoring, closure, and post-closure care of a solid waste disposal facility. The rule forms the basis of the permit program required by the Solid and Hazardous Waste Act. Therefore, this rule should be continued. During the two comment periods on modifications

to Rule R315-302, one comment in opposition to the proposed change was received. The comment reflected a position that contravened the requirements of Section 9-8-404. The comment response explained how the Division of Solid and Hazardous Waste would be administering the requirements of Section 9-8-404 and that the concerns of the commenter that an expensive historical survey of their disposal site would be needed for each permit renewal was not valid because the change related only to new or expanding landfills.

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:

Ralph Bohn at the above address, by phone at 801-538-6794, by FAX at 801-538-6715, or by Internet E-mail at Rbohn@utah.gov

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 02/14/2008

## Environmental Quality, Solid and Hazardous Waste

### **R315-303**

#### Landfilling Standards

##### **FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 30992  
FILED: 02/14/2008, 11:56

##### **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 19-6-104(1)(i) of the Solid and Hazardous Waste Act (Act) requires that the solid waste program provided for in the Act meet the qualifications for primacy under the federal rules. The requirements established in Rule R315-303 are part of the basis of this program. Section 19-6-105 allows for rules to establish standards for storage, collection, transport, recovery, treatment, and disposal of solid waste and establish rules prohibiting disposal in places other than those approved. Rule R315-303 sets these standards. Section 19-6-108 requires approval of operations plans for disposal facilities. Rule R315-303 establishes part of the framework to meet the requirements of the Solid and Hazardous Waste Act regarding landfilling standards.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Proposed changes to the rule were published in September 2003 and December 2006. No comments were received during the 2003 or 2006 comment period. No written comments have been received on this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-303 contains requirements for solid waste disposal facilities performance requirements, design standards, operation, and maintenance standards. The rule forms the basis of the permit program required by the Solid and Hazardous Waste Act. 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:

Ralph Bohn at the above address, by phone at 801-538-6794, by FAX at 801-538-6715, or by Internet E-mail at Rbohn@utah.gov

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 02/14/2008

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## Environmental Quality, Solid and Hazardous Waste **R315-305** Class IV and VI Landfill Requirements

### FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 30991  
FILED: 02/14/2008, 11:55

### NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-6-104(1)(j) requires the board to require any facility that disposes of solid waste to submit plans of operation, specifications and other information required by the board. Rule R315-305 sets requirements for landfills that dispose of construction waste, demolition waste, yard waste, dead animals, waste tires, and some contaminated soil. Subsection 19-6-104(3)(a) requires that the type of solid waste and tonnage of solid waste generated in the state be determined. Rule R315-305

contains the requirements on how this is to be accomplished. Subsection 19-6-104(4) requires that rules be established that set siting criteria for nonhazardous solid waste disposal facilities. Section 19-6-105 allows for rules to establish standards for the storage, collection, transport, recovery, treatment, and disposal of solid waste and establish rules prohibiting disposal in places other than those approved. Section 19-6-108 requires approval of operations plans for disposal facilities. Rule R315-305 establishes part of the framework to meet the requirements of these parts of the Solid and Hazardous Waste Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Proposed changes to the rule were published in September 2003 and December 2006. One comment was received during the 2006 public notice period. The comment related to the change made in the rule to incorporate the statutory requirements (Section 9-8-404) to conduct a historical investigation of a site prior to a state agency taking action related to the site, such as issuing a permit. No comments were received during the 2003 comment period.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-303 contains requirements for solid waste disposal facilities performance requirements, design standards, operation, and maintenance standards. The rule forms the basis of the permit program required by the Solid and Hazardous Waste Act and is referenced by Rule R315-305. Therefore, this rule should be continued. During the two comment periods on modifications to R315-305, one adverse comment was received. The comment reflected a position that was in opposition to the requirements of Section 9-8-404. The comment response explained how the Division of Solid and Hazardous Waste would be administering the requirements of Section 9-8-404 and that the concerns of the commenter that an expensive historical survey of their disposal site would be needed for each permit renewal was not valid.

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:

Ralph Bohn at the above address, by phone at 801-538-6794, by FAX at 801-538-6715, or by Internet E-mail at Rbohn@utah.gov

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 02/14/2008

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Environmental Quality, Solid and  
Hazardous Waste

**R315-306**

Incinerator Standards

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE NO.: 30985

FILED: 02/14/2008, 11:49

**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 19-6-104(1)(j) states that the board shall require any facility, including an incinerator, that disposes of solid waste to submit plans of operation, specifications and other information required by the board. Rule R315-305 sets requirements for incinerators. Section 19-6-108 requires approval of operations plans for disposal facilities. Rule R315-306 establishes part of the framework required to meet the requirements of the Solid and Hazardous Waste Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Proposed changes to the rule were published in September 2003 and December 2006. No comments were received during the 2003 or 2006 comment period.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-306 contains requirements for nonhazardous solid waste incineration facilities performance requirements, design standards, operation and maintenance standards. The rule forms the basis of the permit program required by the Solid and Hazardous Waste Act. 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:  
Ralph Bohn at the above address, by phone at 801-538-6794, by FAX at 801-538-6715, or by Internet E-mail at Rbohn@utah.gov

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 02/14/2008



Environmental Quality, Solid and  
Hazardous Waste

**R315-307**

Landtreatment Disposal Standards

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE NO.: 30993

FILED: 02/14/2008, 11:56

**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 19-6-104(1)(j) states that the board shall require any facility that disposes of solid waste to submit plans of operation, specifications, and other information required by the board. Rule R315-307 sets requirements for facilities that dispose of nonhazardous solid waste through landtreatment. Section 19-6-108 requires approval of operations plans for disposal facilities. Rule R315-307 sets the requirements for approval of landtreatment 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 modifications have been made in the rule since the last five-year review and no comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-307 contains requirements for solid waste disposal facilities performance requirements, design standards, operation, and maintenance standards. The rule forms the basis of the permit program required by the Solid and Hazardous Waste Act. 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:  
Ralph Bohn at the above address, by phone at 801-538-6794, by FAX at 801-538-6715, or by Internet E-mail at Rbohn@utah.gov

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 02/14/2008



Environmental Quality, Solid and  
Hazardous Waste  
**R315-308**  
Ground Water Monitoring Requirements

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE NO.: 30995  
FILED: 02/14/2008, 11:58

**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: Subsection 19-6-104(1)(i) of the The Solid and Hazardous Waste Act (Act) requires that the solid waste program provided for in the Act meet the qualifications for primacy under the federal rules. The requirements established in Rule R315-308 are part of the basis of this program. Section 19-6-108 requires approval of operation plans for disposal facilities. Rule R315-308 establishes part of the framework required to meet the requirements of the Act. Subsection 19-6-105(1)(a) allows the board to make rules that establish standards for the protection of public health and the environment. Rule R315-308 forms a part of the basis for this protection.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Proposed changes in the rule were published in December 2006. No comments were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-308 contains the requirements for ground water monitoring that are an integral part of the solid waste program to protect public health and the environment. Ground water monitoring must be included in a state solid waste program for that program to be approved by EPA. 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:

Ralph Bohn at the above address, by phone at 801-538-6794, by FAX at 801-538-6715, or by Internet E-mail at Rbohn@utah.gov

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 02/14/2008

Environmental Quality, Solid and  
Hazardous Waste  
**R315-309**  
Financial Assurance

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE NO.: 30994  
FILED: 02/14/2008, 11:57

**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: Subsection 19-6-104(1)(i) of the Solid and Hazardous Waste Act (Act) requires that the solid waste program provided for in the Act meet the qualifications for primacy under the federal rules. The requirements established in Rule R315-309 are part of the basis of this program. Subsection 19-6-108(9)(c) states that no nonhazardous solid waste disposal facility plan of operation can be approved without financial assurance. Rule R315-309 is the rule that describes how a facility can demonstrate financial assurance.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Proposed changes in the rule were published in September 2003 and December 2006. No comments were received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-309 contains the requirements for financial assurance. Financial assurance is a required part of a solid waste program that is to maintain EPA approval and also meets the requirement for financial assurance found in Subsection 19-6-108(9)(c). 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:

Ralph Bohn at the above address, by phone at 801-538-6794, by FAX at 801-538-6715, or by Internet E-mail at Rbohn@utah.gov

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 02/14/2008

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## Environmental Quality, Solid and Hazardous Waste

### **R315-310**

## Permit Requirements for Solid Waste Facilities

### **FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 30996  
FILED: 02/14/2008, 11:59

### **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: Subsection 19-6-104(1)(i) of the Solid and Hazardous Waste Act (Act) requires that the solid waste program provided for in the Act meet the qualifications for primacy under the federal rules. The requirements established in Rule R315-310 are part of the basis of this program. Section 19-6-105 allows for rules to establish standards for storage, collection, transport, recovery, treatment, and disposal of solid waste and establish rules prohibiting disposal in places other than those approved. Rule R315-310 sets these standards. Section 19-6-108 requires approval of operations plans for disposal facilities. Rule R315-310 establishes part of the framework required to meet the requirements of the Act regarding landfilling standards.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Proposed changes to the rule were published in September 2003 and December 2006. One comment was received during the 2003 public notice period. The commenter interpreted the change to allow the owner, the operator, or both to apply for a permit.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-310 contains the requirement for a permit to operate a nonhazardous facility. The permitting program is an integral part of the solid waste program and is required to maintain EPA program approval and to meet the requirements of Section 19-6-108. Therefore, this rule should be continued. The comment received interpreted the rule incorrectly. Subsection 19-6-103(3)(a) makes clear that an owner and an operator of a nonhazardous facility must receive approval from the Executive Secretary of the board. This was further clarified by the court case in 1998, *Sierra Club v. Utah Solid and Hazardous Waste Control Board*, where it was ruled that the operator of a solid waste

facility has the same liability as the owner and must be listed on the solid waste permit.

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:  
Ralph Bohn at the above address, by phone at 801-538-6794, by FAX at 801-538-6715, or by Internet E-mail at Rbohn@utah.gov

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 02/14/2008

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## Environmental Quality, Solid and Hazardous Waste

### **R315-311**

## Permit Approval For Solid Waste Disposal, Waste Tire Storage, Energy Recovery, And Incinerator Facilities

### **FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 30983  
FILED: 02/14/2008, 11:46

### **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 Solid and Hazardous Waste Act (Act) in Subsection 19-6-104(1)(i) requires that the solid waste program provided for in the Act meet the qualifications for primacy under the federal rules. The requirements established in Rule R315-311 are part of the basis of this program by setting up a solid waste facility permit program. The Act in Section 19-6-105 allows for rules to establish the requirements for major and minor modifications of permits. Rule R315-311 sets the standards for these modifications. Section 19-6-108 requires approval of operations plans for disposal facilities. Rule R315-311 establishes part of the part of the permit framework needed to meet the requirements of the Solid and Hazardous Waste Act regarding landfilling standards.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Proposed changes to the rule were published in December 2006. One comment was

received during the public notice period. The comment identified an incorrect reference in the proposed rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-311 is an integral part of the solid waste permitting program and defines major and minor modifications to permit and outlines the public comment process. Without the rule, the permit program would not meet the requirements of the Solid and Hazardous Waste Act. Therefore, this rule should be continued. The comment received pointed out changes required in the rule to correct references to other parts of the Solid waste rules. The changes were made.

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:

Ralph Bohn at the above address, by phone at 801-538-6794, by FAX at 801-538-6715, or by Internet E-mail at Rbohn@utah.gov

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 02/14/2008

sets standards that will assure that public health and environmental protection are maintained.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Proposed changes to the rule were published in September 2003 and December 2006. No comments were received. No comments in support or opposition to the rule were received during the last five-year-review period.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-312 provides the standards for operation of recycling and compost facilities that are allowed by the Solid and Hazardous Waste Act. The rule also sets the standards that will assure that these facilities are operated in a way that protects human health and the environment. 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:

Ralph Bohn at the above address, by phone at 801-538-6794, by FAX at 801-538-6715, or by Internet E-mail at Rbohn@utah.gov

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 02/14/2008

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Environmental Quality, Solid and  
Hazardous Waste  
**R315-312**  
Recycling and Composting Facility  
Standards

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**  
DAR FILE No.: 30997  
FILED: 02/14/2008, 12:00

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The Solid and Hazardous Waste Act, in Section 19-6-105, allows for rules to establish standards for storage, collection, transport, recovery, treatment, and disposal of solid waste and establish rules prohibiting disposal in places other than those approved. Rule R315-312 sets these standards for facilities that treat or recover materials in solid waste. Subsection 19-6-108(9)(b) requires that solid waste management be done in a way that protects public health and the environment. Rule R315-312

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Environmental Quality, Solid and  
Hazardous Waste  
**R315-313**  
Transfer Stations and Drop Box  
Facilities

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**  
DAR FILE No.: 30998  
FILED: 02/14/2008, 12:01

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The Solid and Hazardous Waste Act, in Section 19-6-105, allows for rules to establish standards for storage, collection, transport, recovery, treatment, and disposal of solid waste and establish rules

prohibiting disposal in places other than those approved. Rule R315-313 sets these standards for facilities that collect, store, and transport solid waste. Subsection 19-6-108(9)(b) requires that solid waste management be done in a way that protects public health and the environment. Rule R315-313 sets standards that will assure that public health and environmental protection are maintained.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Proposed changes to the rule were published in December 2006. No comments were received. No comments in support or opposition to the rule were received during the last five-year-review period.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-313 provides the standards for operation of transfer station and drop box facilities that are allowed by the Solid and Hazardous Waste Act. The rule also sets the standards that will assure that these facilities are operated in a way that protects public human health and the environment. 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:

Ralph Bohn at the above address, by phone at 801-538-6794, by FAX at 801-538-6715, or by Internet E-mail at Rbohn@utah.gov

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 02/14/2008



## Environmental Quality, Solid and Hazardous Waste

### **R315-314**

#### Facility Standards for Piles Used for Storage and Treatment

##### **FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE No.: 30999  
FILED: 02/14/2008, 12:02

### **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 Solid and Hazardous Waste Act, in Section 19-6-105, allows for rules to establish standards for storage, collection, transport, recovery, treatment, and disposal of solid waste and establish rules prohibiting disposal in places other than those approved. Rule R315-314 sets these standards for facilities that store and treat solid waste in piles. Subsection 19-6-108(9)(b) requires that solid waste management be done in a way that protects public health and the environment. Rule R315-314 sets standards that will assure that health and environmental protection are maintained.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Proposed changes to the rule were published in December 2006. No comments were received. No comments in support or opposition to the rule were received during the last five-year-review period.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-314 provides the standards for operation of facilities that treat and store waste in plies as allowed by the Solid and Hazardous Waste Act. The rule also sets the standards that will assure that these facilities are operated in a way that protects human health and the environment. 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:

Ralph Bohn at the above address, by phone at 801-538-6794, by FAX at 801-538-6715, or by Internet E-mail at Rbohn@utah.gov

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 02/14/2008



## Environmental Quality, Solid and Hazardous Waste

### **R315-315**

#### Special Waste Requirements

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 30989  
FILED: 02/14/2008, 11:53

**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: The Solid and Hazardous Waste Act, in Section 19-6-105, allows for rules to establish standards for storage, collection, transport, recovery, treatment, and disposal of solid waste and rules prohibiting disposal in places other than those approved. Rule R315-315 sets these standards for wastes that require special handling.

Section 19-6-108 requires approval of operation plans for disposal facilities. Rule R315-315 establishes part of the framework required to meet the requirements of the Solid and Hazardous Waste Act regarding landfilling standards. Subsection 19-6-108(9)(b) requires that solid waste management be done in a way that protects public health and the environment. Rule R315-315 sets standards that will assure that health and environmental protection are maintained when the wastes listed in this rule are handled and disposed in the way described.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Proposed changes to the rule were published in September 2003. No comments were received. No comments in support or opposition to the rule were received during the last five-year-review period.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-315 sets standards for the handling and disposal of waste that present special risks or requires special handling which when met will assure that this waste does not present an unacceptable risk to public health or the environment. 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:

Ralph Bohn at the above address, by phone at 801-538-6794, by FAX at 801-538-6715, or by Internet E-mail at Rbohn@utah.gov

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 02/14/2008

**Environmental Quality, Solid and  
Hazardous Waste****R315-316****Infectious Waste Requirements****FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 30988  
FILED: 02/14/2008, 11:52

**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 Solid and Hazardous Waste Act, in Section 19-6-105 allows for rules relating to the collection, transportation, processing, treatment, storage, and disposal of infectious waste. Rule R315-316 sets these standards for facilities that collect, transport, process, treat, store and dispose of infectious waste. Subsection 19-6-108(9)(b) requires that solid waste management be done in a way that protects public health and the environment. Rule R315-316 sets standards that will assure that public health and environmental protection are maintained.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Proposed changes to the rule were published in September 2003 and December 2006. No comments were received during the two comment periods. No comments in support or opposition to the rule were received during the last five-year-review period.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-316 sets standards for the management of infectious waste. This waste can present special risks or require special handling which are set forth in Rule R315-316. When these standards are obeyed it will assure that these waste do not present an unacceptable risk to public health or the environment. 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:

Ralph Bohn at the above address, by phone at 801-538-6794, by FAX at 801-538-6715, or by Internet E-mail at Rbohn@utah.gov

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 02/14/2008



**Environmental Quality, Solid and  
Hazardous Waste  
R315-317**

**Other Processes, Variances, Violations,  
and Petition for Rule Change**

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 30984  
FILED: 02/14/2008, 11:48

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The Solid and Hazardous Waste Act, in Section 19-6-111 allows for granting of variances. Rule R315-317 sets the conditions that must be met prior to granting a variance. Section 19-6-112 allows the board to issue notices of violation. Rule R315-317 sets out the procedures for issuing these notices. Section 63-46a-12 allows for petitions for rulemaking, amendment or repeal. Rule R315-317 sets out the procedures for these petitions.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Proposed changes to the rule were published in August 2004 and December 2006. No comments were received during the two comment periods.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R315-317 sets the procedures for granting of variances, issuing of notices of violation, and procedures for rule change petitions. These are all an important part of the permit program for regulation solid waste management facilities. 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:

Ralph Bohn at the above address, by phone at 801-538-6794, by FAX at 801-538-6715, or by Internet E-mail at [Rbohn@utah.gov](mailto:Rbohn@utah.gov)

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 02/14/2008



**Environmental Quality, Solid and  
Hazardous Waste  
R315-318**

**Permit by Rule**

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 30987  
FILED: 02/14/2008, 11:51

**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 Solid and Hazardous Waste Act (Act) in Subsection 19-6-104(1)(i) requires that the solid waste program provided for in the Act meet the qualifications for primacy under the federal rules. The requirements established in Rule R315-318 are part of the basis of this program by setting up a solid waste facility permit program. The Solid and Hazardous Waste Act, in Section 19-6-105, allows for rules to establish standards for storage, collection, transport, recovery, treatment, and disposal of solid waste and establish rules prohibiting disposal in places other than those approved. Rule R315-318 sets these standards for facilities that are permitted under another state permitting program and avoids duplication in permitting and oversight.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Proposed changes to the rule were published in September 2003 and December 2006. No comments were received during the two comment periods.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Permitting of solid waste facilities is a requirement to receive program approval from the EPA and is also required by the Solid and Hazardous Waste Act. Rule R315-318 sets out the procedures and conditions that will allow facilities that are permitted under another state program to receive a permit by rule and be in compliance with the Solid and Hazardous Waste Act and the solid waste rules and not be burdened by regulation by two different agencies. 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:

Ralph Bohn at the above address, by phone at 801-538-6794, by FAX at 801-538-6715, or by Internet E-mail at Rbohn@utah.gov

AUTHORIZED BY: Dennis Downs, Director

EFFECTIVE: 02/14/2008

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Health, Health Systems Improvement,  
Licensing

**R432-16**

Hospice Inpatient Facility Construction

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 30975  
FILED: 02/11/2008, 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: Title 26, Chapter 21, Health Facility Licensure and Inspection Act, authorizes the Utah Department of Health to promulgate rules for the construction of an inpatient hospice facility.

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 from the public. The Department's Health Facility Committee has authorized continuation of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is authorized by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. The department agrees with the need to continue the rule. There is one licensed facility covered by this rule, currently serving hospice patients. Failure to renew this rule would prevent operation of this facility, and would not allow the licensing of any new facilities of this type in the future. Therefore, this rule should be continued.

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 or Angela Anderson at the above address, by phone at 801-538-6595 or 801-538-6450, by FAX at 801-538-6163 or 801-538-6163, or by Internet E-mail at aelkins@utah.gov or angelaanderson@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 02/11/2008

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Human Services, Recovery Services

**R527-305**

High-Volume, Automated Administrative  
Enforcement in Interstate Child Support  
Cases

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 30978  
FILED: 02/12/2008, 14:53

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 466(a)(14) of the Social Security Act requires a state to use automatic data processing to search various state databases to identify the location of the noncustodial parent and his/her assets in response to a request made by another state to enforce support orders. Section 62A-11-305 specifies services that must be provided to another state when a request for "High-Volume, Automated Administrative Enforcement" is received.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule needs to be continued because it provides and establishes procedures for the Office of Recovery Services to provide services to other state IV-D child support agencies requesting High-Volume Automated Administrative Enforcement. It also describes that automated administrative interstate enforcement request are given the same priority as a regular interstate case that is referred to the office by another state for collection services, or establishment, modification, or registration of an order. Upon review of this rule, the department notes that this rule needs to be amended to add a citation containing the statutory rulemaking authority for the office which will be done soon.



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

HUMAN SERVICES  
RECOVERY SERVICES  
515 E 100 S  
SALT LAKE CITY UT 84102-4211, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

LeAnn Wilber at the above address, by phone at 801-536-8950, by FAX at 801-536-8833, or by Internet E-mail at [lwilber@utah.gov](mailto:lwilber@utah.gov)

AUTHORIZED BY: Mark Brasher, Director

EFFECTIVE: 02/12/2008

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Pardons (Board Of), Administration  
**R671-403**  
Restitution

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 30949  
FILED: 02/04/2008, 09:34

**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: Sections 77-27-5, 77-27-6, and 77-27-5.5 require the board to enter rulings and to process restitution issues.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received pertaining to this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R671-403 outlines board procedure regarding the appropriate processing of restitution the state claims is owed by offenders. The rule lists when the board may order and/or affirm court ordered restitution. In addition, the rule specifies due process rights afforded to offenders and victims during hearings. This rule is informative and explains the restitution process and should be continued.

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

PARDONS (BOARD OF)  
ADMINISTRATION  
Room 300  
448 E 6400 S

SALT LAKE CITY UT 84107-8530, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Nannette Johnson at the above address, by phone at 801-261-6485, by FAX at 801-261-6481, or by Internet E-mail at [njohnson@utah.gov](mailto:njohnson@utah.gov)

AUTHORIZED BY: Curtis L Garner, Chairman

EFFECTIVE: 02/04/2008

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Professional Practices Advisory  
Commission, Administration  
**R686-100**

Professional Practices Advisory  
Commission, Rules of Procedure:  
Complaints and Hearings

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 30951  
FILED: 02/04/2008, 19:30

**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: Subsection 53A-6-306(1)(a) directs the Utah Professional Practices Advisory Commission (Commission) to adopt rules to carry out its responsibilities under the law.

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 continues to be necessary because it establishes procedures regarding complaints against educators and for licensing hearings for the Commission to follow. 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: 02/04/2008

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

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE NO.: 30957  
FILED: 02/08/2008, 08:05

**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 53B-7-502 provides for need-based grants to the state's community colleges and extensions of Utah State University.

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 last review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuation of this rule is required as ongoing funding and support of this grant program is made by the legislature.

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

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

## DIRECT QUESTIONS REGARDING THIS RULE TO:

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

AUTHORIZED BY: David A Feitz, Executive Director, UHEAA

EFFECTIVE: 02/08/2008

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**End of the Five-Year Notices of Review and Statements of Continuation Section**

## NOTICES OF RULE EFFECTIVE DATES

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These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. Statute permits an agency to make a rule effective "on any date specified by the agency that is no fewer than seven calendar days after the close of the public comment period . . . , nor more than 120 days after the publication date." Subsection 63-46a-4(9).

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### Abbreviations

AMD = Amendment  
CPR = Change in Proposed Rule  
NEW = New Rule  
R&R = Repeal and Reenact  
REP = Repeal

### Education

#### Administration

No. 30845 (AMD): R277-423. Delivery of Flow Through Money.  
Published: January 1, 2008  
Effective: February 7, 2008

No. 30846 (AMD): R277-470-7. Timelines - Charter School Starting Date.  
Published: January 1, 2008  
Effective: February 7, 2008

No. 30847 (AMD): R277-609. Standards for School District Discipline Plans.  
Published: January 1, 2008  
Effective: February 7, 2008

No. 30848 (NEW): R277-719. Standards for Selling Foods Outside of the Reimbursable Meal in Schools.  
Published: January 1, 2008  
Effective: February 7, 2008

### Environmental Quality

#### Administration

No. 30766 (REP): R305-3. Emergency Meetings.  
Published: December 15, 2007  
Effective: February 15, 2008

#### Air Quality

No. 30697 (AMD): R307-101. General Requirements.  
Published: December 1, 2007  
Effective: February 8, 2008

No. 30698 (AMD): R307-115. General Conformity.  
Published: December 1, 2007  
Effective: February 8, 2008

No. 30699 (AMD): R307-170-7. Performance Specification Audits.  
Published: December 1, 2007  
Effective: February 8, 2008

No. 30700 (REP): R307-215. Acid Rain Requirements.  
Published: December 1, 2007  
Effective: February 8, 2008

No. 30701 (AMD): R307-221. Emission Standards: Emission Controls for Existing Municipal Solid Waste Landfills.  
Published: December 1, 2007  
Effective: February 8, 2008

No. 30702 (AMD): R307-222. Emission Standards: Existing Incinerators for Hospital, Medical, Infectious Waste.  
Published: December 1, 2007  
Effective: February 8, 2008

No. 30703 (AMD): R307-223. Existing Incinerators for Hospital, Medical, Infectious Waste.  
Published: December 1, 2007  
Effective: February 8, 2008

No. 30704 (AMD): R307-224-2. Emission Guidelines and Compliance Times for Coal-Fired Electric Generating Units.  
Published: December 1, 2007  
Effective: February 8, 2008

No. 30705 (AMD): R307-310-2. Definitions.  
Published: December 1, 2007  
Effective: February 8, 2008

No. 30709 (AMD): R307-401-14. Used Oil Fuel Burned for Energy Recovery.  
Published: December 1, 2007  
Effective: February 8, 2008

No. 30706 (AMD): R307-417. Acid Rain Sources.  
Published: December 1, 2007  
Effective: February 8, 2008

No. 30707 (AMD): R307-801. Asbestos.  
Published: December 1, 2007  
Effective: February 8, 2008

No. 30708 (AMD): R307-840. Lead-Based Paint Accreditation, Certification and Work Practice Standards.  
Published: December 1, 2007  
Effective: February 8, 2008

## NOTICES OF RULE EFFECTIVE DATES

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### Water Quality

No. 30639 (AMD): R317-1-4. Utilization and Isolation of Domestic Wastewater Treatment Works Effluent.  
Published: November 15, 2007  
Effective: February 4, 2008

No. 30638 (AMD): R317-3-11. Land Application of Wastewater Effluents.  
Published: November 15, 2007  
Effective: February 4, 2008

No. 30637 (NEW): R317-13. Approvals and Permits for a Water Reuse Project.  
Published: November 15, 2007  
Effective: February 4, 2008

No. 30636 (NEW): R317-14. Approval in Change in Point of Discharge of POTW.  
Published: November 15, 2007  
Effective: February 4, 2008

### Health

Health Systems Improvement, Emergency Medical Services

No. 30758 (AMD): R426-6. Emergency Medical Services Competitive Grants Program Rules.  
Published: December 15, 2007  
Effective: February 7, 2008

### Insurance

Administration

No. 30508 (AMD): R590-175. Basic Health Care Plan Rule.  
Published: October 15, 2007  
Effective: February 8, 2008

### Labor Commission

Adjudication

No. 30811 (AMD): R602-2-4. Attorney Fees.  
Published: January 1, 2008  
Effective: February 7, 2008

No. 30810 (AMD): R602-3-3. Procedure for Requesting Approval.  
Published: January 1, 2008  
Effective: February 7, 2008

### Natural Resources

Wildlife Resources

No. 30829 (AMD): R657-5. Taking Big Game.  
Published: January 1, 2008  
Effective: February 7, 2008

No. 30828 (AMD): R657-23. Utah Hunter Education Program.  
Published: January 1, 2008  
Effective: February 7, 2008

### Transportation

Motor Carrier

No. 30783 (AMD): R909-1-1. Adoption of Federal Regulations.  
Published: December 15, 2007  
Effective: February 15, 2008

No. 30785 (AMD): R909-19. Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operations and Certification.  
Published: December 15, 2007  
Effective: February 12, 2008

### Workforce Services

Unemployment Insurance

No. 30771 (AMD): R994-508. Appeal Procedures.  
Published: December 15, 2007  
Effective: February 15, 2008

**End of the Notices of Rule Effective Dates Section**

# RULES INDEX BY AGENCY (CODE NUMBER) AND BY KEYWORD (SUBJECT)

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The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2008, including notices of effective date received through February 15, 2008, the effective dates of which are no later than March 1, 2008. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

DAR NOTE: The index may contain inaccurate page number references. Also the index is incomplete in the sense that index entries for Changes in Proposed Rules (CPRs) are not preceded by entries for their parent Proposed Rules. Bulletin issue information and effective date information presented in the index are, to the best of our knowledge, complete and accurate. If you have any questions regarding the index and the information it contains, please contact Nancy Lancaster (801 538-3218), Mike Broschinsky (801 538-3003), or Kenneth A. Hansen (801 538-3777).

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

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## RULES INDEX - BY AGENCY (CODE NUMBER)

### ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b>Agriculture and Food</b>					
<u>Marketing and Development</u>					
R65-2	Utah Cherry Marketing Order	31007	5YR	02/15/2008	2008-5/38
R65-5	Utah Red Tart and Sour Cherry Marketing Order	31008	5YR	02/15/2008	2008-5/38
<u>Plant Industry</u>					
R68-5	Grain Inspection	31006	5YR	02/15/2008	2008-5/39
R68-7	Utah Pesticide Control Act	30611	AMD	01/07/2008	2007-22/11
<b>Commerce</b>					
<u>Occupational and Professional Licensing</u>					
R156-1-102a	Global Definitions of Levels of Supervision	30655	AMD	01/08/2008	2007-23/3
R156-38a	Residence Lien Restriction and Lien Recovery Fund Rules	30654	AMD	01/07/2008	2007-23/14
R156-47b	Massage Therapy Practice Act Rules	30853	AMD	02/21/2008	2008-2/4

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R156-56	Utah Uniform Building Standard Act Rules	30574	AMD	01/01/2008	2007-21/38
R156-56-420	Administration of Building Code Training Fund	30573	AMD	01/01/2008	2007-21/57
R156-76	Professional Geologist Licensing Act Rules	30694	AMD	01/08/2008	2007-23/17
<b>Community and Culture</b>					
<u>Housing and Community Development</u>					
R199-8	Permanent Community Impact Fund Board Review and Approval of Applications for Funding Assistance	30451	AMD	01/01/2008	2007-19/6
<b>Corrections</b>					
<u>Administration</u>					
R251-304	Contract Procedures	30952	5YR	02/05/2008	2008-5/39
<b>Crime Victim Reparations</b>					
<u>Administration</u>					
R270-1-11	Collateral Source	30593	AMD	01/02/2008	2007-22/33
<b>Education</b>					
<u>Administration</u>					
R277-423	Delivery of Flow Through Money	30845	AMD	02/07/2008	2008-1/8
R277-469	Instructional Materials Commission Operating Procedures	30781	AMD	01/22/2008	2007-24/4
R277-470-7	Timelines - Charter School Starting Date	30846	AMD	02/07/2008	2008-1/9
R277-515-3	Educator as a Role Model of Civic and Societal Responsibility	30976	NSC	02/27/2008	Not Printed
R277-518	Applied Technology Education Licenses	30878	5YR	01/08/2008	2008-3/72
R277-600	Student Transportation Standards and Procedures	30879	5YR	01/08/2008	2008-3/72
R277-605	Coaching Standards and Athletic Clinics	30880	5YR	01/08/2008	2008-3/73
R277-609	Standards for School District Discipline Plans	30847	AMD	02/07/2008	2008-1/10
R277-610	Released-Time Classes for Religious Instruction	30881	5YR	01/08/2008	2008-3/73
R277-700	The Elementary and Secondary School Core Curriculum	30882	5YR	01/08/2008	2008-3/74
R277-702	Procedures for the Utah General Educational Development Certificate	30883	5YR	01/08/2008	2008-3/74
R277-703-6	Funding Provisions	30977	NSC	02/27/2008	Not Printed
R277-709	Education Programs Serving Youth in Custody	30884	5YR	01/08/2008	2008-3/75
R277-718	Utah Career Teaching Scholarship Program	30885	5YR	01/08/2008	2008-3/75
R277-719	Standards for Selling Foods Outside of the Reimbursable Meal in Schools	30848	NEW	02/07/2008	2008-1/12
R277-721	Deadline for CACFP Sponsor Participation in Food Distribution Program	30886	5YR	01/08/2008	2008-3/76
R277-722	Withholding Payments and Commodities in the CACFP	30887	5YR	01/08/2008	2008-3/76
R277-730	Alternative High School Curriculum	30888	5YR	01/08/2008	2008-3/77
<b>Environmental Quality</b>					
<u>Administration</u>					
R305-3	Emergency Meetings	30766	REP	02/15/2008	2007-24/6
R305-3	Emergency Meeting (5YR EXTENSION)	30506	NSC	02/15/2008	Not Printed
<u>Air Quality</u>					
R307-101	General Requirements	30959	5YR	02/08/2008	2008-5/40
R307-101	General Requirements	30697	AMD	02/08/2008	2007-23/21

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R307-102	General Requirements: Broadly Applicable Requirements	30960	5YR	02/08/2008	2008-5/40
R307-115	General Conformity	30961	5YR	02/08/2008	2008-5/41
R307-115	General Conformity	30698	AMD	02/08/2008	2007-23/28
R307-121-3	Procedures for OEM Vehicles	30889	NSC	01/30/2008	Not Printed
R307-170	Continuous Emission Monitoring Program	30962	5YR	02/08/2008	2008-5/41
R307-170-7	Performance Specification Audits	30699	AMD	02/08/2008	2007-23/29
R307-202	Emission Standards: General Burning	30963	5YR	02/08/2008	2008-5/42
R307-203	Emission Standards: Sulfur Content of Fuels	30964	5YR	02/08/2008	2008-5/43
R307-214	National Emission Standards for Hazardous Air Pollutants	30430	AMD	01/11/2008	2007-19/12
R307-214	National Emission Standards for Hazardous Air Pollutants	30895	5YR	01/11/2008	2008-3/77
R307-215	Acid Rain Requirements	30700	REP	02/08/2008	2007-23/31
R307-220	Emission Standards: Plan for Designated Facilities	30965	5YR	02/08/2008	2008-5/43
R307-221	Emission Standards: Emission Controls for Existing Municipal Solid Waste Landfills	30701	AMD	02/08/2008	2007-23/32
R307-221	Emission Standards: Emission Controls for Existing Municipal Solid Waste Landfills	30966	5YR	02/08/2008	2008-5/44
R307-221-2	Definitions and References	30832	NSC	02/08/2008	Not Printed
R307-222	Emission Standards: Existing Incinerators for Hospital, Medical, Infectious Waste	30702	AMD	02/08/2008	2007-23/36
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### ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

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<b><u>restitution</u></b> Pardons (Board Of), Administration	30949	R671-403	5YR	02/04/2008	2008-5/60
<b><u>Rural Broadband Service Fund</u></b> Governor, Economic Development	30788	R357-2	NEW	01/30/2008	2007-24/9
	30859	R357-2-7	NSC	01/30/2008	Not Printed
<b><u>rural economic development</u></b> Governor, Economic Development	30788	R357-2	NEW	01/30/2008	2007-24/9
	30859	R357-2-7	NSC	01/30/2008	Not Printed
<b><u>safety regulations</u></b> Transportation, Motor Carrier	30785	R909-19	AMD	02/12/2008	2007-24/26
<b><u>sales tax</u></b> Tax Commission, Auditing	30841	R865-19S-121	AMD	02/25/2008	2008-1/37
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<b><u>school transportation</u></b> Education, Administration	30879	R277-600	5YR	01/08/2008	2008-3/72
<b><u>schools</u></b> Education, Administration	30848	R277-719	NEW	02/07/2008	2008-1/12
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	30986	R315-302	5YR	02/14/2008	2008-5/49
	30992	R315-303	5YR	02/14/2008	2008-5/50
	30991	R315-305	5YR	02/14/2008	2008-5/50
	30985	R315-306	5YR	02/14/2008	2008-5/51
	30993	R315-307	5YR	02/14/2008	2008-5/52
	30995	R315-308	5YR	02/14/2008	2008-5/52
	30994	R315-309	5YR	02/14/2008	2008-5/53
	30996	R315-310	5YR	02/14/2008	2008-5/53
	30983	R315-311	5YR	02/14/2008	2008-5/54
	30997	R315-312	5YR	02/14/2008	2008-5/55
	30998	R315-313	5YR	02/14/2008	2008-5/55
	30999	R315-314	5YR	02/14/2008	2008-5/56
	30989	R315-315	5YR	02/14/2008	2008-5/56
	30988	R315-316	5YR	02/14/2008	2008-5/57
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	30987	R315-318	5YR	02/14/2008	2008-5/58
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	30948	R317-9	5YR	02/01/2008	2008-4/42
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