UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah State Government. The Department of Administrative Services, Division of Administrative Rules produces the *Bulletin* under authority of Section 63G-3-402, *Utah Code Annotated* 1953.

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

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

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NOTICES OF
PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between June 3, 2008, 12:00 a.m., and June 16, 2008, 11:59 p.m. are included in this, the July 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 Rules being repealed are completely struck out.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 July 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 63G-3-302 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 October 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 63G-3-301; and Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page.

Administrative Services, Archives
R17-5
Definitions for Rules in Title R17

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 31553
FILED: 06/12/2008, 14:44

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In 2007, the Division of State Archives decided it needed to establish rules to clarify the procedures that were in place concerning government records.

SUMMARY OF THE RULE OR CHANGE: This rule establishes definitions that apply to the rules under Title R17.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63A-12-104(1)

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: Since this rule establishes definitions, there is no anticipated costs or savings.
❖ LOCAL GOVERNMENTS: Since this rule establishes definitions, there is no anticipated costs or savings.
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Since this rule establishes definitions, there is no anticipated costs or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since this rule establishes definitions, there is no anticipated costs or savings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Since this rule establishes definitions, there is no anticipated costs or savings. Kimberly Hood, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ADMINISTRATIVE SERVICES
ARCHIVES
346 S RIO GRANDE
SALT LAKE CITY UT 84101-1106, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Janell Tuttle at the above address, by phone at 801-531-3864, by FAX at 801-531-3867, or by Internet E-mail at jtuttle@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 07/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

AUTHORIZED BY: Patricia Smith-Mansfield, Director

R17. Administrative Services, Archives and Records Service.
R17-5. Definitions for Rules in Title R17.
R17-5-1. Definitions.

In addition to terms defined in Section 63-2-103, Utah Code, the following terms apply to rules in Title R17.

(1) "AIIM" means the Association for Information and Image Management.

(2) "ANSI" means American National Standards Institute.

(3) "Certification" means the confirmation that images recorded on microfilm are accurate, complete, and unaltered reproductions of original records.

(4) "Official Custody" means the responsibility for and implementing policy for the care and access of records.

KEY: records retention, public information, access to information
Date of Enactment or Last Substantive Amendment: 2008
Authorizing, and Implemented or Interpreted Law: 63-2-904

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Administrative Services, Archives
R17-6
Records Storage and Disposal at the State Records Center

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 31554
FILED: 06/12/2008, 14:45

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division of State Archives decided in 2007 that it needed to establish rules to clarify the procedures it was implementing concerning government records.

SUMMARY OF THE RULE OR CHANGE: This rule establishes a procedure for the storage and disposal of government records. It defines the responsibilities of the Archives and state agencies for records storage and disposal.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63A-12-104(1)

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: There could be a savings to a state agency if it utilizes the State Records Center. The cost savings would be in the form of storage costs and cost for personnel to destroy records that have met their retention.
❖ LOCAL GOVERNMENTS: There could be a savings to a local government if it utilizes the State Records Center. The cost savings would be in the form of storage costs and cost for personnel to destroy records that have met their retention.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There is not a savings or cost anticipated for small businesses and persons since they are not allowed to store records at the State Records Center.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There could be a savings to governmental entities if they utilize the State Records Center. The cost savings would be in the form of storage costs and cost for personnel to destroy records that have met their retention.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is not a cost or savings anticipated for businesses since they are not allowed to store records at the State Records Center. Kimberly Hood, Executive Director

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

ADMINISTRATIVE SERVICES
ARCHIVES
346 S RIO GRANDE
SALT LAKE CITY UT 84101-1106, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Janell Tuttle at the above address, by phone at 801-531-3864, by FAX at 801-531-3867, or by Internet E-mail at jtuttle@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 07/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

AUTHORIZED BY: Patricia Smith-Mansfield, Director

R17. Administrative Services, Archives and Records Service.
R17-6. Records Storage and Disposal at the State Records Center.
R17-6-1. Authority and Purpose.

In accordance with Subsection 63A-12-104(1), this rule establishes a procedure for the storage and disposal of records at the State Records Center.

R17-6-2. Records Storage and Disposal -- Agency Responsibility.

(1) An agency may transfer semi-active records to the Records Center for storage.

(2) Prior to transfer, the agency must verify that records have a State Archives record series number, an approved retention schedule, and have met all in office retention requirements.

(3) Records stored in the State Records Center remain in the official custody of the agency that transferred them.

(4) In the event that an agency has not transferred records to the Records Center, it is the agencies responsibility to manage, maintain, and destroy records in its custody in accordance with the records series' approved retention schedule and to document the records destruction.

R17-6-3. Records Storage and Disposal -- Archives Responsibility.

(1) The State Archives stores semi-active records with a scheduled retention of less than 100 years at the State Records Center in accordance with the approved retention schedule. The State Records Center may accept records for which a proposed retention has been presented to the State Records Committee with the provision that if the committee does not approve the retention, the records will be returned to the agency.

(2) The State Archives destroys records stored at the Records Center in accordance with the approved retention schedule and upon authorization from the creating agency. If the creating agency does not respond to the second request for authorized destruction within ninety (90) days, the records may be returned to the agency.

(3) In the event that a record has met its scheduled retention requirements and the Records Center is unable to locate an authorized agency to provide destruction approval, the records will become the official custody of the Utah State Archives and the archivist will determine the disposition of the records.

KEY: records retention, public information, access to information
Date of Enactment or Last Substantive Amendment: 2008
Authorizing, and Implemented or Interpreted Law: 63A-12-104

Administrative Services, Archives
R17-7
Archival Records Care and Access at the State Archives

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 31555
FILED: 06/12/2008, 14:45

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division of State Archives decided in 2007 that it needed to establish rules to clarify the procedures it was implementing concerning government records.

SUMMARY OF THE RULE OR CHANGE: This rule defines the role of the State Archives concerning the access and care of government records, including the enforcement of violating the State Archives records care, and access procedures.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63A-12-104(1)

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: There may be a cost in personnel time if a state agency needs to provide information to the State Archives concerning the classification of a record should a

request to classify or reclassify a record come to the State Archives.

❖ LOCAL GOVERNMENTS: There may be a cost in personnel time if a local government needs to provide information to the State Archives concerning the classification of a record should a request to classify or reclassify a record come to the State Archives.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Since this rule deals with the access and care of records in the custody of the State Archives, there is not an anticipated cost or savings to small businesses and other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be a cost in personnel time if a governmental entity needs to provide information to the State Archives concerning the classification of a record should a request to classify or reclassify a record come to the State Archives.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Since this rule deals with the access and care of records in the custody of the State Archives, there is not an anticipated cost or savings to businesses. Kimberly Hood, Executive Director

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

ADMINISTRATIVE SERVICES
ARCHIVES
346 S RIO GRANDE
SALT LAKE CITY UT 84101-1106, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Janell Tuttle at the above address, by phone at 801-531-3864, by FAX at 801-531-3867, or by Internet E-mail at jtuttle@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 07/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

AUTHORIZED BY: Patricia Smith-Mansfield, Director

R17. Administrative Services, Archives and Records Service.
R17-7. Archival Records Care and Access at the State Archives.
R17-7-1. Authority and Purpose.

In accordance with Subsection 63A-12-104(1), this rule establishes a procedure for the care and access of records in the custody of the State Archives, including classification or reclassification.

R17-7-2. Custody of Records, Care and Access.

(1) The State Archives accepts records which are placed in the official custody of the State Archivist in accordance with Sections 63G-2-604, 63A-12-102, 63A-12-103, and 63A-12-105.

(2) Records in the State Archives are available for public use in the State Archives insofar as use of the records is not restricted by law.

(3) Except as otherwise provided by law, records may not be removed or loaned for use outside the State Archives.

R17-7-3. Access to Records.

(1) Records are made available for public use in the State Archives Research Center. Patrons must observe Research Center procedures for the protection and control of the records.

(2) Patrons are required to register to use the Research Center and Research Center staff may require patrons to provide photographic identification.

(3) Patrons shall only use a pencil when making personal notes, shall not mark public records, and shall maintain the original order of the public records consulted.

(4) Persons may not smoke, drink, or eat in the Research Center.

(5) Patrons may take only paper and research materials into the Research Center. Patrons must check brief cases, purses, backpacks, or similar items at the desk before entering the research area.

(6) Patrons shall use care in handling fragile materials. Patrons shall not alter, mutilate, or otherwise deface public records.

(7) Patrons may not remove government records from the Research Center.

R17-7-4. Enforcement.

(1) If a patron violates R17-7-3, Research Center staff may issue a verbal warning.

(2) If, after unheeded warning, or if there is risk of immediate or severe damage to records, staff may request the patron to leave immediately.

(3) If a patron fails to promptly comply with staff request to leave, staff may request assistance from building security personnel and, from city police.

(4) These enforcement subsections do not limit Archives from performing its duties and enforcing these rules as otherwise allowed by law.

R17-7-5. Classification.

(1) Upon receiving a request to classify or reclassify a record or information within a record that is in the official custody of State Archives, State Archives may provide notice to any existing governmental entity that has classified the record series or record.

(2) No later than three days of the date of the notice, the governmental entity may notify State Archives of any decision regarding the classification of the record or information within the record.

(3) If the governmental agency fails to notify State Archives of any decision, then State Archives must classify or reclassify the record or information within the record as required by law or may classify or reclassify the record or information as allowed by law.

KEY: records retention, public information, access to information
Date of Enactment or Last Substantive Amendment: 2008
Authorizing, and Implemented or Interpreted Law: 63A-12-104

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Administrative Services, Archives
R17-8
Application of Microfilm Standards

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 31556
FILED: 06/12/2008, 14:47

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In 2007 the Division of State Archives decided it needed to establish rules to clarify the procedures that were in place concerning government records.

SUMMARY OF THE RULE OR CHANGE: This rule establishes the microfilming standards of permanent and long-term government records.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63A-12-104(1)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: ANSI/AIIM MS23-2004 Standard Recommended Practice -- Production, Inspection, and Quality Assurance of First-Generation, Silver Microforms of Documents

ANTICIPATED COST OR SAVINGS TO:
- ❖ THE STATE BUDGET: There may be a cost for state agency personnel to provide quality control and ensure that the records are being microfilmed in conformity with the established standards.
- ❖ LOCAL GOVERNMENTS: There may be a cost for local government personnel to provide quality control and ensure that the records are being microfilmed in conformity with the established standards.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There may be a cost if small businesses are contracted to perform the microfilming of government records. Those businesses would need to provide quality control and ensure that the records were being microfilmed in conformity with the established standards.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be a compliance cost if corporations of other governmental entities are contracted to perform the microfilming of government records. Those affected persons would need to provide quality control and ensure that the records were being microfilmed in conformity with the established standards.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There may be a cost if small businesses are contracted to perform the microfilming of government records. Those businesses would need to provide quality control and ensure that the records were being microfilmed in conformity with the established standards. Kimberly Hood, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ADMINISTRATIVE SERVICES
ARCHIVES
346 S RIO GRANDE
SALT LAKE CITY UT 84101-1106, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Janell Tuttle at the above address, by phone at 801-531-3864, by FAX at 801-531-3867, or by Internet E-mail at jtuttle@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 07/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

AUTHORIZED BY: Patricia Smith-Mansfield, Director

R17. Administrative Services, Archives and Records Service.
R17-8. Application of Microfilm Standards.
R17-8-1. Authority and Purpose.

In accordance with Subsection 63A-12-104(1), this rule establishes a procedure for the microfilming standards of permanent and long-term records.

R17-8-2. Micrographic Standards.

(1) Anyone microfilming Utah state and local government documents for retention purposes shall microfilm these records in conformity with the ANSI/AIMS Imaging Guidelines 2004, which are incorporated by reference.

(2) The State Archives must certify that each role of microfilm complies with these Imaging Guidelines prior to the destruction of the original records.

(3) The State Archives is the official custodian of all master microfilm of permanent and long-term records.

(4) Access to microfilmed records is permitted in accordance with the approved retention and classification for the records series.

KEY: records retention, public information, access to information
Date of Enactment or Last Substantive Amendment: 2008
Authorizing, and Implemented or Interpreted Law: 63A-12-104

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

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31527
FILED: 06/04/2008, 16:23

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the amendment to this rule is to establish the method in which attorneys receive compensation in compliance with Section 78B-9-202 which was amended by S.B. 277 (2008). (DAR NOTE: S.B. 277 (2008) is found at Chapter 288, Laws of Utah 2008, and was effective 05/05/2008.)

SUMMARY OF THE RULE OR CHANGE: The requirement of a submission of written approval from the court certifying that fees and expenses were reasonable. The maximum compensation rate was increased from $100 per hour to $125 per hour, not to exceed $60,000. (DAR NOTE: A corresponding 120-day (emergency) rule that was effective 05/05/2008 was published in the May 15, 2008, issue of the Bulletin under DAR No. 31363.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 78B-9-202

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 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 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 07/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

AUTHORIZED BY: Kimberly K Hood, Executive 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~~]enacted pursuant to Section [~~78-35a-202~~]78B-9-202.

(2) The purpose of the rule is to establish the procedures [~~and maximum compensation amounts to be paid for~~]for payment of 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 78B, Chapter [~~35a~~]9, 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)(e)~~]78B-9-202, shall:

(1) P[~~p~~]resent to the Division of Finance a certified copy of the [~~district~~]court order of appointment [~~of legal counsel and a signed Request for Payment verifying the work has been performed as provided in Section R25-14-4 pursuant to the schedule of payments set forth in that section.~~]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 reasonable in accordance with Section 78B-9-202 and this rule.

(3) Submit the court's written approval and a request for payment to the Division of Finance.

(4) The request for payment must verify that the work has been performed as provided by this rule and Section 78B-9-202 and be signed by the appointed counsel. 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 and process the payment. Original invoices must be submitted for all litigation expenses for which payment is requested.

(5) Before making payment, the Division of Finance may request additional supporting documentation.

(6) The Division of Finance may withhold payment for any item in a request for payment when such item conflicts with this rule or the

Post-Conviction Remedies Act pending resolution of the amount requested.

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 in accordance with the Post-Conviction Remedies Act to provide all reasonable and necessary post-conviction legal services for the client, [~~including timely filing 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.~~]and represent 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.~~]Full compensation for the legal services performed and litigation costs incurred shall be the amounts provided in the Post-Conviction Remedies Act and this rule.

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

[~~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.~~](1) The Division of Finance shall pay reasonable attorney fees for appointed counsel up to the maximum rate of $125 per billable hour not to exceed a total amount on $60,000, except as provided in the subsection (2).

(2) The Division of Finance shall pay amounts exceeding the total amount if:

(a) before services were performed, appointed counsel files a request with the court to exceed the total amount allowed by subsection (1);

(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 amount in accordance with Section 78B-9-202.

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

The Division of Finance shall pay reasonable litigation expenses not to exceed a total amount of $20,000[~~.00~~] [~~in any one case 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.~~]except as provided in subsection (2).

(2) The Division of Finance shall pay amounts exceeding the total amount if:

(a) before services are performed or expenses are incurred, appointed counsel files a request with the court to exceed the total amount;

(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 total amount in accordance with Section 78B-9-202.

(3) 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 reasonable when the purpose of the travel can reasonably be accomplished in another way, such as by telephone or correspondence.

[~~R25-14-6. Withdrawal of Counsel.~~

~~(1) If an attorney appointed under Section 78-35a-202 is permitted to withdraw by the court or, due to death or disability, is unable to continue, the attorney shall be paid only for the actual work performed to the date of withdrawal as certified by the court.~~

~~(2) If withdrawal is ordered by the court because of counsel's improper conduct or the court finds that a foreseeable conflict of interest which should have been disclosed prior to appointment existed, all compensation received by the attorney shall be repaid to the Division of Finance.~~

]

KEY: attorneys, fees, capital punishment, post-conviction[~~*~~]

Date of Enactment or Last Substantive Amendment: [~~January 22, 2001~~]2008

Notice of Continuation: January 17, 2007

Authorizing, and Implemented or Interpreted Law: [~~78-35a-202~~]78-9-202

Commerce, Securities
R164-31
Administrative Fines

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 31541
FILED: 06/06/2008, 15:57

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed new rule codifies guidelines to be considered by the Division Director when imposing an administrative fine.

SUMMARY OF THE RULE OR CHANGE: The new rule codifies guidelines to be considered by the Division Director when imposing an administrative fine.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 61-1-6, 61-1-12, 61-1-14, 61-1-20, and 61-1-24

ANTICIPATED COST OR SAVINGS TO:
- THE STATE BUDGET: None--The rule simply codifies guidelines to be considered by the Division Director when imposing an administrative fine.
- LOCAL GOVERNMENTS: None--The rule simply codifies guidelines to be considered by the Division Director when imposing an administrative fine.
- SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--The rule simply codifies guidelines to be considered by the Division Director when imposing an administrative fine.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The rule simply codifies guidelines to be considered by the Division Director when imposing an administrative fine.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have no fiscal impact on any businesses, as it simply codifies guidelines to be considered by the Division Director when imposing an administrative fine. Francine A. Giani, Executive Director

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
COMMERCE
SECURITIES
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:
Charles Lyons at the above address, by phone at 801-530-6940, by FAX at 801-530-6980, or by Internet E-mail at clyons@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 07/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

AUTHORIZED BY: Thad LeVar, Deputy Director

R164. Commerce, Securities.
R164-31. Administrative Fines.
R164-31-1. Guidelines for the Assessment of Administrative Fines.

(A) Authority and purpose.

(1) The Division enacts this rule under authority granted by Sections 61-1-6, 61-1-12, 61-1-14, 61-1-20 and 61-1-24.

(2) This rule identifies guidelines for the assessment of administrative fines. The guidelines should not be considered all-inclusive but rather are intended to provide factors to be considered when imposing a fine.

(B) Guidelines.

(1) For the purpose of determining the amount of an administrative fine assessed against a person under the Utah Uniform Securities Act, the Division Director shall consider the following factors:

(a) the seriousness, nature, circumstances, extent, and persistence of the conduct constituting the violation;

(b) the harm to other persons resulting either directly or indirectly from the violation;

(c) cooperation by the person in any inquiry conducted by the Division concerning the violation, efforts to prevent future occurrences of the violation, and efforts to mitigate the harm caused by the violation, including any restitution made to other persons injured by the acts of the person;

(d) the history of previous violations by the person;

(e) the need to deter the person or other persons from committing such violations in the future; and

(f) such other matters as justice may require.

KEY: administrative fines, securities regulation, securities
Date of Enactment or Last Substantive Amendment: 2008
Authorizing, and Implemented or Interpreted Law: 61-1-6; 61-1-12; 61-1-14; 61-1-20; 61-1-24

♦ ♦

Crime Victim Reparations, Administration
R270-1-24
Rent Awards

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31529
FILED: 06/05/2008, 09:15

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment places restrictions on the amount of the rent benefit and streamlines the application process for rent by repealing some current requirements.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment reduces the maximum rent benefit from $1,800 to $1,500 and reduces the time frame for the rent benefit from three months to two months. The amendment also simplifies the application process for rent by repealing the requirement for victims to submit a safety plan and a self-sufficiency plan.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 63M-7-506(1)(c)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: During the past three fiscal years, Crime Victim Reparations (CVR) has paid an average of $1,499.89 per rent claim. Therefore, reducing the maximum rent benefit is likely to have no impact on the state budget because CVR is likely to pay the same amount for rent under the new maximum of $1,500 as it has been paying under the current maximum of $1,800.

❖ LOCAL GOVERNMENTS: Because rent payments are made directly to rental companies and do not involve local government, this amendment will have no fiscal impact on local government.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The maximum amount that rental companies can receive from CVR will be reduced by $300 per claim. CVR awards rent benefits on approximately 227 claims per year, meaning that $68,100 would no longer be available to pay to rental companies. However, the new maximum is equal to the amount of money that has been paid to rental companies over the last three fiscal years. Therefore, rental companies are likely to receive the same amount of money they have been receiving.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only group of affected persons with some type of compliance costs will be victims of crime seeking rent benefits. Victims will need to request the benefit from CVR and will be asked to obtain a copy of the lease and other rental information. These things are currently required. Because this change also simplifies the process of requesting rent, victims will actually spend less time complying with CVR requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed regulation change will have very little, if any, impact on rental businesses. Robert Yeates, Executive Director

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

CRIME VICTIM REPARATIONS
ADMINISTRATION
Room 200
350 E 500 S
SALT LAKE CITY UT 84111-3347, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Ronald B Gordon at the above address, by phone at 801-238-2367, by FAX at 801-533-4127, or by Internet E-mail at rbgordon@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 07/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

AUTHORIZED BY: Ronald B Gordon, Director

R270. Crime Victim Reparations, Administration.
R270-1. Award and Reparation Standards.
R270-1-24. Rent Awards.

A. Pursuant to Subsection 63M-7-511(4)(a), victims of domestic violence or child abuse may be awarded for actual rent expenses for up to [~~three~~]two months, not to exceed a maximum rent award of [~~$1800~~]$1500, if the following conditions apply:

1. The perpetrator was living with the victim at the time of the crime or the rent assistance appears directly related to the victim's ability to distance herself/himself from the perpetrator.

2. It appears reasonable that the perpetrator was assisting or was solely responsible for rent.

3. The victim agrees that the perpetrator is not allowed on the premises.[

~~4. The victim submits a safety plan to CVR and the plan is approved by CVR.~~

~~5. The victim submits a self-sufficiency plan to CVR and the plan is approved by CVR.~~]

[~~6~~]4. The need for rent assistance is directly related to and caused by the crime upon which the claim is based.

B. No victim shall receive more than one rent award in their lifetime.

KEY: victim compensation, victims of crimes
Date of Enactment or Last Substantive Amendment: [~~January 2~~], 2008
Notice of Continuation: July 3, 2006
Authorizing, and Implemented or Interpreted Law: 63M-7-501 et seq.

♦ ♦

Education, Administration
R277-110
Legislative Supplemental Salary Adjustment

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31572
FILED: 06/16/2008, 15:26

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide for 2008 legislative changes in S.B. 2 regarding educator salary adjustments. (DAR NOTE: S.B. 2 (2008) is found at Chapter 397, Laws of Utah 2008, and was effective 03/20/2008.)

SUMMARY OF THE RULE OR CHANGE: The amendments to the rule include: providing for a $1,700 salary adjustment; adding an employee evaluation component; clarifying that each year's supplement becomes part of the educator salary independent of other adjustments; and setting the date of November 15 for data submission required for disbursing funds.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 53A-1-401(3) and 53A-17a-153(6)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. The 2008 Legislature appropriated funds specifically for this purpose.

❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. Eligible educators will receive a salary adjustment funded fully by the 2008 Legislature.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated costs or savings to small businesses AND persona other than businesses. The 2008 legislative appropriation is specifically for educators in the public schools.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. An eligible educator will receive the 2008 legislative salary adjustment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

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

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R277. Education, Administration.
R277-110. Legislative Supplemental Salary Adjustment.
R277-110-1. Definitions.

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

B. "District or charter school" means a public school funded by the Utah State Legislature through the Minimum School Program.

C. "Educator" means a teacher or other individual[~~s~~] as defined by the Utah State Legislature in 53A-17a-153[~~-(1) Educator Salary Adjustments~~].

D. "Educator Salary Adjustments" means salary increases paid annually in equal amounts to educators as defined in 53A-17a-153(1). The adjustment amount for 2007-08 was $2500. The adjustment amount for 2008-09 is $1700.

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

F. "USDB" means Utah Schools for the Deaf and the Blind.

R277-110-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of Public Education in the Board, Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities, and Section 53A-17a-153(6) which authorizes the Board to make rules regarding educator salary adjustments.

B. The purpose of this rule is to outline a consistent method for enacting educator salary adjustments in accordance with Section 53A-17a-153, Educator Salary Adjustments[~~, enacted by the 2007 Legislature~~].

R277-110-3. Procedures.

A. Each school district, charter school and USDB shall:

(1) have employee evaluation procedures consistent with Title 53A, Chapter 10; schools exempt from Title 53A, Chapter 10 shall have employee evaluation procedures in place to participate in the Program and receive funds under Section 53A-17a-153.

([~~1~~]2) put the Educator Salary Adjustment appropriation into the school district's, charter school's or USDB's salary schedule each year that an educator salary adjustment is appropriated by the Legislature;

([~~2~~]3) ensure the amount of the Educator Salary Adjustment is the same for each full-time-equivalent educator position in the school district, charter school, or the USDB;

([~~3~~]4) ensure that each person who is not a full-time educator receives a proportional salary adjustment based on the number of hours the person works in his current assignment as an educator;

([~~4~~]5) ensure that each educator who receives a salary adjustment for school year 2007-08 or 2008-09 or both has received a satisfactory or above job performance rating in his most recent evaluation concluded in the school year prior to the year for which the adjustment is made; new hires are considered to have met this requirement by successfully completing the position hiring process and being selected for an educator position.

B. Once an educator qualifies for an adjustment in a designated school year, the adjustment becomes an ongoing part of the educator's salary.

[~~B~~]C. The educator shall be:

(1) a classroom teacher (2007-08 and 2008-09);

(2) speech pathologist (2007-08 and 2008-09);

(3) librarian or media specialist (2007-08 and 2008-09);

(4) preschool teacher (2007-08 and 2008-09);

(5) school building level administrator (2007-08);

(6) mentor teacher (2007-08 and 2008-09);
(7) teacher specialist (2007-08 and 2008-09);
(8) teacher leader (2007-08 and 2008-09);
(9) guidance counselor (2007-08 and 2008-09);
(10) audiologist (2007-08 and 2008-09);
(11) psychologist (2007-08 and 2008-09); or
(12) social worker as defined in 53A-17a-153 (1) (2007-08 and 2008-09).

[~~C~~]D. The educator shall be licensed, employed by a school district, charter school, or the Utah Schools for the Deaf and the Blind and hold a current license issued under Title 53A, Chapter 6, Educator Licensing and Professional Practices Act.

[~~D~~]E. Each school district, charter school, and the USDB shall annually note on the appropriate salary schedule:
(1) the amount of the Educator Salary Adjustment;
(2) the positions qualifying for the adjustment;
(3) that a satisfactory or better performance rating is required to receive the adjustment; and

[~~E~~]F. For the 200[~~7~~]8-09 school year, school districts, charter schools and the USDB shall note satisfactory performance ratings.

[~~F~~]G. The USOE shall remit to school districts, charter schools and USDB, through monthly bank transfers and allotment memos beginning in July of each year, an estimated educator salary adjustment amount to be adjusted in November of each year to match the number of qualified educators in the CACTUS data base system.

[~~G~~]H. Adjustments to CACTUS after November 15 of each year shall not count towards the amount for Educator Salary Adjustments until the following year.

[~~H~~]I. Educator Salary Adjustments may not be included when calculating the weighted average compensation adjustment for non-administrative licensed staff.

R277-110-4. Reports.

A. School districts, charter schools and USDB shall maintain adequate accounting records to submit an annual report summarizing the uses and recipients of Educator Salary Adjustment funds to USOE each year by November 1 on USOE-designated forms.
(1) School districts, charter schools and USDB, shall
(a) Maintain the information by program and;
(b) Carry over any unused balances within the program for use in the following year.
(2) Reports shall balance with amounts reported on the AFR (Annual Financial Report) and the APR (Annual Program Report).
(3) Failure to submit the required reports on a timely basis may result in withholding of school district, charter school or USDB funds until the report is submitted in an acceptable format and is complete, or may render the school district, charter school or USDB, ineligible for participation in the Educator Salary Adjustment program the following year.
(4) Failure to remedy allocation of funds not in accordance with Section 53A-17a-153, Educator Salary Adjustment, and R277-110, Legislative Supplemental Salary Adjustment, shall also result in withholding of school district, charter school or USDB funds for the Educator Salary Adjustment program until an appropriate remedy is implemented and verified.

KEY: educators, salary adjustments
Date of Enactment or Last Substantive Amendment: [~~August 7, 2007~~]2008
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-17a-153(6)

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Education, Administration
R277-116-1
USOE Internal Audit Procedure

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31573
FILED: 06/16/2008, 15:26

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide for updated language within the definitions section of the rule.

SUMMARY OF THE RULE OR CHANGE: The changes remove Utah State Board for Applied Technology Education from the definition of Board and update the revision date of the Government Auditing Standards publication.

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Government Auditing Standards, Comptroller General of the United States, July 2007 (GAO-07-731G)

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. The changes merely update outdated language.
❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. The changes merely update outdated language.
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated costs or savings to small businesses AND persons other than businesses. The changes merely update outdated language.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The changes merely update outdated language.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Kathy Akin at the above address, by phone at 801-538-7830, by FAX at 801-538-7768, or by Internet E-mail at kathy.akin@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 07/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

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

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R277. Education, Administration.
R277-116. USOE Internal Audit Procedure.
R277-116-1. Definitions.

A. "Audit" means performance audits, including economy and efficiency audits and program audits or financial-related audits as outlined in GOVERNMENT AUDITING STANDARDS, Comptroller General of the United States, [~~1988~~]July 2007 (GAO-07-731G) revision which is hereby incorporated by reference, and available from the USOE Internal Auditor and at the Utah Attorney General's Office.

[~~E~~]B. "Audit Committee" means the audit committee of the Board composed of the Chairman, Vice Chairman and three Standing Committee Chairs of the Board given the responsibility to determine the relative importance of audit requests, receive reports from the internal auditor, and release audit reports to Board members and other interested parties.

[~~B~~]C. "Board" means the [~~15 member elected~~]Utah State Board of Education[~~/Utah State Board for Applied Technology Education~~].

D. "Internal Auditor" means the Board's Internal Auditor who is direct staff, has a personal and confidential relationship to the Board, and who is appointed by the Board for the purpose of conducting performance audits, including economy and efficiency audits and program audits or financial-related audits as outlined in GOVERNMENT AUDITING STANDARDS. The Internal Auditor may conduct other auditing assignments as directed by the Board. The Internal Auditor cooperates and coordinates with the Audit Committee. The Internal Auditor's performance is evaluated by the Board or a committee of Board members.

[~~G~~]E. "LEA" means any local education agency under the supervision of the Board including local school districts, regional service centers, area technology centers and vocational programs.

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

[~~C~~]G. "Yellow Book Standards" means the auditing standards outlined in the GOVERNMENT AUDITING STANDARDS (complete citation above).

KEY: educational administration
Date of Enactment or Last Substantive Amendment: [~~June 17, 1998~~]2008
Notice of Continuation: September 6, 2007
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-1-401(4); 53A-1-405; 53A-1-402(1)(f); 53A-17a-147(2)

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Education, Administration
R277-419
Pupil Accounting

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31574
FILED: 06/16/2008, 15:27

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to remove the variance from the required 990 hours of student instruction time for the School Professional Development Days Pilot Program. The pilot program was not continued by the 2008 Legislature. The amended rule also removes references to YICSIS, as the YIC (Youth in Custody) Student Information System no longer exists and adds additional coding for the Data Clearinghouse to identify high school completion status.

SUMMARY OF THE RULE OR CHANGE: The changes include removing the variance from the required 990 hours of student instruction time for the School Professional Development Days Pilot Program from the rule; removing references to YICSIS; and adding additional coding for the Data Clearinghouse.

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

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. The changes are primarily cleanup changes to remove programs that no longer exist and provide clarification for identifying high school completion status.
❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. The changes merely remove programs that no longer exist and provide clarification for identifying high school completion status.
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated costs or savings to small businesses AND persons other than businesses. The changes relate specifically to the Utah public education system and merely remove programs that no longer exist and provide clarification for identifying high school completion status.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The changes merely remove programs that no longer exist and provide clarification for identifying high school completion status.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

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

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

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

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

C. "Compulsory school age" means:

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

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

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

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

F. "Influenza pandemic (pandemic)" means a global outbreak of serious illness in people. It may be caused by a strain of influenza that most people have no natural immunity to and that is easily spread from person to person.

G. "LEA" means a local education agency, including local school boards/public school districts and charter schools.

H. "Membership" means a public school student is on the current roll of a public school class or public school as of a given date:

(1) A student is a member of a class or school from the date of entrance at the school and is placed on the current roll until official removal from the class or school due to the student having left the school.

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

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

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

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

(1) sickness;

(2) hospitalization;

(3) pending court investigation or action or both; or

(4) other extenuating circumstances beyond the control of the student.

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

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

N. "School day" means:

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

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

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

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

P. "School year" means the 12 month period from July 1 through June 30.

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

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

S. "SSID" means Statewide Student Identifier.

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

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

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

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

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

Y. "YIC" means Youth in Custody.[

~~Z. "YICSIS" means YIC Student Information System.~~]

R277-419-3. Minimum School Days, LEA Records, and Audits.

A. Minimum standards for school days

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

(2) The required days and hours may be offered at any time during the school year, consistent with the law.

(3) Health Department Emergency or Pandemic

(a) The Board may waive the day and hour requirement, following a vote of Board members, pursuant to a directive from the Utah State Health Department or a local health department, that results in the closure of a school in the event of a pandemic or other public health emergency.

(b) In the event that the Board is unable to meet in a timely manner, the State Superintendent of Public Instruction may issue a waiver following consultation with a majority of Board members.

(c) The waiver may be for a designated time period and for specific areas, school districts, or schools in the state, as determined by the health department directive.

(d) The waiver may allow for school districts to continue to receive state funds for pupil services and reimbursements.

(e) The waiver by the Board or State Superintendent of Public Instruction shall direct school districts to provide as much notice to students and parents of the suspension of school services, as is reasonably possible.

(f) The waiver shall direct school districts to comply with health department directives, but to continue to provide any services to students that are not inconsistent with the directive.

(g) The Board may encourage school districts to provide electronic or distance learning services to affected students for the period of the pandemic or other public health emergency to the extent of personnel and funds available.

(4) Minimum standards shall apply to all public schools in all settings unless Utah law or this rule provides for specific exceptions. Local boards are encouraged to provide adequate days and hours in the school district's yearly calendar to avoid the necessity of a waiver request except in the most extreme circumstances.

B. Official records

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

(a) entry date;

(b) exit date;

(c) exit or high school completion status;

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

(e) disability status (resource or self-contained, if applicable).

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

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

(i) entry date;

(ii) exit date; and

(iii) excused or unexcused status of absence.

(3) A minimum of one attendance check shall be made by each public school each school day.

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

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

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

D. Audits

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

(2) Reporting dates, forms, and procedures are found in the State of Utah Legal Compliance Audit Guide, provided to LEAs by the USOE in cooperation with the State Auditor's Office and published under the heading of APP C-5;

(3) The USOE shall review student membership and fall enrollment audits as they relate to the allocation of state funds in accordance with the policies and procedures established in R277-484-7 and 8 and may periodically or for cause review LEA records and practices for compliance with the laws and this rule.

R277-419-4. Student Membership.

A. Eligibility

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

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

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

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

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

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

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

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

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

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

(2) Students may generate MSP funding by participation in an LEA-sponsored or LEA-supported virtual education program other than the Utah Electronic High School that is consistent with the

student's SEOP, has been approved by the student's counselor, and includes regular face-to-face instruction or facilitation by a designated employee of the LEA.

B. Reporting

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

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

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

C. Calculations

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

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

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

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

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

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

D. Constraints

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

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

E. Exceptions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

R277-419-5. High School Completion Status.

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

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

(2) died (DE);

(3) expelled (EX);

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

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

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

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

(6) suspended (SU);

(7) transferred out of state (TO);

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

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

(10) transferred to home schooling (TH);

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

(b) non-U.S. citizen who enrolled in a Utah public school as a foreign exchange student under Section 53A-2-206(2)(i)(B) shall be identified by resident status [~~(F)~~](J for those with a J-1 visa, F for all others), not by an exit code;

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

(13) transferred to adult education (AE);

(14) transferred to higher education (HE), without first obtaining either a diploma or certificate of completion; and

(15) aged out of special education (AO).

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

R277-419-7. Variances.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

KEY: education finance, school enrollment
Date of Enactment or Last Substantive Amendment: [~~May 9, 2007~~]2008
Notice of Continuation: October 5, 2007
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-1-402(1)(e); 53A-1-404(2); 53A-1-301(3)(d); 53A-3-404; 53A-3-410

♦ ♦

Education, Administration
R277-437
Student Enrollment Options

NOTICE OF PROPOSED RULE
(Repeal and Reenact)
DAR FILE NO.: 31575
FILED: 06/16/2008, 15:28

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed rule repeal and reenactment is a result of 2008 legislation in H.B. 349 that significantly changed the law on open enrollment for Utah public school students. (DAR NOTE: H.B. 349 (2008) is found at Chapter 346, Laws of Utah 2008, and was effective 05/05/2008.)

SUMMARY OF THE RULE OR CHANGE: The new rule does not contain the following definitions: Average daily membership threshold, Instructional station, Nonresident district, Projected average daily membership; School capacity. The new rule provides a definition of "safety emergency" that was not in the old rule. Section R277-437-3 of the old rule provided a date of November 30 for local boards to announce policies describing procedures for students to follow in apply to attend schools other than their respective schools of residence--the new rule changes that date to September 30. The old rule does not have a section regarding State Board of Education responsibilities that is now in the new rule and includes a requirement to post a standard enrollment options application form to the Utah State Office of Education website.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-402(1)(b) and Section 53A-2-210

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. Schools and school districts will be responsible to implement the new laws on open enrollment. The state will develop a model application which will require no additional costs.

❖ LOCAL GOVERNMENTS: There may be some costs to local government. Because open enrollment thresholds have changed, more students may be enrolling in nonresident school districts. Resident school districts are required to pay a portion of the local funding that a student receives to the nonresident school district accepting a student, which could result in a loss of revenue to the resident school district especially if large number of students transfer. Costs are far too speculative to predict at this time.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated costs or savings to small businesses AND persons other than businesses. This rule provides standards and procedures that related to Utah public schools.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be some compliance costs for affected persons. Because open enrollment thresholds have changed, more students may be enrolling in nonresident school districts. Resident school districts are required to pay a portion of the local funding that a student receives to the nonresident school district accepting a student, which could result in a loss of revenue to the resident school district especially if large number of students transfer. Costs are far too speculative to predict at this time.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

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

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R277. Education, Administration.
R277-437. Student Enrollment Options.
[~~R277-437-1. Definitions.~~

~~A. "Available school or program" means a school or program currently designated under this rule by a district as open to nonresident students.~~

~~B. "Average daily membership threshold" means 90 percent of the maximum capacity of a school.~~

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

~~D. "District of residence" means a student's school district of residence under Section 53A-2-201.~~

~~E. "Instructional station" means a classroom, laboratory, shop, study hall, or physical education facility to which a local board of education could reasonably assign a class, teacher or program during a given class period. For example, if two P.E. classes were assigned to meet in the gymnasium simultaneously, the gymnasium would represent two instructional stations.~~

~~F. "Nonresident district" means a school district other than the district of residence of the student in question.~~

~~G. "Nonresident student" means a student attending or seeking to attend a school other than the school of residence.~~

~~H. "Projected average daily membership" means the current year enrollment of a school as of October 1, adjusted for projected growth for the coming school year.~~

~~I. "Residual per student expenditure" means the expenditure based on the most recent State Superintendent's Annual Report according to the following formula:~~

~~(1) Take total expenditures before interfund transfer for:~~

~~(a) maintenance and operation;~~

~~(b) tort liability; and~~

~~(c) capital projects.~~

~~(2) Subtract from the sum of (1), above:~~

~~(a) resident district's taxes collected under the Minimum School Program;~~

~~(b) state revenue;~~

~~(c) federal revenue; and~~

~~(d) expenditures for site acquisition or new facility construction (new facility construction includes remodeling that increases building square footage or other major remodeling, if approved by the USOE Director of Finance).~~

~~(3) Divide the remainder of (1) and (2) above by the total student membership of the district as reported in the most recent State Superintendent's Annual Report.~~

~~J. "School capacity" or "maximum capacity" means the total number of students who could be served in a given school building if each of the building's instructional stations were to have the following enrollment:~~

~~(1) Elementary Schools: at least equal to the district's average class size for each particular grade;~~

~~(2) Middle, Junior, Senior High Schools: At least equal to the district's average class size for like classes; and~~

~~(3) instructional station capacity for laboratories, physical education facilities, shops, study halls, self-contained special education classrooms, facilities jointly financed by school districts and another community agency for joint use and similar rooms must be calculated individually. Capacity for self-contained special education classrooms shall be based upon students per class as defined by Board and federal special education standards. (The above standards are based in part upon Section 53A-17a-124.5)~~

~~K. "School of residence" means the school which a student would normally attend in the student's district of residence.~~

~~L. "Serious infraction of the law or school rules" means any behavior which could, under rules of the nonresident district in which enrollment is sought, subject a student to suspension for more than ten days or expulsion.~~

~~M. "USOE" means the Utah State Office of Education.~~

~~R277-437-2. Authority and Purpose.~~

~~A. This rule is authorized by Utah Constitution Article X, Section 3 which places general control and supervision of the public school system under the Board, by 53A-1-402(1)(b) which directs the Board to establish rules and minimum standards for access to programs and by 53A-2-207 through 213 which directs the Board to develop rules for student enrollment options.~~

~~B. The purpose of this rule is to provide: options for a student to attend public school within the student's district of residence whenever there is space available at the desired school; definitions relating to school choice; standards for transferring students; rules~~

~~for participation in interscholastic competition; a form for students to use when applying for open enrollment; and an explanation for use of the form, "Application for Student to Attend School in Nonresident School or District," in seeking permission for a student to attend school in a school other than the school of residence.~~

~~**R277-437-3. Local School Board and District Responsibilities.**~~

~~A. Prior to November 30 of each school year a local board shall announce policies describing procedures for students to follow in applying to attend schools other than their respective schools of residence, and designate which schools and programs will be available for open enrollment during the coming school year.~~

~~(1) A local board shall designate each school which has a projected daily membership below the average daily membership threshold as available for open enrollment, and may designate schools as available even though projected daily membership exceeds threshold levels.~~

~~(2) If construction, remodeling, or other circumstances beyond the control of the local board do not reasonably permit the local board to make sufficiently accurate enrollment projections for a given school to determine whether the school should be designated as available for open enrollment for the coming year, the local board shall permit submission of enrollment applications for that school during the application period and notify applicants that approval will be delayed until additional information is available.~~

~~(3) Whether applications are received for schools designated as open, or for schools for which the local board was unable to make a designation, the local board must give applicants written notification of acceptance or justification for the rejection of their applications, including standards outlined in Section 53A-2-208, by March 1 (for current nonresident students) or March 15 (for new nonresident students).~~

~~B. As required under Subsection 53A-2-210(2), a resident district shall pay to a nonresident district one-half of the resident district's residual per student expenditure for each resident student properly registered in the nonresident district.~~

~~C. A district shall allow an enrolled nonresident student to remain enrolled in the district, subject to the conditions noted under Subsections 53A-2-207(6) and (7), provided:~~

~~(1) if a nonresident student is to be excluded from continued enrollment in a school because current or projected resident student enrollment meets or exceeds maximum school capacities, and there is another school which the student could attend within the district which has not reached maximum enrollment, the nonresident student shall be given the opportunity to enroll in that school.~~

~~(2) nonresident students who must be relocated under Subsection (1) due to increased enrollment of resident students, and siblings of nonresident students who are currently attending a school within the district, shall have priority in enrollment over other nonresident students who are seeking enrollment in the district for the first time.~~

~~(3) a school district may designate the schools which students shall attend as they move from elementary school to middle school to high school. Attendance at a specific elementary, junior high or middle school does not guarantee attendance at a specific junior high or high school.~~

~~D. Each local board shall establish a procedure to consider appeals of any denial of initial or continued enrollment of a nonresident student under Subsection 53A-2-209(1).~~

~~E. A local board of education may limit open enrollment options consistent with Section 53A-2-208(2)(a).~~

~~F. Notwithstanding the average daily membership threshold and maximum school capacity as defined in R277-437-1(B and J), a local board of education may allow nonresidents to enroll in schools other than their school of residence for reasons such as:~~

~~(1) enrollment is necessary to protect the health of the student as determined by a specific medical recommendation from a medical doctor;~~

~~(2) enrollment in a specific school is necessary to protect the emotional or physical safety of a student, based on documentation/evidence provided by the student's previous school, the parent(s)/guardian(s), a clinical psychologist who is tracking the student, or cumulative information;~~

~~(3) if a sibling currently attends that school; or~~

~~(4) if a parent/guardian is an employee of the school.~~

~~G. No student who currently resides in the school attendance area of a school within the district shall be displaced or excluded because of students transferring from outside the school attendance area.~~

~~H. Resident students of both a specific school and the district within which the school exists shall receive enrollment preference over nonresident students.~~

~~I. There shall be no presumption of eligibility for participation under Utah High School Activities By-laws or regulations for students transferring under R277-437-3F.~~

~~**R277-437-4. Transportation.**~~

~~A school district may transport its students to schools in other districts under Subsection 53A-2-210(3)(b)(i).~~]

R277-437-1. Definitions.

A. "Available school or program" means a school or program currently designated under the law and this rule by a district as open to nonresident students.

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

C. "District of residence" means a student's school district of residence under Section 53A-2-201.

D. "Nonresident student" means a student attending or seeking to attend a school other than the designated school of residence.

E. "Residual per student expenditure" means the expenditure based on the most recent State Superintendent's Annual Report according to the following formula:

(1) Take total expenditures before interfund transfer for:

(a) maintenance and operation;

(b) tort liability; and

(c) capital projects.

(2) Subtract from the sum of (1), above:

(a) resident district's taxes collected under the Minimum School Program;

(b) state revenue;

(c) federal revenue; and

(d) expenditures for site acquisition or new facility construction (new facility construction includes remodeling that increases building square footage or other major remodeling, if approved by the USOE Director of Finance).

(3) Divide the remainder of (1) and (2) above by the total student membership of the district as reported in the most recent State Superintendent's Annual Report.

F. "Safety emergency" means a situation in which:

(1) enrollment in a specific school is necessary to protect the health of the student as determined by a specific medical recommendation from a medical doctor; or

(2) enrollment in a specific school is necessary to protect the emotional or physical safety of a student, based on documentation/evidence provided by the student's previous school, the parent(s)/guardian(s), a clinical psychologist who is tracking the student, or cumulative information.

G. "School of residence" means the school which a student would normally attend in the student's district of residence.

H. "School into which the school's students feed" for purposes of this rule means school boundaries and feeder systems as determined by the local board of education which may change over time.

I. "Serious infraction of the law or school rules" means chronic misbehavior by a student which is likely, if it were to continue after the student was admitted, to endanger persons or property, cause serious disruptions in the school, or to place unreasonable burdens on school staff.

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

R277-437-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which places general control and supervision of the public school system under the Board, by 53A-1-402(1)(b) which directs the Board to establish rules and minimum standards for access to programs and by 53A-2-210 which directs the Board to provide a formula by rule for resident students who attend school districts under Section 53A-2-206.5 et seq. This rule is consistent with federal laws and regulations, including the Individuals with Disabilities Act (IDEA), 20 U.S.C., Chapter 33, Section 1412 as amended by Public Law 102-119, and the Elementary and Secondary Education Act of 2001 (ESEA), P.L. 107-110.

B. The purpose of this rule is:

(1) to establish necessary definitions;

(2) to establish a formula for the residual per pupil expenditure for school districts to reimburse each other for full and part-time nonresident students;

(3) to summarize school, school district, and state responsibilities under Section 53A-2-206.5; and

(4) to provide a standard statewide open enrollment form required under Section 53A-2-207(4)(b).

R277-437-3. Local School Board and District Responsibilities.

A. Prior to September 30, 2008, a local board shall announce policies describing procedures for students to follow in applying to attend schools other than their respective schools of residence. Local school boards shall designate which schools and programs will be available for open enrollment during the coming school year consistent with the definitions and timelines of Section 53A-2-206.5 et seq.

B. If construction, remodeling, or other circumstances beyond the control of the local board do not reasonably permit the local board to make sufficiently accurate enrollment projections for a given school to determine whether the school should be designated as available for open enrollment for the coming year, the local board shall designate delays and procedures consistent with Section 53A-2-207(4)(c).

C. As required under Subsection 53A-2-210(2), a resident district shall pay to a nonresident district one-half of the resident district's residual per student expenditure for each resident student properly registered in the nonresident district.

D. Each local board shall establish a procedure to consider appeals of any denial of initial or continued enrollment of a nonresident student under Subsection 53A-2-209(1).

E. A local board of education may deny enrollment of nonresident students for reasons identified in R277-437-1I.

F. There shall be no presumption of eligibility for students to participate in activities governed by the Utah High School Activities Association (UHSAA) if students transfer under Section 53A-2-206.5.

R277-437-4. State Board of Education Responsibilities.

A. Capacity for special education classrooms shall:

(1) be consistent with Utah Special Education Caseload Guidelines; and

(2) depend on staffing and funding constraints of the receiving school district.

B. A standard enrollment options application form shall be available on the USOE website by May 15, 2008.

R277-437-5. Transportation.

A school district may transport its students to schools in other districts under Subsection 53A-2-210(3)(b)(i).

KEY: public education, enrollment options
Date of Enactment or Last Substantive Amendment: [~~October 10, 2007~~]2008
Notice of Continuation: January 5, 2004
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(1)(b); [~~53A-2-207 through 53A-2-213~~] 53A-2-210; 53A-2-206.5 et seq.

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Education, Administration
R277-451
The State School Building Program

NOTICE OF PROPOSED RULE
(Repeal)
DAR FILE NO.: 31576
FILED: 06/16/2008, 15:28

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being repealed due to passage of S.B. 48 in the 2008 Legislative Session. The Public Education Capital Outlay Act provides complete and inclusive language for administration of the program making the rule no longer necessary. (DAR NOTE: S.B. 48 (2008) is found at Chapter 236, Laws of Utah 2008, and will be effective 07/01/2008.)

SUMMARY OF THE RULE OR CHANGE: Repeal Rule R277-451 in its entirety.

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. The rule is being repealed because the rule is no longer consistent with the law and the new law provides complete and inclusive language for administering the Public Education Capital Outlay Act.

❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. The rule is being repealed because the rule is no longer consistent with the law and the new law provides complete and inclusive language for administering the Public Education Capital Outlay Act.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated costs or savings to small businesses AND persons other than businesses. The rule is being repealed because the rule is no longer consistent with the law and the new law provides complete and inclusive language for administering the Public Education Capital Outlay Act.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The rule is being repealed because the rule is no longer consistent with the law and the new law provides complete and inclusive language for administering the Public Education Capital Outlay Act.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

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

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R277. Education, Administration.
[~~**R277-451. The State School Building Program.**~~
~~**R277-451-1. Definitions.**~~

~~A. "ADM" means Average Daily Membership of students.~~

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

~~C. "Capital Outlay Foundation Program" means a program that provides a minimum dollar generation guarantee, per ADM, for every school district willing to levy a tax of .002400 per dollar of taxable value on real property, as provided in R277-451-3.~~

~~D. "Capital Outlay Loan Program" means a program that provides short-term assistance to school districts, for a period not to exceed five years, for school building construction and renovation, as provided in R277-451-6.~~

~~E. "Derived assessed valuation" means current collections of tax levy (no prior year penalties or redemptions) divided by the same year tax rates.~~

~~F. "Enrollment Growth Program" means a program that provides additional support to those school districts which are experiencing the most pressing needs for school facilities due to rapid growth, as provided in R277-451-4.~~

~~G. "Foundation level" means the guaranteed pro-rated amount per ADM to the extent of funds available distributed to school districts by the Board.~~

~~H. "Loan" means a transaction which takes money from a Board account and places it in a school district account with the full legal intention by a school district that it be repaid to the account from which it was taken.~~

~~I. "Superintendent" means the State Superintendent of Public Instruction.~~

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

~~K. "Yield per ADM" means the product of the derived assessed valuation multiplied by .0024, divided by the average daily membership.~~

~~**R277-451-2. Authority and Purpose.**~~

~~A. This rule is authorized by Utah Constitution, Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-21-103 which requires that the Board to adopt rules regarding qualifications for participation in the foundation program and distribution of funds for the program, Section 53A-21-103.5 which requires the Board to adopt rules regarding qualifications for participation in the Enrollment Growth Program and for distribution of funds for the program, and Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities.~~

~~B. The purpose of this rule is to specify the eligibility requirements and the procedures for distributing funds appropriated for the Capital Outlay Foundation Program and Enrollment Growth Program as well as for providing short-term loans to school districts for capital outlay projects in school building construction and renovation.~~

~~**R277-451-3. Capital Outlay Foundation Program.**~~

~~A. A school district may receive state school building funds under the Capital Outlay Foundation Program established in Section 53A-21-102(1) if the amount raised by levying a tax rate of .002400 does not generate revenues above the foundation level established per ADM when the legislative appropriation is entered into the formula.~~

~~B. To qualify to receive 100 percent of the Capital Outlay Foundation funds available to a school district, a school district shall levy a property tax rate of at least 0.002400 designated specifically for capital outlay and debt service:~~

~~(1) school districts levying less than the full 0.002400 tax rate for capital outlay and debt service shall receive proportional funding under the capital foundation program based upon the percentage of the 0.002400 tax rate levied by the school district;~~

~~(2) the amount of capital foundation funds to which a school district would otherwise be entitled under the Capital Outlay Foundation Program may not be reduced as a consequence of changes in the certified tax rate under Section 59-2-924 due to changes in property valuation for a period of two tax years from the effective date of any such change in the certified tax rate.~~

~~C. The USOE shall support the foundation program to assist the qualifying school district in reaching the foundation level.~~

~~R277-451-4. Enrollment Growth Program.~~

~~A. A school district may receive Enrollment Growth Program funds under Section 53A-21-103.5 for the following purposes:~~

~~(1) to fund general obligation bond principal and interest costs;~~

~~(2) to fund construction;~~

~~(3) to fund facilities renovation; and~~

~~(4) to fund other capital project needs as approved.~~

~~B. In order to qualify for monies under the Enrollment Growth Program, a school district shall have had an average net increase in student enrollment over the previous three years from the year in which money is requested under the Enrollment Growth Program and yield per ADM is less than two times the prior year's average yield per ADM for Utah school districts.~~

~~C. School districts receive Enrollment Growth Program monies in the same proportion that the school district's three-year average net increased enrollment bears to the total three-year net increased enrollment of all the school districts which qualify to receive funds under the Enrollment Growth Program.~~

~~R277-451-5. When Funds are Distributed.~~

~~Capital Outlay Foundation and Enrollment Growth Program funds shall be distributed through the monthly electronic bank transfer to school districts as early as possible after the data elements are received from school districts and entered into the formulae, typically before the February bank transfer.~~

~~R277-451-6. Capital Outlay Loan Program.~~

~~A. A school district may receive Capital Outlay Loan Program funds under Section 53A-21-102 which establishes a Capital Outlay Loan Program to provide short-term assistance to school districts, for a period not to exceed five years, for school building construction and renovation.~~

~~B. To be a priority qualifier for the Capital Outlay Loan Program, a school district shall satisfy all of the following criteria:~~

~~(1) demonstrate an ability and commitment as demonstrated by a local board vote to set the levy at the rate needed to repay the loan within the time period prescribed by the loan agreement; and~~

~~(2) levy a tax rate for capital outlay and debt service above the state average; and~~

~~(3) demonstrate a school district need that is better met through the loan fund than through more traditional means for providing school building construction or renovation or both.~~

~~C. If a school district does not meet the criteria for a priority qualifier and the needs of the priority qualifiers are met, the loan application of school districts not meeting this criteria may be considered, if the school district commits to levying at or above the state average for the next tax year. In the case of a natural disaster or other compelling emergency, this requirement may be waived by the Superintendent.~~

~~D. A school district applying for a short term loan under this rule shall make a formal application which includes:~~

~~(1) the emergency condition or the condition that exists that would be better met through the loan fund rather than through more traditional means for providing school building construction or renovation or both;~~

~~(2) the amount of loan sought;~~

~~(3) the proposed repayment schedule, not to exceed five years;~~

~~(4) the history of the last five years of loans or special supplementary funds received by the school district from the USOE;~~

~~(5) minutes of the local board meeting recording the affirmative vote to levy the needed tax; and~~

~~(6) a signed agreement that if the school district should default on a loan payment, the Superintendent may deduct the loan payment and added interest from the calculated per school district state distribution after 90 days.~~

~~E. The loan request and repayment conditions shall be approved by the Superintendent after receiving recommendations from a loan approval committee, including representatives from state and local education entities.~~

~~F. If the loan approval committee recommends approval of the loan application, the committee's recommendations shall include:~~

~~(1) the recommendation amount of the loan;~~

~~(2) the repayment schedule; and~~

~~(3) the interest rate to be charged. It is the intent of the Board that the interest rate be based upon the Delphis Hanover Corp. triple A interest rate less 1/2 percent, as quoted 30 days before the loan date and dependent upon the term of the loan.~~

~~KEY: educational facilities, education finance~~
~~Date of Enactment or Last Substantive Amendment: August 23, 2005~~
~~Notice of Continuation: September 7, 2004~~
~~Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-21-103; 53A-21-103.5; 53A-1-401(3); 59-2-924~~]

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Education, Administration
R277-469
Instructional Materials Commission Operating Procedures

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31577
FILED: 06/16/2008, 15:28

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide for 2008 legislative directives in S.B. 2. The law requires the Utah State Board of Education to make rule amendments that establish the qualifications of independent parties who may evaluate and map the alignment of primary instructional materials to the State Core Curriculum. It also provides for the detailed summary of the evaluation to be placed on a public website. (DAR NOTE: S.B. 2 (2008) is found at Chapter 397, Laws of Utah 2008, and is effective 03/20/2008.)

SUMMARY OF THE RULE OR CHANGE: The rule amendments include adding new definitions; adding a new section on qualifications for Core Curriculum alignment by independent parties; adding a new section on detailed summary requirements; and changing procedures in the agreements and procedures for the publishing companies' section.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 53A-14-101 and 53A-14-107, and Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. Any new requirements of the Utah State Office of Education as a result of this amended rule will be administered under existing budgets.

❖ LOCAL GOVERNMENTS: There will be increased costs to school districts that will be providing primary instruction materials. Private companies will provide required services, so textbook publishers will use their services. Documentation received from two publishers in approximately January 2008 indicated that textbook titles would increase approximately $200 per title because of this required process.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Small businesses (how many is unknown) will benefit economically from this amended rule. They will benefit due to services they provide that textbook publishers must pay for.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Individual persons may have increased costs if school districts require students/parents to pay personally for textbooks.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see that small businesses will benefit economically from this amended rule. They will benefit due to services they provide that textbook publishers must pay for. 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
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THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

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

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R277. Education, Administration.
R277-469. Instructional Materials Commission Operating Procedures.
R277-469-1. Definitions.

A. "Advanced placement materials" means materials used for the College Board Advanced Placement Program and classes. The program policies are determined by representatives of member institutions. Operational services are provided by the Educational Testing Service. The program provides practical descriptions of college-level courses to interested schools and student test results based on these courses to colleges of the student's choice. Participating colleges grant credit or appropriate placement, or both, to students whose test results meet standards prescribed by the college.

B. "Basic skills course" means a subject which requires mastery of specific functions to include reading, language arts, mathematics through geometry, science, in grades 4 through 12, and effectiveness of written expression.

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

D. "Commission" means the Instructional Materials Commission.

E. "Curriculum alignment" means the assurance that the material taught in a course or grade level matches the standards, objectives and assessments set by the state or school district for specific courses or grade levels.

F. "Curriculum map" means a visual representation, a tool, for assisting developers to conceptualize shared visions and values which will drive the curriculum as a whole. Sometimes called a concept map, this tool clarifies a plan for knowledge construction; it shows the links and relationships between concepts.

[~~E~~]G. "Instructional materials" means systematically arranged text materials, in harmony with the Core framework and required courses of study or U-PASS requirements or both, which may be used by students or teachers or both as principal sources of study and which cover any portion of the course. These materials:

(1) shall be designed for student use; and

(2) may be accompanied by or contain teaching guides and study helps; and

(3) shall be high quality, research-based and proven to be effective in supporting student learning.

[~~F~~]H. "Independent party" means an entity that is not the Board, not the superintendent of public instruction or USOE staff, or an employee or board member of a school district, or the instructional materials creator or publisher, or anyone with a financial interest in the instructional materials, however minimal.[~~The USOE shall develop a Request for Proposal (RFP) to select one vendor to conduct the required alignments.~~]

[~~G~~]I. "Integrated instructional program" means any combination of textbooks, workbooks, software, videos, transparencies, or similar resources used for classroom instruction of students.

[~~H~~]J. "International Baccalaureate" means college level work, limited in subject areas, which balances humanities and sciences in

an interdisciplinary, global academic program that is both philosophical and practical. This multi-cultural experience emphasizes analytical and conceptual skills and aesthetic understanding for advanced students.

[~~I~~]K. National Instructional Materials Accessibility Standard (NIMAS) is a technical standard used by publishers to produce consistent and valid XML-based source files that may be used to develop multiple specialized formats, such as Braille or audio books, for students with print disabilities.

[~~J~~]L. "Not recommended materials" means instructional materials which have been reviewed by the Commission but not recommended.

[~~K~~]M. "Primary instructional material" means a comprehensive basal or Core textbook or integrated instructional program for which a publisher seeks a recommendation for Core subjects designated in R277-700-4, 5, and 6.

[~~L~~]N. "Primary instructional materials provider" means a publisher or author and self-publisher who sells or provides instructional materials for use in Utah public schools.

[~~M~~]O. "Public website" means a website designated by the USOE provided by the publisher of instructional materials, free-of-charge, to teachers and the general public, to exhibit alignment and mapping to the Core for Utah primary instructional materials.

[~~N~~]P. "Recommended instructional materials (RIMs)" means the recommended instructional materials searchable database provided as a free service by the USOE for the posting of evaluations and alignments to the Core of instructional materials submitted by publishers and on the public website of the publisher, if applicable, for review by the Commission and approval of the Board.

[~~O~~]Q. "State Core Curriculum (Core)" means minimum academic standards provided through courses as established by the Board which shall be completed by all students K-12 as a requisite for graduation from Utah's secondary schools. The Core is provided in R277-700.

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

[~~Q~~]S. "Utah Performance Assessment System for Students (U-PASS)" means:

(1) systematic norm-referenced achievement testing of all students in grades 3, 5, 8, and 11 required by this part in all schools within each school district by means of tests designated by the Board;

(2) criterion-referenced achievement testing of students in all grade levels in basic skills courses, to include reading, language arts, mathematics through geometry, science, in grades 4 through 12, and effectiveness of written expression, as defined in Section 53A-1-602;

(3) a direct writing assessment in grades 6 and 9; and

(4) a tenth grade basic skills competency test as detailed in Section 53A-1-611.

R277-469-2. Authority and Purpose.

A. This rule is authorized under Utah Constitutional Article X, Section 3 which vests general control and supervision over public education in the Board, by Section 53A-14-101 [~~through 53A-14-106~~]which directs the Board to appoint an Instructional Materials Commission and directs the Commission to evaluate instructional materials for recommendation by the Board, by Section 53A-14-107 which directs the Board to make rules that establish the qualifications of the independent parties who may evaluate and map the alignment of the primary instructional materials and requirements for the detailed summary of the evaluation and its placement on a public website, and by Subsection 53A-1-401(3) which allows the Board to make rules in accordance with its responsibilities.

B. The purpose of this rule is to provide definitions, operating procedures and criteria for recommending instructional materials for use in Utah public schools. The rule also provides for mapping and alignment of primary instructional materials to the Core consistent with Utah law.

R277-469-8. Agreements and Procedures for School Districts.

A. A local board shall establish a policy for school district and school selection and purchase of instructional materials.[~~ The policy shall include:~~]

B. The detailed Core curriculum alignment shall be required prior to the purchase of primary instructional materials by public schools and school districts purchased after July 1, 2008.[

~~A. assurances signed by the school district superintendent and school principal(s) that primary instructional materials have been aligned to the Core by an independent party and that the completed Core alignment mapping is available on a public website free of charge for teachers and the general public.~~

~~B. assurances signed by the school district superintendent and school principal(s) that instructional materials not recommended by the Commission have been selected consistent with state law. The assurances shall be available for review by the Board upon request.~~

~~C. Consistent with legislative direction, charter schools are exempt from using only instructional materials that have been reviewed consistent with this rule under Section 53A-1a-511(4)(g).~~]

R277-469-9. Qualifications for Core Curriculum Alignment Independent Parties.

Independent parties that may align and map primary instructional materials shall use reviewer(s)/employee(s) who meet the following minimum requirements:

(1) have a degree or an endorsement specific to the subject area of the primary instructional materials. For example, a reviewer who is aligning an American literature text shall have an English endorsement or degree; a reviewer who is mapping a calculus text shall have a mathematics endorsement or a related mathematics degree. The USOE shall make available to independent parties a list of acceptable endorsements or degrees that shall be current and valid for appropriate review of materials; and

(2) may not be current employees of a publishing company seeking the alignment and map of primary instructional materials;

(3) shall post documentation of credentials and endorsements on a public website designated by the USOE as required under Section 53A-14-107(3)(b).

R277-469-10. Detailed Summary Requirements.

Independent parties that may align and map primary instructional materials shall provide to the publisher a detailed summary of the evaluation. The summary shall:

A. be provided on a public website required under Section 53A-14-107(3)(b) designated by the USOE;

B. submit the summary in the alignment template provided by the USOE;

C. submit the summary in a searchable, software database format designated by the USOE;

D. include detailed alignment information that includes at a minimum:

(1) the title of the material;
(2) the ISBN number;
(3) the publisher's name;
(4) the name/grade of the Core document used to align the material;
(5) the overall percentage of coverage of the Core;
(6) the overall percentage of coverage in ancillary resources of the material to the Core;
(7) the percentage of coverage of the Core in the material for each standard, objective and indicator in the Core with corresponding page numbers;
(8) percentage of coverage of the Core not covered in the material but covered in the ancillary resources for each standard;
(9) objective and indicator in the Core with corresponding page numbers; and
E. provide the detailed alignment information listed in R277-477-469-10A(4) for the student text for all editions of the text that are used in Utah public schools;
F. provide the detailed alignment information listed in R277-464-10A(4) for a teacher edition of text, if a teacher edition is used in Utah public schools;
G. provide a map of the materials detailing when the materials should be used in a 180 day school schedule including the standard, objective and indicator of the item to be taught with corresponding page numbers; the recommended use of the material, such as to introduce a concept, to gain information about a concept, to extend understanding of a concept, to apply a concept, or to assess a concept; and hyperlinks to other materials, websites, or lesson plans that correspond to the concept.
H. designate at the conclusion of the alignment document, the reviewer's evaluation of the material's alignment to the Core curriculum on a scale of 1-10, with 10 indicating the closest alignment to the Utah Core curriculum; and
I. provide an assurance, including a personal (electronic is adequate) signature that the work was completed personally and as required by the licensed and endorsed reviewer.

R277-469-[~~9~~]11. Agreements and Procedures for Publishing Companies.

A. Publishing companies desiring to sell primary instructional materials to Utah school districts and schools shall:

(1) contract with an independent party who meets the requirements in R277-469-9 to [~~evaluate and~~]align and map the primary instructional material and related ancillary materials to the appropriate Utah Core[~~for basic skills courses and in harmony~~] with the following provisions:

(a) the publisher provides a detailed summary of the Core alignment and mapping [~~on a public website~~]as described in R277-469-10 at no charge; and

(b) [~~the publisher provides a hyperlink from the public website to the Commission for the purpose of tying the independent alignment mapping to the evaluation conducted by the Commission on the RIMs website.~~]the publisher pays the costs associated with the requirements of Section 53A-14-107.

(2) The requirements under R277-469-9-A(1) shall only be performed by entities consistent with Section 53A-14-107(2).

[~~B. The USOE shall select one independent entity through an RFP process requiring competitive sealed proposals consistent with the law.~~

~~C~~]B. Publishers seeking to sell recommended materials to Utah schools or school districts shall have adopted materials on deposit at an instructional materials depository in the business of selling instructional materials to schools or school districts in Utah.

[~~D~~]C. Depository agreements may be made between publishers of materials and one or more depository.

[~~E~~]D. The provisions of R277-469-[~~9~~]11 shall not preclude publishers from selling instructional materials to schools or school districts in Utah directly or through means other than the designated depository.

[~~F~~]E. Recommended materials with revisions:

(1) If a revised edition of recommended materials retains the original title and authorship, the publisher may request its substitution for the edition currently recommended providing that:

(a) the original contract price and contract date do not change and the original contract price applies for the substituted materials;

(b) the revised edition is compatible with the earlier edition, permitting use of either or both in the same classroom;

(c) a sample copy of the revised edition is provided to the USOE Instructional Materials Specialist for examination purposes;[~~and~~]

(d) the publisher submits a revised electronic edition in NIMAS file format to the National Instructional Materials Access Center (NIMAC) if the USOE approves the substitution request[~~-~~]; and

(e) a new curriculum alignment and map summary is provided.

(2) If Subsection R277-469-8E is not satisfied, a new edition shall be submitted for recommendation as new materials.

(3) The Commission shall make the final determination about the substitution of a new edition for a previously recommended edition with assistance from the state subject area specialist.

[~~G~~]F. A publisher's contract price for materials recommended by the Commission shall apply for five years from the contract date.

R277-469-1[~~0~~]2. Request for Reconsideration of Recommendation.

A. A request for reconsideration is an additional opportunity provided to a school district, school or publisher for review of instructional materials when the school district, school or the publisher disagrees with the initial Commission recommendation.

B. The request for reconsideration procedure is as follows:

(1) A school district, school or publisher shall receive the evaluations and recommendations from the USOE of the initial review.

(2) A school district, school or publisher shall have 30 days to respond to the evaluation and request to have materials reviewed again during the next review cycle.

(3) During the period of the reconsideration request, materials shall be marked as tentative and shall not be given official status. These materials shall not be posted to the Internet site until recommended through the official Commission process.

(4) A school district, school or publisher may be asked to send a second set of sample materials to the USOE.

(5) Any written information provided by a school district, school or publisher shall be available to the advisory committees during the second review.

(6) After the second review by the subject area advisory committee, the advisory committee's recommendation shall be voted on by the Commission at the next scheduled meeting.

(7) If the Commission votes to change the recommendation, the Board shall consider the Commission's revised recommendation at the next scheduled Board meeting and make a final decision.

(8) A school district, school or publisher shall receive written notification that a recommendation is final and shall receive a copy of the new evaluation. Evaluations may now appear on the Internet if materials are recommended.

KEY: instructional materials
Date of Enactment or Last Substantive Amendment: [~~January 22~~], 2008
Notice of Continuation: March 3, 2008
Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53A-14-101; [~~through~~]53A-14-10[6]7; 53A-1-401(3)

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Education, Administration
R277-492
Utah Science Technology and Research Initiative (USTAR) Centers Program

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 31578
FILED: 06/16/2008, 15:31

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This new rule is a result of 2008 legislation in S.B. 2 that provides funding for charter schools and school districts to facilitate the implementation of the USTAR Program to enhance employers' ability to retain mathematics and science teachers while offering more opportunities for students and more effectively using capital facilities. (DAR NOTE: S.B. 2 (2008) is found at Chapter 397, Laws of Utah 2008, and was effective 03/20/2008.)

SUMMARY OF THE RULE OR CHANGE: The new rule provides criteria for a competitive grant program to award funding to charter schools and school districts.

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. The 2008 Legislature provided funding for charter schools and school districts to participate in the Program. Any development and oversight required by the Utah State Office of Education will be administered by existing Utah State Office of Education staff within existing budget.

❖ LOCAL GOVERNMENTS: There are no immediate anticipated costs or savings to local government. School districts and charter school participating in the Program will receive funding provided by the 2008 Legislature. Long term and speculatively, school districts, could save money if this program results in teacher retention.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated costs or savings to small businesses AND persons other than businesses. The Program and funding relate specifically to public school districts and charter schools. Schools receive the funding, not individuals.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. School districts and charter schools participating in the Program will receive funding provided by the 2008 Legislature.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
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ADMINISTRATION
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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 07/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

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

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R277. Education, Administration.
R277-492. Utah Science Technology and Research Initiative (USTAR) Centers Program.
R277-492-1. Definitions.

A. "Annual report" means information and data identified under R277-492 provided by funding recipients to the USOE annually by June 30 as a requirement for continued funding of the school or school district program.

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

C. "Extended year" means either a longer contract day or a longer contract year for participating teachers.

D. "Mathematics or science teacher" means a teacher with a secondary (7-12) mathematics or science teaching assignment.

E. "School district/charter school USTAR proposal" means a written proposal, including components required by the Board, developed and submitted by a school district/charter school applying for USTAR funding.

F. "STEM" means science, technology, engineering and mathematics.

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

H. "USTAR" means Utah Science Technology and Research.

I. "USTAR Program" means student and teacher opportunities to broaden their knowledge and experiences within STEM fields.

J. "Weighted Pupil Unit (WPU)" means the basic state funding unit.

R277-492-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution, Article X, Section 3, which vests general control and supervision of public education in the Board, Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities, and Section 53A-17a-159 which appropriates funding to establish extended contracts for mathematics and science teachers as part of the Utah Science Technology and Research (USTAR) Centers Initiative. The USOE shall provide statewide supervision of the program and budget and shall recommend funding for USTAR programs based on USTAR objectives, Board funding priorities and available funds.

B. This rule establishes standards and procedures to direct recipient public school districts or charter schools to develop proposals that create USTAR Centers that will enhance their ability to retain mathematics and science teachers while simultaneously offering more opportunities for students and more effectively using capital facilities.

R277-492-3. USTAR Proposal Criteria.

A. A school district/charter school shall first identify the purpose or goal(s) of its USTAR proposal.

B. Appropriate purposes may include:

(1) improvement in student test scores;

(2) satisfaction of specific academic goals for all students or various groups of students;

(3) increased retention of licensed educators in specific areas;

(4) improved school climate;

(5) increased opportunities for students to take remedial or college preparation courses;

(6) increased student enrollment in identified courses;

(7) additional opportunities for students to learn about specific or general higher education or career opportunities in math or science fields; or

(8) other purposes consistent with Section 53A-17a-159(1)(b).

C. A school district/charter school shall provide a school schedule showing how it will extend hours of the school day (Section 53A-17a-159(1)(b)(ii)) or days of the school year (Section 53A-17-a-159(1)(b)(ii)) to maximize employee and facility resources in furtherance of the proposal's goals.

D. The USTAR proposal shall explain how employees shall be used in the extended school day or expanded school year to maximize their effectiveness with students, including how various groups of employees will participate including classified employees, licensed employees, and appropriate supervisors for all groups. Though various school employee groups may be necessary or desirable to achieve the purposes of the proposal, the proposal shall use USTAR grant funds only to pay for hours or days worked by science or mathematics teachers with valid, current Utah educator licenses.

E. The USTAR proposal shall identify the number of designated employees that will participate in the expanded year or extended day program with the understanding that USTAR grant funds may only be used for licensed mathematics and science teachers.

F. The USTAR proposal shall identify the compensation that all necessary employees shall receive, including increased insurance and benefit costs, if appropriate; compensation may be determined by groups of employees or by individual employees.

G. The USTAR proposal shall identify how licensed educators will be evaluated for the extended hours or expanded days worked.

H. The USTAR proposal shall include a budget section, including anticipated costs and narrative.

I. The USTAR proposal shall include an evaluation component that provides opportunities for student, employee and parent participation in the assessment of the proposal's effectiveness. Proposals shall provide for evaluations of program effectiveness at least annually, beginning in July, 2009.

R277-492-4. Board/USOE Responsibilities.

A. The USOE shall carry out the responsibilities of the Board consistent with the Board's review and direction.

B. The USOE shall solicit proposals from school districts/charter schools to participate in the USTAR grant program.

C. Proposals shall be due to the USOE by June 2, 2008.

(1) The USOE will work with applicants that submit proposals early to improve proposals to the extent of resources and time available.

(2) The USOE shall deliver final charter school proposals to the State Charter School Board for Review and recommendation.

D. The USOE shall receive a consolidated request from the State Charter School Board consistent with Section 53A-17a-159(4) by June 20, 2008. The State Charter Board and State Charter Board staff shall work with charter school applicants that submit proposals early to improve proposals to the extent of resources and time available.

E. The USOE shall receive all proposals from school districts, considering the consolidated request submitted by the State Charter Board as a proposal from one school district, and rank them on an objective scale or rubric prepared by the USOE.

F. The Board may appoint an expert review panel to prioritize proposals and recommend proposals for funding.

G. The expert review panel or the USOE or both shall consider the priorities of Section 53A-17a-159(5) in recommending and selecting the recipients:

(1) rural, urban, large, small, growing and declining school districts (considering the consolidated charter request as one school district) having unique circumstances;

(2) as many pilot programs shall be funded as possible; and

(3) funded proposals should address the objectives and benefits of Section 53A-17a-159(1)(b).

H. The Board shall review recommendations, make final decisions for funding and notify applicants that receive funding no later than July 31, 2008.

I. The USOE shall provide funds to school districts/charter schools (or the consolidated charter recipient) consistent with USOE distribution practices for grants.

R277-492-5. School District/Charter School Consolidated Proposal Responsibilities.

A. School districts shall submit proposals that meet the standards of R277-717-3 and Section 53A-17a-159 no later than June 2, 2008.

B. The State Charter Board shall complete its work under Section 53A-17a-159(4) and submit its consolidated request to the USOE no later than June 20, 2008.

C. School district and charter school proposals shall clearly demonstrate that all participants necessary for the success of a proposal are voluntary participants and understand the requirements of their participation.

D. School district and charter school participants shall demonstrate parent and community notification and support of the school district/charter school proposals.

E. Proposals shall clearly demonstrate that at least 95 percent of allocated funds shall be used for extended licensed mathematics and science teacher contracts.

F. Proposals shall clearly demonstrate that the remaining five percent of allocated funds is used only for purposes identified under Section 53A-17a-159(6)(b).

G. Funded school districts and charter schools shall provide all required evaluations to the USOE as identified by their proposals consistent with USOE timelines.

H. Funded school districts and charter schools shall provide information as requested by the USOE during the time periods identified in the proposals, including allowing for visits of USOE staff and review of student work or assessments.

R277-492-6. Final Decision-making and Reporting Requirements.

A. The Board's decisions for funding are final.

B. The USOE may request additional information, data or budget information if annual reports or student assessments indicate that USTAR funding is being used ineffectively, for ineligible employees or inconsistently with the school district/charter school proposal or the intent of the law or this rule.

C. The USOE may interrupt USTAR funding to school districts/charter schools that do not meet timelines required by this rule or that do not provide complete information or evaluations required under this rule.

D. The Board shall provide annual reports to Legislative committees as required by Section 53A-17a-159(8)

KEY: science, technology, research, USTAR
Date of Enactment or Last Substantive Amendment: 2008
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-17a-159

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Education, Administration
R277-502-6
Educator Licensing and Data Retention

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31579
FILED: 06/16/2008, 15:31

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section R277-502-6 is amended to implement the returning educator relicensure initiative. The purpose of the initiative is to facilitate the return to the classroom of experienced educators whose professional licenses have lapsed. The program allows for educator relicensure based on a plan developed with principals of schools that hire returning educators.

SUMMARY OF THE RULE OR CHANGE: The amendments include changing the requirement of an evaluation upon the educator's return to the classroom to a discussion and observation process; requiring successful completion of required Board-approved exams for licensure; requiring that the returning educator work with a trained mentor; and requiring an educator who previously held a Level 2 or Level 3 license to have a satisfactory school district evaluation before the Local Education Agency (LEA) can recommend reinstatement of the Level 2 or 3 license.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-6-104 and Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. The changes provide a more efficient and user-friendly process for relicensure of returning educators.

❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. Local school boards will be able to hire previously licensed educators seeking relicensure into the public education system by a more efficient and user-friendly process.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated costs or savings to small businesses AND persons other than businesses. The relicensure of returning educators affects public education and not businesses. Returning educators will be able to obtain relicensure by a more efficient and user-friendly process.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Returning educators will be able to obtain relicensure by a more efficient and user-friendly process.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

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

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R277. Education, Administration.
R277-502. Educator Licensing and Data Retention.
R277-502-6. Returning Educator Relicensure.

A. A previously licensed educator with an expired license may renew an expired license upon satisfaction of the following:

(1) Completion of criminal background check including review of any criminal offenses and approval by the Utah Professional Practices Advisory Commission;

(2) Employment by a school district/charter school;

(3) A professional development plan developed jointly by the school principal or charter school director and the returning educator that considers the following:

(a) previous successful public school teaching experience;

(b) formal educational preparation;

(c) period of time between last public teaching experience and the present;

(d) school goals for student achievement within the employing school and the educator's role in accomplishing those goals;

(e) returning educator's professional abilities, as determined by a formal [~~evaluation~~]discussion and observation process completed within the first 30 days of employment; and

(f) completion of additional necessary professional development for the educator, as determined jointly by the principal/school district and educator.

(4) The plan [~~shall be~~]filed with the USOE;

(5) Successful completion of[~~Pass~~] required Board-approved exams for licensure;

(6) Satisfactory experience as determined by the school district with a trained mentor; and

(7) [~~Successful evaluation of teaching based on school district evaluation system~~]Work with a trained mentor.

B. Returning educators who previously held a Level 2 or Level 3 license shall be issued a Level 1 license during the first year of employment. Upon completion of the requirements listed in R277-502-6A and a satisfactory school district evaluation, if available, the employing LEA may recommend reinstatement of licensure at a Level 2 or 3. This license shall be valid for five years.

C. Returning educators who taught less than three consecutive years in a public or accredited private school shall complete the Early Years Enhancement requirements before moving from Level 1 to Level 2 licensure.

KEY: professional competency, educator licensing
Date of Enactment or Last Substantive Amendment: [~~March 24,~~]2008
Notice of Continuation: September 6, 2007
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-6-104; 53A-1-401(3)

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Education, Administration
R277-515-4
Educator Responsibility for Maintaining a Safe Learning Environment and Educational Standards

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31580
FILED: 06/16/2008, 15:32

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide two additional standards reflecting issues for educators to follow for maintaining a safe learning environment.

SUMMARY OF THE RULE OR CHANGE: The amendments include adding language that prohibits a professional educator from using school district or school computers in violation of the school district's acceptable use policy and prohibits a professional educator to knowingly possess, while at school or any school-related activity, any pornographic material in any form.

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. The amended rule merely provides two additional standards for educators in maintaining a safe learning environment.

❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. The amended rule merely provides two additional standards for educators in maintaining a safe learning environment.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated costs or savings to small businesses AND persons other than businesses. The amended rule merely provides two additional standards for educators in maintaining a safe learning environment.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Educators simply need to adhere to two additional standards for maintaining a safe learning environment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

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

EDUCATION
ADMINISTRATION
250 E 500 S

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

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

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R277. Education, Administration.
R277-515. Utah Educator Standards.
R277-515-4. Educator Responsibility for Maintaining a Safe Learning Environment and Educational Standards.

A. A professional educator maintains a positive and safe learning environment for students, and works toward meeting educational standards required by law.

B. Failure to strictly adhere to the following shall result in licensing discipline as defined in R277-515-1G. The professional educator, upon receiving a Utah educator license:

(1) shall take prompt and appropriate action to prevent harassment or discriminatory conduct towards students or school employees that may result in a hostile, intimidating, abusive, offensive, or oppressive learning environment;

(2) shall resolve disciplinary problems according to law, school board policy, and local building procedures and strictly protect student confidentiality and understand laws relating to student information and records;

(3) shall supervise students appropriately at school and school-related activities, home or away, consistent with district policy and building procedures and the age of the students;

(4) shall take action to protect a student from any known condition detrimental to that student's physical health, mental health, safety or learning;

(5) shall demonstrate honesty and integrity by strictly adhering to all state and district instructions and protocols in managing and administering standardized tests to students consistent with Section 53A-1-608 and R277-473;

(a) shall cooperate in good faith with required student assessments;

(b) shall encourage students' best efforts in all assessments;

(c) shall submit and include all required student information and assessments, as required by state law and State Board of Education rules; and

(d) shall attend training and cooperate with assessment training and assessment directives at all levels.

(6) shall not use or attempt to use school district or school computers or information systems in violation of the school district's acceptable use policy for employees or access information that may be detrimental to young people or inconsistent with the educator's role model responsibility; and

(7) shall not knowingly possess, while at school or any school-related activity, any pornographic material in any form.

C. Failure to adhere to the following may result in licensing discipline as defined in R277-515-1G. Penalties shall be imposed, most readily, if educators have received previous documented warning(s) from the educator's employer: A professional educator:

(1) shall demonstrate respect for diverse perspectives, ideas, and opinions and encourage contributions from a broad spectrum of school and community sources, including communities whose heritage language is not English;

(2) shall use appropriate language, eschewing profane, foul, offensive, or derogatory comments or language;

(3) shall maintain a positive and safe learning environment for students;

(4) shall work toward meeting educational standards required by law;

(5) shall teach the objectives contained in the Utah Core Curriculum;

(6) shall not distort or alter subject matter from the Core in a manner inconsistent with the law and shall use instructional time effectively; and

(7) shall use instructional time effectively consistent with school and school district policies.

KEY: educator, professional, standards
Date of Enactment or Last Substantive Amendments: [~~December 26, 2007~~]2008
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-402(1)(a); 53A-6; 53A-1-401(3)

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Education, Administration
R277-526
Paraeducator to Teacher Scholarship Program

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 31581
FILED: 06/16/2008, 15:32

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This new rule is in response to 2008 legislation in H.B. 66 that established the Paraeducator to Teacher Scholarship Program and appropriates $25,000 for scholarship awards to be administered by a Utah State Board of Education appointed scholarship committee. (DAR NOTE: H.B. 66 (2008) is found at Chapter 144, Laws of Utah 2008, and will be effective 07/01/2008.)

SUMMARY OF THE RULE OR CHANGE: The rule includes scholarship amounts and requirements; applicant scholarship recipient and school district/charter school responsibilities; and State Board of Education staff/committee responsibilities.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 53A-1-401(3) and 53A-6-802(8)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated costs or savings to state budget. The 2008 Legislature appropriated funds specifically for the scholarship program.

❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. The 2008 Legislature appropriated funds specifically for the scholarship program.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated costs or savings to small businesses AND persons other than businesses. The scholarship applies to paraeducators employed in the public education system and not to small businesses. Those eligible paraeducators seeking to become licensed will receive a scholarship to apply toward courses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be compliance costs for scholarship participants. Scholarship participants who fail to remain employed for the duration of the scholarship period or who do not satisfactorily complete funded courses may be responsible to reimburse the Utah State Board of Education for the amount of scholarship funding. Costs are too speculative to predict at this time.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

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

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R277. Education, Administration.
R277-526. Paraeducator to Teacher Scholarship Program.
R277-526-1. Definitions.

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

B. "Paraeducator" for purposes of this rule means a school employee who:

(1) delivers instruction under the direct supervision of a teacher; and

(2) works in an area where there is a shortage of qualified teachers, such as special education, Title I, English as a Second Language, reading remediation, math, or science.

C. "Paraeducator Scholarship Selection Committee (Committee)" means the committee established by the Board to select scholarship recipients.

D. "Scholarship" for purposes of this rule means funds provided by the Board directly to a paraeducator to pay only for the actual and documented costs for tuition toward an associate's or a bachelor's degree.

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

R277-526-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities, and Section 53A-6-802(8) which requires the Board to make rules to administer the Paraeducator to Teacher Scholarship Program.

B. The purpose of this rule is to distribute funds to paraeducators seeking to become licensed educators and to establish application and accountability procedures to provide funding to prospective educators directly and fairly.

R277-526-3. Scholarship Amounts and Requirements.

A. A paraeducator stipend awarded under this rule shall be used solely and completely for expenses approved by Section 53A-6-802 and this rule between July 1, 2008 and June 30, 2009.

B. A scholarship recipient shall remain continuously employed, consistent with the employment agreement and Section 53A-6-802(7).

C. A scholarship recipient shall provide documentation of progress toward graduation, as requested by the employer or the Board.

D. A scholarship recipient who does not remain employed for the duration of the scholarship period or who does not satisfactorily complete funded courses may be responsible to reimburse the Board for the amount of scholarship funding.

E. The Committee shall determine funding for applicants from applications received from school districts and charter schools after considering the number of applications received and the amount of funding available.

F. The Committee may develop and consider selection criteria including:

(1) support from the recommending school districts/charter schools; and

(2) geographical distribution of recipients.

R277-526-4. Applicant Scholarships Recipient and School District/Charter School Responsibilities.

A. Scholarship recipients shall be employed for a minimum of 10 hours per week by a public school district or charter school at the time of application for the Paraeducator Scholarship or during the 2008-09 school year.

B. Scholarship applicants shall submit completed applications found on the USOE website or available from the USOE in person or by mail to their employers no later than June 15, 2008.

C. Applicants shall provide information about tuition expenses only on the completed application based on the most recent

information available from the Utah institution of higher education to which the applicant has either been admitted or made application.

D. School districts and charter schools shall rank completed applications of qualified paraeducators within the school district or charter school in priority order and submit all applications to the USOE on or before July 1, 2008.

E. Scholarship recipients and school districts/charter schools whose employees receive funding shall cooperate on any assessment required by the Board.

R277-526-5. State Board of Education Staff/Committee Responsibilities.

A. The Board shall establish a Paraeducator Scholarship Selection Committee and working procedures for the Committee consistent with 53A 6-802(4) by May 15, 2008.

B. The Committee shall consist of:

(1) one Board member designated by the Board;

(2) one representative of the Board of Regents designated by the Board of Regents;

(3) one representative of the largest parent/teacher association in the state;

(4) no more than two additional representatives designated by the Board consistent with Section 53A-6-802(4).

C. The Committee shall receive completed and ranked applications from school districts and charter schools consistent with R277-526-4.

D. The Committee shall identify recipients for funding based on criteria of Section 53A-6-802 (4)(d).

E. The Committee shall provide names of scholarship recipients to the Board for review and comment by August 1, annually.

F. The Committee or the Board may require a summary assessment of the increased number of paraeducators who become educators and other program results from participating scholarship recipients, school districts, and charter schools.

KEY: paraeducators, scholarships
Date of Enactment or Last Substantive Amendment: 2008
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-6-802(8)

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Education, Administration
R277-606
Grants to Purchase or Retrofit Clean School Buses

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 31582
FILED: 06/16/2008, 15:33

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This result is in response to 2008 legislature in H.B. 146 that provides $100,000 to school districts that agree to provide matching funds to purchase new school buses or retrofit existing school buses to meet designated federal clean air standards. (DAR NOTE: H.B. 146 (2008) is found at Chapter 68, Laws of Utah 2008, and will be effective 07/01/2008.)

SUMMARY OF THE RULE OR CHANGE: The rule includes State Board of Education grants and timelines and school district responsibilities.

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. School districts selected as grant recipients shall receive funding for purchasing new school buses or retrofitting existing school buses to meet designated federal clean air standards. Any Utah State Board of Education/Utah State Office of Education responsibilities will be administered by existing staff within existing budget.

❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. Grant recipients will receive funding appropriated by the 2008 Legislature to purchase new school buses or retrofit existing school buses to meet designated federal clean air standards.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated costs or savings to small businesses AND persons other than businesses. The funding is to provide grants to public school districts and does not involve small businesses or persons other than businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Grant recipients will receive funding appropriated by the 2008 Legislature to purchase new school buses or retrofit existing school buses to meet designated federal clean air standards.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

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

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R277. Education, Administration.
R277-606. Grants to Purchase or Retrofit Clean School Buses.
R277-606-1. Definitions.

A. "Appropriation" for purposes of this rule means one-time funding provided by the 2008 Utah Legislature for the purpose of encouraging school districts to purchase or retrofit their school buses to meet federal standards as defined in 42 U.S.C. Sec. 16091 which are hereby incorporated by reference.

B. "Board" means "the State Board of Education.

C. "Matching funds" from school districts means monies provided by school district applicants in a fifty/fifty match for funding provided under Section 41-6a-1308 and this rule.

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

R277-606-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities, and by Section 41-6a-1308 which directs the Board to use the appropriation in this section to provide matching grants to school districts that agree to purchase or retrofit school buses to meet the federal standards.

B. The purpose of the rule is to distribute $100,000 appropriated by the Legislature to school districts that agree to provide matching funds to purchase new school buses or retrofit existing school buses to meet designated federal clean air standards.

R277-606-3. State Board of Education Grants and Timelines.

A. The USOE acting on behalf of the Board shall provide an electronic application for grants under Section 41-6a-1308 and R277-606 directed to school districts.

B. The USOE shall work closely with the Utah Division of Environmental Quality (DEQ) in developing the application.

C. The USOE shall make applications available by June 1, 2008.

D. The USOE in consultation with the DEQ shall select grant applicants based on:

(1) availability and stability of matching funds;

(2) district support for improving school buses and maintaining and servicing the improvements;

(3) geographic and district-size diversity of applicants; and

(4) other criteria, as determined mutually by the USOE and the DEQ.

E. The USOE shall notify successful grant recipients no later than July 15, 2008.

F. If there are insufficient grant applications that meet all requirements of Section 41-6a-1308 and R277-606, the Board may retain the funding and seek grant applicants throughout the 2008-09 school year and beyond, if necessary.

R277-606-4. School District Responsibilities.

A. School district applicants shall identify matching funds from appropriate sources, as required under Section 41-6a-1308(3).

B. School district applicants shall submit grant applications no later than June 30, 2008.

C. School district applicants shall agree to participate in all evaluation and reporting requirements established by the USOE and the DEQ consistent with the purposes of Section 41-6a-1308.

KEY: school buses, retrofit, purchase, grants
Date of Enactment or Last Substantive Amendment: 2008
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 41-6a-1308

Education, Administration
R277-710
International Baccalaureate Programs

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 31583
FILED: 06/16/2008, 15:33

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This new rule is in response to 2008 legislation in S.B. 2 that adds the International Baccalaureate Programs (IB) to the appropriations and programs associated with accelerated learning programs with the intent of $100,000 to be used for IB Programs. (DAR NOTE: S.B. 2 (2008) is found at Chapter 397, Laws of Utah 2008, and was effective 03/20/2008.)

SUMMARY OF THE RULE OR CHANGE: The new rule provides for eligibility; student tuition, fees and credit for IB Programs; use of and distribution of IB funds; and an annual reporting requirement.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-17a-120, and Subsections 53A-1-402(1) and 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. Funding will be provided to eligible school districts for participation in the IB Program. Any requirements of the Utah State Board of Education/Utah State Office of Education will be administered by existing staff within existing budget.

❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. Eligible school districts that participate in the IB Program will receive funding appropriated by the 2008 Legislature.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated costs or savings to small businesses AND persons other than businesses. The program is intended for public school districts and does not involve businesses or other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Eligible school districts that participate in the IB Program will receive funding appropriated by the 2008 Legislature.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses. Patti Harrington, State Superintendent of Public Instruction

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

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY UT 84111-3272, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Carol Lear at the above address, by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

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

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R277. Education, Administration.
R277-710. International Baccalaureate Programs.
R277-710-1. Definitions.

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

B. "Candidate IB school" means the initial period between a school's application as an approved IB school (at various levels) and final approval by the International Baccalaureate Organization.

C. "DP" means Diploma Program.

D. "IB" means International Baccalaureate.

E. "International Baccalaureate Organization" means the nonprofit educational foundation located in four regions: North America and the Caribbean; Africa/Europe/Middle East; Latin America; Asia/Pacific.

F. "International Baccalaureate (IB) Program" means the International Baccalaureate Program established by the International Baccalaureate Organization.

G. "MYP" means Middle Years Program.

H. "PYP" means Primary Years Program.

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

J. "Weight Pupil Unit (WPU)" means the basic state funding unit.

R277-710-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which provides for the Board to have general supervision and control over public schools and by Section 53A-17a-120 which directs the Board to adopt rules for the expenditure of funds appropriated for accelerated learning programs, Section 53A-1-402(1) which allows the Board to adopt minimum standards for access to programs, SB 2, Section 31, Intent Language which directs $100,000 of the 2008-09 appropriation for accelerated learning programs to International Baccalaureate programs, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to specify the procedures and standards schools/school districts shall follow to qualify for state funds for the IB Program.

R277-710-3. Eligibility.

A. All school districts are eligible to apply to the International Baccalaureate Organization to participate in the IB Program which may include the Diploma Program, the Middle Years Program and the Primary Years Program..

B. School districts who participate in IB Programs have primary responsibility for identifying students who are eligible to participate in IB classes.

C. Each student participating in the IB Program shall have a current student education/occupation plan (SEOP) on file at the participating school, required under Section 53A-1a-106(2)(b).

R277-710-4. Student Tuition, Fees and Credit for IB Programs.

A. Tuition may not be charged to high school students for participation in the IB Program, consistent with Section 53A-15-101(6)(b)(iii).

B. All student costs related to IB classes, which may include consumables, lab fees, copying, and material costs, as well as textbooks required for the course, are subject to fee waiver consistent with R277-407.

C. The school district/school shall be responsible for these waivers.

D. A student shall receive high school credit for IB classes that are consistent with the school district policies, and R277-705, Secondary School Completion and Diplomas, for awarding credit.

R277-710-5. Use of and Distribution of IB Funds.

A. School district use of state funds for the IB Program shall be limited to the following:

(1) to offset the costs of funding smaller IB classes;

(2) to fund workshops or training within or outside the school district to begin implementing, or coordinating an IB Program;

(3) to purchase any of the following for library, laboratory, or direct classroom use:

(a) needed supplemental texts;

(b) student curriculum guides;

(c) materials; and

(d) equipment;

(4) to pay an IB teacher providing direct student IB instruction;

(5) to aid in staff development which may include:

(a) teacher stipends for tuition and lodging expenses connected with the pursuit of additional training on specified IB curriculum taught by the teacher

(b) to pay the costs for student exams; and

(c) to assist with costs of distance learning programs, equipment or instructors which increase the IB options in a school.

(6) other uses approved in writing by the USOE consistent with the law and purposes of this rule.

B. Funds allocated to school districts for IB Programs or credit shall not be used for any other program.

C. Funds shall be distributed on the basis of the following:

(1) 50 percent of the total funds designated for the IB shall be distributed according to the number of IB semester hours successfully completed by students registered through the school

district in the prior year compared to the state total of completed IB credits.

(2) The remaining 50 percent allocation shall be distributed equally to schools where students scored a grade of 4 or higher on IB exams, resulting in a fixed amount of dollars per exam passed.

D. All candidate IB and approved IB schools shall be equally eligible for funding.

R277-710-6. Annual Reporting and Other Student Instruction Issues.

A. The Board shall develop uniform deadlines, forms, and fiscal and pupil accounting procedures for the IB Program.

B. School districts/charter schools participating in the IB Program shall provide the USOE with end-of-year expenditure reports itemized by the categories requested by the USOE.

C. School districts/charter schools participating in the IB Program shall provide for parental permission for students to participate in IB classes.

D. This rule shall apply to IB programs operating and approved as of the 2008-09 school year, and continue thereafter.

KEY: international baccalaureate
Date of Enactment or Last Substantive Amendment: 2008
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-17a-120; 53A-1-402(1)(c); 53A-1-401(3)

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Environmental Quality, Air Quality
R307-110-28
Regional Haze

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31557
FILED: 06/13/2008, 12:43

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: When the Environmental Protection Agency (EPA) adopted the Regional Haze Rule at 40 CFR 51.309 in 1999, it incorporated the recommendations of the Grand Canyon Visibility Transport Commission (GCVTC). EPA required the Western Regional Air Partnership (WRAP), a regional planning organization that was established to address regional haze, to complete the development of regional milestones and a backstop trading program for stationary sources that emit sulfur dioxide and to submit it as an Annex to the GCVTC recommendations. The WRAP submitted the Annex in September 2000. On June 5, 2003, EPA approved the Annex and incorporated the stationary source provisions into the Regional Haze Rule. In December 2003 the Air Quality Board adopted Section XX of the State Implementation Plan (SIP) to address regional haze. This plan was based on the GCVTC recommendations and the Annex. EPA's approval of the Annex was challenged, and on February 18, 2005, the DC Circuit Court of Appeals vacated EPA's 2003 rules (Center for Energy and Economic Development (CEED) vs. Environmental Protection Agency, February 18, 2005). The Court determined that EPA had required a Best Available Retrofit Technology (BART) demonstration in the Annex that was based on a methodology that had been vacated by the Court in 2002 (American Corn Growers Association vs. Environmental Protection Agency, May 24, 2002). On October 13, 2006, EPA revised the regional haze rule to establish the methodology for states to develop an alternative to BART that was consistent with the Court's decision. This rule change revises the SO2 milestones and backstop trading program to meet the 2006 revisions to the Regional Haze Rule.

SUMMARY OF THE RULE OR CHANGE: Utah has been working cooperatively with the States of Arizona, New Mexico, and Wyoming to revise the SO2 milestones and backstop trading program to meet the 2006 revisions to the Regional Haze Rule. The SO2 milestones that are included in Part E of the Regional Haze SIP are based on the provisions in the 2006 Regional Haze Rule. The changes to the SO2 milestones led to the following additional changes in Part E of the Regional Haze SIP that describes the milestones and backstop trading program: 1) the SO2 milestones in the 2003 SIP were designed to automatically adjust as states or tribes opted in to the regional trading program. There are four states that are currently planning to participate in the program, and therefore, the milestones have now been changed to a fixed number rather than a formula. If a state or tribe decides to opt in to the program at a future date, then the milestones would need to be changed through a SIP revision; 2) when the 2003 SIP was adopted there were two copper smelters that had temporarily suspended operations. Provisions were included in the SIP to adjust the milestones if either of the smelters resumed operation. Since that time, both smelters as well as one additional copper smelter have been permanently closed. The provisions to adjust the milestone are no longer needed and have been removed from the SIP. A small set-aside is still included to account for production shifts from the closed smelters to the remaining smelters in the region; 3) the 2003 SIP included a set-aside of 20,000 allowances that would be distributed to tribes if the backstop trading program was ever implemented. This amount had been based on the expectation that nine states might participate in the program. Because only four states are now participating, the amount has been decreased proportionately to 8,500 allowances. In addition to the preceding changes to Part E, revisions to Section D of Utah's Regional Haze SIP where made to address the BART requirements for two sources in Utah: PacifiCorp Hunter Power Plant (Units 1 and 2) and PacifiCorp Huntington Power Plant (Units 1 and 2). PacifiCorp has recently received approval orders to implement pollution control projects at Hunter Power Plant (Units 1 and 2) to address a number of air quality issues including mercury, regional haze, and ozone. When these projects were evaluated, the Utah Division of Air Quality (UDAQ) determined that the pollution control projects satisfied the BART requirements for NOx and particulate matter in the Regional Haze Guidance. The pollution control project has already been completed for Huntington Unit 2, and will be completed for Huntington Unit 1 by 2010. These projects will collectively reduce NOx emissions by 6,200 tons/yr and PM10 emissions by 925 tons per year. In addition, a number of clarifications

and corrections were made to the SIP that where identified by EPA during their review of the 2003 SIP.

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

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: State Implementation Plan Section XX, Regional Haze, 2008

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: No cost or savings are anticipated with this rule change. No new requirements were created with this rule change that impact state budget.
❖ LOCAL GOVERNMENTS: No cost or savings are anticipated with this rule change. No new requirements were created with this rule change that impact local government.
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Small Business: No cost or savings are anticipated with this rule change. No new requirements were created with this rule change that impacted small businesses. Other Persons: The only affected entity is PacifiCorp. at Hunter Units 1 and 2 and Huntington Units 1 and 2. UDAQ has estimated the total compliance cost for these 4 units to be $414,000,000 per unit. However this cost includes other upgrades that are not required by this rule. It is impossible to itemize the actual cost for the required upgrades mentioned in this rule change. There are no other affected persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only affected entity is PacifiCorp. at Hunter Units 1 and 2 and Huntington Units 1 and 2. UDAQ has estimated the average compliance cost for these 4 units to be $103,500,000 per unit. However this cost included other includes other upgrades that are not required by this rule. It is impossible to itemize the actual cost for the required upgrades mentioned in this rule change. There are no other affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Aside from PacifiCorp.'s required upgrades on Hunter Units 1 and 2 and Huntington Units 1 and 2, no other costs are anticipated for business in Utah. Rick W. Sprott, Executive Director

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Kimberly Kreykes at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at kkreykes@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 07/31/2008

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 7/17/2008 at 2:00 PM, DEQ Bldg, 168 N 1950 W, Room 201, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

R307. Environmental Quality, Air Quality.
R307-110. General Requirements: State Implementation Plan.
R307-110-28. Regional Haze.

The Utah State Implementation Plan, Section XX, Regional Haze, as most recently amended by the Utah Air Quality Board on [~~May 5, 2004~~]2008, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

KEY: air pollution, PM10, PM2.5, ozone
Date of Enactment or Last Substantive Amendment: [~~May 2, 2007~~]2008
Notice of Continuation: March 15, 2007
Authorizing, and Implemented or Interpreted Law: 19-2-104(3)(e)

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Environmental Quality, Air Quality
R307-150-4
Sulfur Dioxide Milestone Inventory Requirements

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31558
FILED: 06/13/2008, 12:44

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Utah's 2003 Regional Haze State Implementation Plant (SIP) contained sulfur dioxide (SO2) milestones that were based in part on 1999 SO2 emissions from power plants that were reported to the federal acid rain program. In the middle of 1999, EPA changed the flow rate methodology that could be used to measure emissions for the acid rain program and in some cases the new flow rates could lead to a significant change in reported emissions. To ensure that real emission changes were being measured, Rule R307-150 required power plants that were using the new flow rate methodology to adjust their emissions back to the old methodology for purposes of comparing regional SO2 emissions to the regional SO2 milestone. Due to proposed changes in the Regional Haze SIP, this adjustment is no longer needed.

SUMMARY OF THE RULE OR CHANGE: The modification to Rule R307-150 removes requirements for power plants that were using the new flow rate methodology to adjust their emissions back to the old methodology for purposes of comparing regional SO2 emissions to the regional SO2 milestone. In addition, sources that make changes to their measurement

methodology in the future should ensure that their emissions can be compared to their reported emission in 2006 rather than the earlier inventories of 1998 and 1999 as required by the current rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(c)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: A savings may accrue due to the removal of the requirement for affected parties having to adjust SO2 emissions using an old methodology because the state will no longer have to verify the changes.

❖ LOCAL GOVERNMENTS: No costs or savings are anticipated with this rule change. No new requirements were created that affect local government.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Small Business: A savings may accrue due to the removal of the requirement for affected parties having to adjust SO2 emissions using an old methodology. Other Persons: A savings may accrue due to the removal of the requirement for affected parties having to adjust SO2 emissions using an old methodology.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No costs are expected to comply with this revision. No new requirements where created.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The revision to Rule R307-150 simplifies the submission of SO2 emissions from sources. It removes a requirement that the submitter must adjust their emissions using an old methodology. Removal of this requirement may result in a cost savings. Rick W. Sprott, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Kimberly Kreykes at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at kkreykes@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 07/31/2008

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 7/17/2008 at 2:00 PM, DEQ Bldg, 168 N 1950 W, Room 201, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

R307. Environmental Quality, Air Quality.
R307-150. Emission Inventories.
R307-150-4. Sulfur Dioxide Milestone Inventory Requirements.

(1) Annual Sulfur Dioxide Emission Report.

(a) Sources identified in R307-150-3(1) shall submit an annual inventory of sulfur dioxide emissions beginning with calendar year 2003 for all emissions units including fugitive emissions.

(b) The inventory shall include the rate and period of emissions, excess or breakdown emissions, startup and shut down emissions, the specific emissions unit that is the source of the air pollution, type and efficiency of the air pollution control equipment, percent of sulfur content in fuel and how the percent is calculated, and other information necessary to quantify operation and emissions and to evaluate pollution control efficiency. The emissions of a pollutant shall be calculated using the source's actual operating hours, production rates, and types of materials processed, stored, or combusted during the inventoried time period.

(2) Each source subject to R307-150-4 that is also subject to 40 CFR Part 75 reporting requirements shall submit a summary report of annual sulfur dioxide emissions that were reported to the Environmental Protection Agency under 40 CFR Part 75 in [~~liew~~]lieu of the reporting requirements in (1) above.

(3) Changes in Emission Measurement Techniques.[

~~(a) Each source subject to R307-150-4 that is also subject to 40 CFR Part 75 and that uses 40 CFR Part 60, Appendix A, Test Methods 2F, 2G, or 2H to measure stack flow rate shall adjust reported sulfur dioxide emissions to ensure that the reported sulfur dioxide emissions are comparable to 1999 emissions. The calculations that are used to make this adjustment shall be included with the annual emission report. The adjustment shall be calculated using one of the methods in (i) through (iii) below:~~

~~(i) Directly determine the difference in flow rate through a side-by-side comparison of data collected with the new and old flow reference methods required during a relative accuracy test audit (RATA) test under 40 CFR Part 75.~~

~~(ii) Compare the annual average heat rate using heat input data from the federal acid rain program (million Btu) and total generation (megawatt (MW) Hrs) as reported to the federal Energy Information Administration. The flow adjustment will be calculated by using the following ratio: (Heat input/MW for first full year of data using new flow rate method) divided by (Heat input/MW for last full year of data using old flow rate method).~~

~~(iii) Compare the cubic feet per minute per MW before and after the new flow reference method based on continuous emission monitoring data submitted in the federal acid rain program, using the following equation: (Standard cubic feet (SCF)/Unit of generation for first full year of data using new flow rate method) divided by (SCF/unit of generation for last full year of data using old flow rate method).~~

~~(b)~~] Each source subject to R307-150-4 that uses a different emission monitoring or calculation method than was used to report their sulfur dioxide emissions in [~~1998~~]2006 under R307-150 or [~~1999 under~~]40 CFR Part 75 shall adjust their reported emissions to be comparable to the emission monitoring or calculation method that was used in 2006[~~1998 or 1999, as applicable~~]. The calculations that are used to make this adjustment shall be included with the annual emission report.

KEY: air pollution, reports, inventories
Date of Enactment or Last Substantive Amendment: [~~December 31, 2003~~]2008
Notice of Continuation: February 9, 2004
Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(c)

Environmental Quality, Air Quality
R307-250
Western Backstop Sulfur Dioxide Trading Program

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31559
FILED: 06/13/2008, 12:45

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In 2003, the Air Quality Board adopted Rule R307-250 to establish the requirements of a backstop trading program for sulfur dioxide (SO2) as part of Utah's Regional Haze State Implementation Plan (SIP). The rule and SIP were submitted to EPA in 2003. EPA raised a number of issues during their review of the submittal. In response to the issues raised by EPA, the following changes to Rule R307-250 are proposed.

SUMMARY OF THE RULE OR CHANGE: The following changes to Rule R307-250 are proposed: 1) Financial Penalties. When the backstop trading program was developed by the Western Regional Air Partnership (WRAP),of which Utah is a member, the SO2 milestones were designed to require most of the regional emission reductions in the year 2018. It was very important that this milestone be met, so the WRAP agreed to an automatic penalty of $5,000/ton of excess emissions; 2) Special Reserve Compliance Accounts. The rule has been revised to clarify how allowances that were allocated for sources without CEMs will be used to determine compliance. These allowances may not be traded, but may be used to show compliance; and 3) clarifications and corrected citations. EPA identified a number of provisions that needed clarification or that had incorrect citations. These changes occur throughout the rule and do not substantively change the intent of the rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 19-2-104(1)(a) and 19-2-104(3)(e)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: No costs or savings are anticipated with this rule change. No new requirements were created with this rule change that impact state budget.

❖ LOCAL GOVERNMENTS: No costs or savings are anticipated with this rule change. No new requirements were created with this rule change that impact local government.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Small Business: No costs or savings are anticipated with this rule change. No new requirements were created with this rule change that impact small businesses. Other Persons: No costs or savings are anticipated with this rule change. No new requirements were created with this rule change that impacts other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No costs or savings are anticipated with this rule change. No new requirements were created with this rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The revisions to Rule R307-250 clarify provisions and conforms to the changes in the Regional Haze SIP. It also strengthened the language regarding the penalty if the SO2 milestones are not met. It is expected that the milestones will be met, thus the penalty is not anticipated to be assessed. Rick W. Sprott, Executive Director

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Kimberly Kreykes at the above address, by phone at 801-536-4042, by FAX at 801-536-4099, or by Internet E-mail at kkreykes@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 07/31/2008

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 7/17/2008 at 2:00 PM, DEQ Bldg, 168 N 1950 W, Room 201, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

AUTHORIZED BY: Bryce Bird, Planning Branch Manager

R307. Environmental Quality, Air Quality.
R307-250. Western Backstop Sulfur Dioxide Trading Program.
R307-250-3. WEB Trading Program Trigger.

(1) Except as provided in (2) below, R307-250 shall apply[~~become effective~~] on the program trigger date that is established in accordance with the procedures in SIP Section XX.E.1.c.

(2) Special Penalty Provisions for the [~~Year~~]2018 Milestone, R307-250-13, shall apply[~~become effective~~] on January 1, 2018, and shall remain effective until the requirements of R307-250-13 have been met.

R307-250-4. WEB Trading Program Applicability.

(1) General Applicability. R307-250 applies to any stationary source or group of stationary sources that are located on one or more contiguous or adjacent properties and that are under the control of the same person or persons under common control, belonging to the same

industrial grouping, and that are described in paragraphs (a) and (b)[~~through (c)~~] of this subsection. A stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

(a) [~~All BART-eligible sources as defined in 40 CFR 51.301 that are BART-eligible due to sulfur dioxide emissions.~~

~~(b)~~]All stationary sources [~~not meeting the criteria of (a)~~]that have actual sulfur dioxide emissions of 100 tons or more per year in the program trigger years or any subsequent year. The fugitive emissions of a stationary source shall not be considered in determining whether it is subject to R307-250 unless the source belongs to one of the following categories of stationary source:

(i) Coal cleaning plants (with thermal dryers);

(ii) Kraft pulp mills;

(iii) Portland cement plants;

(iv) Primary zinc smelters;

(v) Iron and steel mills;

(vi) Primary aluminum ore reduction plants;

(vii) Primary copper smelters;

(viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;

(ix) Hydrofluoric, sulfuric, or nitric acid plants;

(x) Petroleum refineries;

(xi) Lime plants;

(xii) Phosphate rock processing plants;

(xiii) Coke oven batteries;

(xiv) Sulfur recovery plants;

(xv) Carbon black plants (furnace process);

(xvi) Primary lead smelters;

(xvii) Fuel conversion plants;

(xviii) Sintering plants;

(xix) Secondary metal production plants;

(xx) Chemical process plants;

(xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

(xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(xxiii) Taconite ore processing plants;

(xxiv) Glass fiber processing plants;

(xxv) Charcoal production plants;

(xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or

(xxvii) Any other stationary source category, which as of August 7, 1980, is being regulated under Section 111 or 112 of the Clean Air Act.

(b[~~c~~]) A new source that begins operation after the program trigger date and has the potential to emit 100 tons or more of sulfur dioxide per year.

(2) The executive secretary may determine on a case-by-case basis, with concurrence from the EPA Administrator, that a stationary source defined in (1)(b) above that has not previously met the applicability requirements of (1) is not subject to R307-250 if the stationary source had actual sulfur dioxide emissions of 100 tons or more in a single year and in each of the previous five years had actual sulfur dioxide emissions of less than 100 tons per year, and:

(a)(i) the emissions increase was due to a temporary emission increase that was caused by a sudden, infrequent failure of air pollution control equipment, or process equipment, or a failure to operate in a normal or usual manner, and

(ii) the stationary source has corrected the failure of air pollution equipment, process equipment, or process by the time of the executive secretary's determination; or

(b) the stationary source had to switch fuels or feedstocks on a temporary basis and as a result of an emergency situation or unique and unusual circumstances besides the cost of such fuels or feedstocks.

(3) Duration of Applicability. Except as provided for in (4) below, once a stationary source is subject to R307-250, it will remain subject to the rule every year thereafter.

(4) Retired Source Exemption.

(a) Application. Any WEB source that is permanently retired shall apply for a retired source exemption. The WEB source may be considered permanently retired only if all sulfur dioxide emitting units at the source are permanently retired. The application shall contain the following information:

(i) identification of the WEB source, including the plant name and an appropriate identification code in a format specified by the executive secretary;

(ii) name of account representative;

(iii) description of the status of the WEB source, including the date that the WEB source was permanently retired;

(iv) signed certification that the WEB source is permanently retired and will comply with the requirements of R307-250-4(4); and

(v) verification that the WEB source has a general account where any unused allowances or future allocations will be recorded.

(b) Notice. The retired source exemption becomes effective when the executive secretary notifies the WEB source that the retired source exemption has been granted.

(c) Responsibilities of Retired Sources.

(i) A retired source shall be exempt from R307-250-9 and R307-250-12, except as provided below.

(ii) A retired source shall not emit any sulfur dioxide after the date the retired source exemption is issued.

(iii) A WEB source shall submit sulfur dioxide emissions reports, as required by R307-250-9, for any time period the source was operating prior to the effective date of the retired source exemption. The retired source shall be subject to the compliance provisions of R307-250-12, including the requirement to hold allowances in the source's compliance account to cover all sulfur dioxide emissions prior to the date the source was permanently retired.

(iv) A retired source that is still in existence but no longer emitting sulfur dioxide shall, for a period of five years from the date the records are created, retain records demonstrating that the source is permanently retired for purposes of this rule.

(d) Resumption of Operations.

(i) Before resuming operation, the retired source must submit registration materials as follows:

(A) If the source is required to obtain an approval order under R307-401 or an operating permit under R307-415 prior to resuming operation, then registration information as described in R307-250-6(1) and a copy of the retired source exemption must be submitted with the notice of intent under R307-401 or the operating permit application required under R307-415;

(B) If the source does not meet the criteria of (A), then registration information as described in R307-250-6(1) and a copy of the retired source exemption must be submitted to the executive secretary at least ninety days prior to resumption of operation.

(ii) The retired source exemption shall automatically expire on the day the retired source resumes operation.

(e) Loss of Future Allowances. A WEB source that is permanently retired and that does not apply to the executive secretary for a retired source exemption within ninety days of the date that the source is permanently retired shall forfeit any unused and future allowances. The abandoned allowances shall be retired by the TSA.

R307-250-7. Allowance Allocations.

(1) The TSA will record the allowances for each WEB source in the source's compliance account once the allowances are allocated by the executive secretary under SIP Section XX.E.3.a through c. If applicable, the TSA will record a portion of the sulfur dioxide allowances for a WEB source in a special reserve compliance account to account for any allowances to be held by the source that conducts monitoring in accordance with R307-250-9(1)(b).

(2) The TSA will assign a serial number to each allowance in accordance with SIP Section XX.E.3.f.

(3) All allowances shall be allocated, recorded, transferred, or used as whole allowances. To determine the number of whole allowances, the number of allowances shall be rounded down for decimals less than 0.50 and rounded up for decimals of 0.50 or greater.

(4) An allowance is not a property right, and is a limited authorization to emit one ton of sulfur dioxide valid only for the purpose of meeting the requirements of R307-250. No provision of the WEB Trading Program or other law should be construed to limit the authority of the executive secretary to terminate or limit such authorization.

(5) Early Reduction Bonus Allocation. Any non-utility WEB source that installs new control technology and that reduces its permitted annual sulfur dioxide emissions to a level that is below the floor level allocation established for that source in SIP Section XX.E.3.a(1)(b)(i) or any utility that reduces its permitted annual sulfur dioxide emissions to a level that is below best available control technology may apply to the executive secretary for an early reduction bonus allocation. The bonus allocation shall be available for reductions that occur between 2003 and the program trigger year. The application must be submitted no later than 90 days after the program trigger date. Any WEB source that applies and receives early reduction bonus allocations must retain the records referenced in this section for a minimum of five years after the early reduction bonus allowance is certified in accordance with SIP Section XX.E.3.a(c). The application for an early reduction bonus allocation must contain the following information:

(a) copies of all approval orders, operating permits or other enforceable documents that include annual sulfur dioxide emissions limits for the WEB source during the period the WEB source qualifies for an early reduction credit. Approval orders, permits, or enforceable documents must contain monitoring requirements for sulfur dioxide emissions that meet the specifications in R307-250-9(1)(a).

(b) demonstration that the floor level established for the source in SIP Section XX.E.3.a(1)(b)(i) for non-utilities or best available control technology for utilities was calculated using data that are consistent with monitoring methods specified in R307-250-9(1)(a). If needed, the demonstration shall include a new floor level calculation that is consistent with the monitoring methodology in R307-250-9.

(6) Request for Allowances for New WEB Sources or Modified WEB Sources.

(a) A new WEB source may apply to the executive secretary for an allocation from the new source set-aside, as outlined in SIP Section XX.E.3.c. A new WEB source is eligible for an annual floor allocation equal to the lower of the permitted annual sulfur dioxide emission limit for that source, or sulfur dioxide annual emissions calculated based on a level of control equivalent to best available control technology (BACT) and assuming 100 percent utilization of the WEB source, beginning with the first full calendar year of operation.

(b) An existing WEB source that has increased production capacity through a new approval order issued under R307-401 may apply to the executive secretary for an allocation from the new source set-aside, as outlined in SIP Section XX.E.3.c. An existing WEB source is eligible for an annual allocation equal to:

(i) the permitted annual sulfur dioxide emission limit for a new unit; or

(ii) the permitted annual sulfur dioxide emission increase for the WEB source due to the replacement of an existing unit with a new unit or the modification of an existing unit that increased production capacity of the WEB source.

(c) A source that has received a retired source exemption under R307-250-4(4) is not eligible for an allocation from the new source set-aside.

(d) The application for an allocation from the new source set-aside must contain the following:

(i) for a new WEB source or a new unit under R307-250-7(6)(b)(i), documentation of the actual date of the commencement of operation and a copy of the approval order issued under R307-401;

(ii) for an existing WEB source under R307-250-7(6)(b)(ii), documentation of the production capacity of the source before and after the new permit.

R307-250-8. Establishment of Accounts.

(1) Allowance Tracking System Accounts. All WEB sources are required to open a compliance account. Any person may open a general account for the purpose of holding and transferring allowances. In addition, if a WEB source conducts monitoring under R307-250-9(1)(b), the WEB source shall open a special reserve compliance account for allowances associated with units monitored under those provisions. To open any type of account, an application that contains the following information must be submitted to the TSA:

(a) the name, mailing address, e-mail address, telephone number, and facsimile number of the account representative. For a compliance account, the application shall include a copy of the certificatefor the account representative and any alternate as required in R307-250-5(2)(b). For a general account, the application shall include the certificate for the account representative and any alternate as required in (3)(b) below.

(b) the WEB source or organization name;

(c) the type of account to be opened;

(d) identification of the specific units that are being monitored[~~ing~~] under R307-250-9(1)(b) and that must demonstrate compliance with the allowance limitation in the special reserve compliance account; and

(e) a signed certification of truth and accuracy by the account representative according to R307-250-5(3)(b) for compliance accounts and for general accounts, certification of truth and accuracy by the account representative according to (4) below.

(2) Account Representative for General Accounts. For a general account, one account representative must be identified and an alternate account representative may be identified and may act on behalf of the account representative. Any representation, action, inaction or submission by the alternate account representative will be deemed to be a representation, action, inaction or submission by the account representative.

(3) Identification and Certification of an Account Representative for General Accounts.

(a) The account representative shall be appointed by an agreement that makes the representations, actions, inactions or submissions of the account representative binding on all persons who have an ownership interest with respect to allowances held in the general account.

(b) The account representative shall submit to the TSA a signed and dated certificate that contains the following elements:

(i) the name, address, e-mail (if available), telephone and facsimile number of the account representative and any alternate;

(ii) the organization name, if applicable;

(iii) the following certification statement: "I certify that I was selected as the account representative or alternate account representative, as applicable, by an agreement binding on all persons who have an ownership interest in allowances in the general account with regard to matters concerning the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the WEB Trading Program on behalf of said persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions."

(c) Upon receipt by the TSA of the complete certificate, the account representative represents and, by his or her representations, actions, inactions, or submissions, legally binds each person who has an ownership interest in allowances held in the general account with regard to all matters concerning the general account. Such persons shall be bound by any decision or order issued by the executive secretary.

(d) A WEB Allowance Tracking System general account shall not be established until the TSA has received a complete certificate. Once the account is established, the account representative shall make all submissions concerning the account, including the deduction or transfer of allowances.

(4) Requirements and Responsibilities for General Accounts. Each submission for the general account shall be signed and certified by the account representative for the general account. Each submission shall include the following truth and accuracy certification statement by the account representative: "I am authorized to make this submission on behalf of all person who have an ownership interest in allowances held in the general account. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

(5) Changing the Account Representative for General Accounts. The account representative or alternate account representative may be changed at any time by sending a complete superseding certificate to the executive secretary and the TSA under (3)(b) above. The change will take effect upon the receipt of the certificate by the TSA. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous account representative or alternate prior to the time and date when the TSA receives the superseding certificate shall be binding on the new account representative and all persons having ownership interest with respect to allowances held in the general account.

(6) Changes to the Account. Any change to the information required in the application for an existing account under (1) above shall require a revision of the application.

R307-250-9. Monitoring, Recordkeeping and Reporting.

(1) General Requirements on Monitoring Methods.

(a) For each sulfur dioxide emitting unit at a WEB source the WEB source shall comply with the following, as applicable, to monitor and record sulfur dioxide mass emissions.

(i) If a unit is subject to 40 CFR Part 75 under a requirement separate from the WEB Trading Program, the unit shall meet the requirements contained in Part 75 with respect to monitoring, recording and reporting sulfur dioxide mass emissions.

(ii) If a unit is not subject to 40 CFR Part 75 under a requirement separate from the WEB Trading Program, a unit shall use one of the following monitoring methods, as applicable:

(A) a continuous emission monitoring system (CEMS) for sulfur dioxide and flow that complies with all applicable monitoring provisions in 40 CFR Part 75;

(B) if the unit is a gas- or oil-fired combustion device, the excepted monitoring methodology in Appendix D to 40 CFR Part 75, or, if applicable, the low mass emissions (LME) provisions (with respect to sulfur dioxide mass emissions only) of 40 CFR 75.19;

(C) one of the optional WEB protocols, if applicable, in Appendix E of State Implementation Plan Section XX, Regional Haze; or

(D) a petition for site-specific monitoring that the source submits for approval by the executive secretary and approval by the U.S. Environmental Protection Agency in accordance with R307-250-9(9).

(iii) A permanently retired unit shall not be required to monitor under this section if such unit was permanently retired and had no emissions for the entire control period and the account representative certifies in accordance with R307-250-12(2) that these conditions were met.

(b) Notwithstanding (a) above, a WEB source with a unit that meets one of the conditions of (i) below may submit a request to the executive secretary to have the provisions of this subsection (b) apply to that unit.

(i) Any of the following units may implement this subsection (b):

(A) any smelting operation where all of the emissions from the operation are not ducted to a stack; or

(B) any flare, except to the extent such flares are used as a fuel gas combustion device at a petroleum refinery; or

(C) any other type of unit without add-on sulfur dioxide control equipment, if the unit belongs to one of the following source categories: cement kilns, pulp and paper recovery furnaces, lime kilns, or glass manufacturing.

(ii) For each unit covered by this subsection (b), the account representative shall submit a notice to request that this subsection (b) apply to one or more sulfur dioxide emitting units at a WEB source. The notice shall be submitted in accordance with the deadlines specified in R307-250-9(6)(a), and shall include the following information (in a format specified by the executive secretary with such additional, related information as may be requested):

(A) a list of all units at the WEB source that identifies the units that are to be covered by this subsection (b);

(B) an identification of any such units that are permanently retired.

(iii) For each new unit at an existing WEB source for which the WEB source seeks to comply with this subsection[~~paragraph~~] (b) and for which the account representative applies for an allocation under the new source set-aside provisions of R307-250-7(6), the account representative shall submit a modified notice under (ii) above that includes such new sulfur dioxide emitting units. The modified request shall be submitted in accordance with the deadlines in R307-250-

9(6)(a), but no later than the date on which a request is submitted under R307-250-7(6) for allocations from the set-aside.

(iv) The account representative for a WEB source shall submit an annual emissions statement for each unit under this subsection (b) pursuant to R307-250-9(8). The WEB source shall maintain operating records sufficient to estimate annual sulfur dioxide emissions in a manner consistent with the emission inventory submitted by the source for calendar year 1998. In addition, if the estimated emissions from all such units at the WEB source are greater than the allowances for the current control year held in the special reserve compliance account for the WEB source, the account representative shall report the extra amount as part of the annual report for the WEB source under R307-250-12 and shall obtain and transfer allowances into the special reserve compliance account to account for such emissions.

(v) R307-250-9(2) - (10) shall not apply to units covered by this paragraph except where otherwise noted.

(vi) A WEB source may opt to modify the monitoring for a sulfur dioxide emitting unit to use monitoring under (a) above, but any such monitoring change must take effect on January 1 of the next compliance year. In addition, the account representative must submit an initial monitoring plan at least 180 days prior to the date on which the new monitoring will take effect and a detailed monitoring plan in accordance with (2) below. The account representative shall also submit a revised notice under R307-250-9(1)(b)(ii) at the same time that the initial monitoring plan is submitted.

(c) For any monitoring method that the WEB source uses under R307-250-9 including (b) above, the WEB source shall install, certify, and operate the equipment in accordance with this section, and record and report the data from the method as required in this section. In addition, the WEB source may not:

(i) except for an alternative approved by the EPA Administrator for a WEB source that implements monitoring under (a) above, use an alternative monitoring system, alternative reference method or another alternative for the required monitoring method without having obtained prior written approval in accordance with (9) below;

(ii) operate a sulfur dioxide emitting unit so as to discharge, or allow to be discharged, sulfur dioxide emissions to the atmosphere without accounting for these emissions in accordance with the applicable provisions of this section;

(iii) disrupt the approved monitoring method or any portion thereof, and thereby avoid monitoring and recording sulfur dioxide mass emissions discharged into the atmosphere, except for periods of recertification or periods when calibration, quality assurance testing or maintenance is performed in accordance with the applicable provisions of this section; or

(iv) retire or permanently discontinue use of an approved monitoring method, except under one of the following circumstances:

(A) during a period when the unit is exempt from the requirements of this Section, including retirement of a unit as addressed in (a)(iii) above;

(B) the WEB source is monitoring emissions from the unit with another certified monitoring method approved under this Section for use at the unit that provides data for the same parameter as the retired or discontinued monitoring method; or

(C) the account representative submits notification of the date of certification testing of a replacement monitoring system in accordance with this Section, and the WEB source recertifies thereafter a replacement monitoring system in accordance with the applicable provisions of this Section.

(2) Monitoring Plan.

(a) General Provisions. [~~The~~]A WEB source with a sulfur dioxide emitting unit that uses a monitoring method under (1)(a)(ii) above shall meet the following requirements.

(i) Prepare and submit to the executive secretary an initial monitoring plan for each monitoring method that the WEB source uses to comply with this Section. In accordance with (c) below, the plan shall contain sufficient information on the units involved, the applicable method, and the use of data derived from that method to demonstrate that all unit sulfur dioxide emissions are monitored and reported. The plan shall be submitted in accordance with the deadlines specified in (6) below.

(ii) Prepare, maintain and submit to the executive secretary a detailed monitoring plan in accordance with the deadlines specified in (6) below. The plan will contain the applicable information required by (d) below. The executive secretary may require that the monitoring plan or portions of it be submitted electronically. The executive secretary may also require that the plan be submitted on an ongoing basis in electronic format as part of the quarterly report submitted under (8)(a) below or resubmitted separately within 30 days after any change is made to the plan in accordance with (iii) below.

(iii) Whenever a[~~the~~] WEB source makes a replacement, modification, or change in one of the systems or methodologies provided for in (1)(a)(ii) above, including a change in the automated data acquisition and handling system or in the flue gas handling system, that affects information reported in the monitoring plan, such as a change to serial number for a component of a monitoring system, then the WEB source shall update the monitoring plan.

(b) A[~~The~~] WEB source with a sulfur dioxide emitting unit that uses a method under (1)(a)(i) above shall meet the requirements of (a) - (f) by preparing, maintaining and submitting a monitoring plan in accordance with the requirements of 40 CFR Part 75. If requested, the WEB source also shall submit the entire monitoring plan to the executive secretary.

(c) Initial Monitoring Plan. The account representative shall submit an initial monitoring plan for each sulfur dioxide emitting unit or group of units sharing a common methodology that, except as otherwise specified in an applicable provision in Appendix E of State Implementation Plan Section XX, contains the following information:

(i) For all sulfur dioxide emitting units:

(A) plant name and location;

(B) plant and unit identification numbers assigned by the executive secretary;

(C) type of unit, or units for a group of units using a common monitoring methodology;

(D) identification of all stacks or pipes associated with the monitoring plan;

(E) types of fuels fired or sulfur containing process materials used in the sulfur dioxide emitting unit, and the fuel classification of the unit if combusting more than one type of fuel and using a 40 CFR Part 75 methodology;

(F) types of emissions controls for sulfur dioxide installed or to be installed, including specifications of whether such controls are pre-combustion, post-combustion, or integral to the combustion process;

(G) maximum hourly heat input capacity, or process throughput capacity, if applicable;

(H) identification of all units using a common stack; and

(I) indicator of whether any stack identified in the plan is a bypass stack.

(ii) For each unit and parameter required to be monitored, identification of monitoring methodology information, consisting of monitoring methodology, monitor locations, substitute data approach for the methodology, and general identification of quality assurance procedures. If the proposed methodology is a specific methodology submitted pursuant to (1)(a)(ii)(D) above, the description under this paragraph shall describe fully all aspects of the monitoring equipment, installation locations, operating characteristics, certification testing, ongoing quality assurance and maintenance procedures, and substitute data procedures.

(iii) If a[~~the~~] WEB source intends to petition for a change to any specific monitoring requirement otherwise required under this Section, such petition may be submitted as part of the initial monitoring plan.

(iv) The executive secretary may issue a notice of approval or disapproval of the initial monitoring plan based on the compliance of the proposed methodology with the requirements for monitoring in this Section.

(d) Detailed Monitoring Plan. The account representative shall submit a detailed monitoring plan that, except as otherwise specified in an applicable provision in Appendix C[~~E~~] of State Implementation Plan Section XX, the Regional Haze SIP, shall contain the following information:

(i) Identification and description of each monitoring component (including each monitor and its identifiable components, such as analyzer or probe) in a continuous emissions monitoring system (e.g., sulfur dioxide pollutant concentration monitor, flow monitor, moisture monitor), a 40 CFR Part 75, Appendix D monitoring system (e.g., fuel flowmeter, data acquisition and handling system), or a protocol in Appendix B of SIP Section XX, including:

(A) manufacturer, model number and serial number;

(B) component and system identification code assigned by the facility to each identifiable monitoring component, such as the analyzer and/or probe;

(C) designation of the component type and method of sample acquisition or operation such as in situ pollutant concentration monitor or thermal flow monitor;

(D) designation of the system as a primary or backup system;

(E) first and last dates the system reported data;

(F) status of the monitoring component; and

(G) parameter monitored.

(ii) Identification and description of all major hardware and software components of the automated data acquisition and handling system, including:

(A) hardware components that perform emission calculations or store data for quarterly reporting purposes, including the manufacturer and model number; and

(B) identification of the provider and model or version number of the software components.

(iii) Explicit formulas for each measured emissions parameter, using component or system identification codes for the monitoring system used to measure the parameter that links the system observations with the reported concentrations and mass emissions. The formulas must contain all constants and factors required to derive mass emissions from component or system code observations and an indication of whether the formula is being added, corrected, deleted, or is unchanged. The WEB source with a low mass emissions unit for which the WEB source is using the optional low mass emissions excepted methodology in 40 CFR Part 75.19(c) is not required to report such formulas.

(iv) For units with flow monitors only, the inside cross-sectional area in square feet at the flow monitoring location.

(v) If using CEMS for sulfur dioxide and flow, for each parameter monitored, include the scale, maximum potential concentration and method of calculation, maximum expected concentration, if applicable, and method of calculation, maximum potential flow rate and method of calculations, span value, full-scale range, daily calibration units of measure, span effective date and hour, span inactivation date and hour, indication of whether dual spans are required, default high range value, flow rate span, and flow rate span value and full scale value in standard cubic feet per hour for each unit or stack using sulfur dioxide or flow component monitors.

(vi) If the monitoring system or excepted methodology provides for use of a constant, assumed, or default value for a parameter under specific circumstances, then include the following information for each value of such parameter:

(A) identification of the parameter;

(B) default, maximum, minimum, or constant value, and units of measure for the value;

(C) purpose of the value;

(D) indicator of use during controlled and uncontrolled hours;

(E) types of fuel;

(F) source of the value;

(G) value effective date and hour;

(H) date and hour value is no longer effective, if applicable; and

(I) for units using the excepted methodology under 40 CFR 75.19, the applicable sulfur dioxide emission factor.

(vii) Unless otherwise specified in subsection 6.5.2.1 of Appendix A to 40 CFR Part 75, for each unit or common stack on which continuous emissions monitoring system hardware are installed:

(A) the upper and lower boundaries of the range of operation as defined in subsection 6.5.2.1 of Appendix A to 40 CFR Part 75, or thousands of pounds per hour (lb/hr) of steam, or feet per second (ft/sec), as applicable;

(B) the load or operating level(s) designated as normal in subsection 6.5.2.1 of Appendix A to 40 CFR Part 75, or thousands of lb/hr of steam, or ft/sec, as applicable;

(C) the two load or operating levels (i.e., low, mid, or high) identified in subsection 6.5.2.1 of Appendix A to 40 CFR Part 75 as the most frequently used;

(D) the date of the data analysis used to determine the normal load (or operating) level(s) and the two most frequently-used load or operating levels; and

(E) activation and deactivation dates when the normal load or operating levels change and are updated.

(viii) For each unit that is complying with 40 CFR Part 75 for which the optional fuel flow-to-load test in subsection 2.1.7 of Appendix D to 40 CFR Part 75 is used:

(A) the upper and lower boundaries of the range of operation as defined in subsection 6.5.2.1 of Appendix A to 40 CFR Part 75, expressed in thousands of lb/hr of steam;

(B) the load level designated as normal, pursuant to subsection 6.5.2.1 of Appendix A to 40 CFR Part 75, expressed in thousands of lb/hr of steam; and

(C) the date of the load analysis used to determine the normal load level.

(ix) Information related to quality assurance testing, including, as applicable: identification of the test strategy; protocol for the relative accuracy test audit; other relevant test information; calibration gas levels expressed as percent of span for the calibration error test and linearity check; and calculations for determining maximum potential concentration, maximum expected concentration if applicable, maximum potential flow rate, and span[~~;~~].

(x) If applicable, apportionment strategies under sections 75.10 through 75.18 of 40 CFR Part 75.

(xi) Description of site locations for each monitoring component in a monitoring system, including schematic diagrams and engineering drawings and any other documentation that demonstrates each monitor location meets the appropriate siting criteria. For units monitored by a continuous emission monitoring system, diagrams shall include:

(A) a schematic diagram identifying entire gas handling system from unit to stack for all units, using identification numbers for units, monitor components, and stacks corresponding to the identification numbers provided in the initial monitoring plan and (i) and (iii) above. The schematic diagram must depict the height of any monitor locations. Comprehensive and/or separate schematic diagrams shall be used to describe groups of units using a common stack; and

(B) stack and duct engineering diagrams showing the dimensions and locations of fans, turning vanes, air preheaters, monitor components, probes, reference method sampling ports, and other equipment that affects the monitoring system location, performance, or quality control checks.

(xii) A data flow diagram denoting the complete information handling path from output signals of CEMS components to final reports.

(e) In addition to supplying the information in (c) and (d) above, the WEB source with a sulfur dioxide emitting unit using either of the methodologies in (1)(a)(ii)(B) above shall include the following information in its monitoring plan for the specific situations described:

(i) For each gas-fired or oil-fired sulfur dioxide emitting unit for which the WEB source uses the optional protocol in Appendix D to 40 CFR Part 75 for sulfur dioxide mass emissions, the Account Representative shall include the following information in the monitoring plan:

(A) parameter monitored;

(B) type of fuel measured, maximum fuel flow rate, units of measure, and basis of maximum fuel flow rate expressed as the upper range value or unit maximum for each fuel flowmeter;

(C) test method used to check the accuracy of each fuel flowmeter;

(D) submission status of the data;

(E) monitoring system identification code;

(F) the method used to demonstrate that the unit qualifies for monthly gross calorific value (GCV) sampling or for daily or annual fuel sampling for sulfur content, as applicable;

(G) a schematic diagram identifying the relationship between the unit, all fuel supply lines, the fuel flowmeters, and the stacks. The schematic diagram must depict the installation location of each fuel flowmeter and the fuel sampling locations. Comprehensive or separate schematic diagrams shall be used to describe groups of units using a common pipe;

(H) for units using the optional default sulfur dioxide emission rate for "pipeline natural gas" or "natural gas" in appendix D to 40 CFR Part 75, the information on the sulfur content of the gaseous fuel used to demonstrate compliance with either subsection 2.3.1.4 or 2.3.2.4 of Appendix D to 40 CFR Part 75;

(I) for units using the 720 hour test under subsection 2.3.6 of Appendix D to 40 CFR Part 75 to determine the required sulfur sampling requirements, report the procedures and results of the test; and

(J) for units using the 720 hour test under subsection 2.3.5 of Appendix D to 40 CFR Part 75 to determine the appropriate fuel GCV sampling frequency, report the procedures used and the results of the test.

(ii) For each sulfur dioxide emitting unit for which the WEB source uses the low mass emission excepted methodology of [~~Section~~]40 CFR 75.19[~~ to 40 CFR Part 75~~], the WEB source shall include the [~~following~~]information in (A) through (F) in the monitoring plan that accompanies the initial certification application.[~~:~~]

(A) [~~t~~]The results of the analysis performed to qualify as a low mass emissions unit under [~~Section~~]40 CFR 75.19(c)[~~ to 40 CFR Part 75~~]. This report will include either the previous three years' actual or projected emissions. The report will include the current calendar year of application; the type of qualification; years one, two, and three; annual measured, estimated or projected sulfur dioxide mass emissions for years one, two, and three; and annual operating hours for years one, two, and three.

(B) [~~a~~]A schematic diagram identifying the relationship between the unit, all fuel supply lines and tanks, any fuel flowmeters, and the stacks. Comprehensive or separate schematic diagrams shall be used to describe groups of units using a common pipe.[~~:~~]

(C) [~~f~~]For units which use the long term fuel flow methodology under [~~subsection~~]40 CFR 75.19(c)(3)[~~ to 40 CFR Part 75~~], a diagram of the fuel flow to each unit or group of units and a detailed description of the procedures used to determine the long term fuel flow for a unit or group of units for each fuel combusted by the unit or group of units.[~~:~~]

(D) [~~a~~]A statement that the unit burns only gaseous fuels or fuel oil and a list of the fuels that are burned or a statement that the unit is projected to burn only gaseous fuels or fuel oil and a list of the fuels that are projected to be burned.[~~:~~]

(E) [~~a~~]A statement that the unit meets the applicability requirements in [~~sections~~]40 CFR 75.19(a) and (b)[~~ to 40 CFR Part 75~~] with respect to sulfur dioxide emissions.[~~; and~~]

(F) [~~a~~]Any unit historical actual, estimated and projected sulfur dioxide emissions data and calculated sulfur dioxide emissions data demonstrating that the unit qualifies as a low mass emissions unit under [~~sections~~]40 CFR 75.19(a) and (b)[~~ to 40 CFR Part 75~~].

(iii) For each gas-fired unit, the account representative shall include the following in the monitoring plan: current calendar year, fuel usage data as specified in the definition of gas-fired in 40 CFR 72.2, and an indication of whether the data are actual or projected data.

(f) The specific elements of a monitoring plan under this section shall not be part of a WEB source's operating permit issued under R307-415, and modifications to the elements of the plan shall not require a permit modification.

(3) Certification and Recertification.

(a) All monitoring systems are subject to initial certification and recertification testing as specified in 40 CFR Part 75 or Appendix E of State Implementation Plan Section XX, as applicable. Certification or recertification of a monitoring system by the U.S. EPA for a WEB source that is subject to 40 CFR Part 75 under a requirement separate from this Rule shall constitute certification under the WEB Trading Program.

(b) The WEB source with a sulfur dioxide emitting unit not otherwise subject to 40 CFR Part 75 that monitors sulfur dioxide mass emissions in accordance with 40 CFR Part 75 to satisfy the requirements of this section shall perform all of the tests required by that regulation and shall submit the following to the executive secretary:

(i) a test notice, not later than 21 days before the certification testing of the monitoring system, provided that the executive secretary may establish additional requirements for adjusting test dates after this notice as part of the approval of the initial monitoring plan under (2)(c) above; and

(ii) an initial certification application within 45 days after testing is complete.

(c) A monitoring system will be considered provisionally certified while the application is pending.

(d) Upon receipt of a disapproval of the certification of a monitoring system or component, the certification is revoked. The data measured and recorded shall not be considered valid quality-assured data from the date of issuance of the notification of revocation until the WEB source completes a subsequently-approved certification or re-certification test in accordance with the procedures in this rule. The WEB source shall apply the substitute data procedures in this rule to replace all of the invalid data for each disapproved system or component.

(4) Ongoing Quality Assurance and Quality Control. The WEB source shall satisfy the applicable quality assurance and quality control requirements of 40 CFR Part 75 or, if the WEB source is subject to a WEB protocol in Appendix E of State Implementation Plan Section XX, the applicable quality assurance and quality control requirements in Appendix E of State Implementation Plan Section XX on and after the date that certification testing commences.

(5) Substitute Data Procedures.

(a) For any period after certification testing is complete in which quality assured, valid data are not being recorded by a monitoring system certified and operating in accordance with R307-250, missing or invalid data shall be replaced with substitute data in accordance with 40 CFR Part 75 or, if the WEB source is subject to a WEB protocol in Appendix E of State Implementation Plan Section XX, with substitute data in accordance with that Appendix.

(b) For a sulfur dioxide emitting unit that does not have a certified or provisionally certified monitoring system in place as of the beginning of the first control period for which the unit is subject to the WEB Trading Program, the WEB source shall use one of the following procedures.

(i) If the WEB source will use a continuous emissions monitoring system to comply with this Section, substitute the maximum potential concentration of sulfur dioxide for the unit and the maximum potential flow rate, as determined in accordance with 40 CFR Part 75. The procedures for conditional data validation under section 75.20(b)(3) may be used for any monitoring system under this Rule that uses these 40 CFR Part 75 procedures, as applicable.

(ii) If the WEB source will use the 40 CFR Part 75 Appendix D methodology, substitute the maximum potential sulfur content, density or gross calorific value for the fuel and the maximum potential fuel flow rate, in accordance with section 2.4 of Appendix D to 40 CFR Part 75.

(iii) If the WEB source will use the 40 CFR Part 75 methodology for low mass emissions units, substitute the sulfur dioxide emission factor required for the unit as specified in 40 CFR 75.19 and the maximum rated hourly heat input, as defined in 40 CFR 72.2.

(iv) If using a protocol in Appendix E of State Implementation Plan Section XX, follow the procedures in the applicable protocol.

(6) Deadlines.

(a) The initial monitoring plan required under R307-250-9(2)(a)(i) shall be submitted by the following dates:

(i) for each source that is a WEB source on or before the program trigger date, the monitoring plan shall be submitted 180 days after such program trigger date.

(ii) for any existing source that becomes a WEB source after the program trigger date, the monitoring plan shall be submitted by September 30 of the year following the inventory year in which the source exceeded the emissions threshold.

(iii) for any new WEB source, the monitoring plan shall be included with the notice of intent required by R307-401.

(b) The detailed monitoring plan required under R307-250-9(2)(a)(ii) shall be submitted no later than 45 days prior to commencing certification testing in accordance with (c) below.

(c) Emission monitoring systems shall be installed, operational and shall have met all of the certification testing requirements of R307-250-9(3), including any referenced in Appendix E of State Implementation Plan Section XX, by the following dates:

(i) for each source that is a WEB source on or before the program trigger date, two years prior to the start of the first control period as described in R307-250-12.

(ii) for any existing source that becomes a WEB source after the program trigger date, one year after the due date for the monitoring plan under (6)(a)(ii) above.

(iii) for any new WEB source or any new unit at a WEB source, the earlier of 90 unit operating days or 180 calendar days after the date the new source commences operation.

(d) The WEB source shall submit test notices and certification applications in accordance with the deadlines set forth in R307-250-9(3)(b).

(e) For each control period, the WEB source shall submit each quarterly report no later than 30 days after the end of each calendar quarter, and shall submit each annual report no later than 60 days after the end of each calendar year.

(7) Recordkeeping.

(a) [~~Except as provided in (b) below, t~~]The WEB source shall keep copies of all reports, registration materials, compliance certifications, sulfur dioxide emissions data, quality assurance data, and other submissions under this Rule for a period of five years. In addition, the WEB source shall keep a copy of all certificates for the duration of the WEB Trading Program. Unless otherwise requested by the WEB source and approved by the executive secretary, the copies shall be kept on site.

(b) The WEB source shall keep records of all operating hours, quality assurance activities, fuel sampling measurements, hourly averages for sulfur dioxide, stack flow, fuel flow, or other continuous measurements, as applicable, and any other applicable data elements specified in this section or in Appendix E of State Implementation Plan Section XX. The WEB source shall maintain the applicable records specified in 40 CFR Part 75 for any sulfur dioxide emitting unit that uses a Part 75 monitoring method to meet the requirements of this Section.

(8) Reporting.

(a) Quarterly Reports. For each sulfur dioxide emitting unit, the account representative shall submit a quarterly report within thirty days after the end of each calendar quarter. The report shall be in a format specified by the executive secretary, including hourly and quality assurance activity information, and shall be submitted in a manner compatible with the emissions tracking database designed for the WEB Trading Program. If the WEB source submits a quarterly report under 40 CFR Part 75 to the U.S. EPA Administrator, no additional report under this paragraph (a) shall be required. The executive secretary may require that a copy of that report or a separate statement of quarterly and cumulative annual sulfur dioxide mass emissions be submitted separately.

(b) Annual Report. Based on the quarterly reports, each WEB source shall submit an annual statement of total annual sulfur dioxide emissions for all sulfur dioxide emitting units at the source. The annual report shall identify total emissions for all units monitored in accordance with (1)(a) above and the total emissions for all units with

emissions estimated in accordance with (1)(b) above. The annual report shall be submitted within 60 days after the end of a control period.

(c) If directed by the executive secretary, monitoring plans, reports, certifications or recertifications, or emissions data required to be submitted under this section also shall be submitted to the TSA.

(d) If the executive secretary rejects any report submitted under this subsection that contains errors or fails to satisfy the requirements of this section, the account representative shall resubmit the report to correct any deficiencies.

(9) Petitions. A WEB source may petition for an alternative to any requirement specified in (1)(a)(ii) above. The petition shall require approval of the executive secretary and the Administrator. Any petition submitted under this paragraph shall include sufficient information for the evaluation of the petition, including, at a minimum, the following information:

(a) identification of the WEB source and applicable sulfur dioxide emitting unit(s);

(b) a detailed explanation of why the proposed alternative is being suggested in lieu of the requirement;

(c) a description and diagram of any equipment and procedures used in the proposed alternative, if applicable; and

(d) a demonstration that the proposed alternative is consistent with the purposes of the requirement for which the alternative is proposed, is consistent with the purposes of R307-250, and that any adverse effect of approving such alternative will be de minimis; and

(e) any other relevant information that the executive secretary may require.

(10) For any monitoring plans, reports, or other information submitted under this Rule, the account representative shall ensure that, where applicable, identifying information is consistent with the identifying information provided in the most recent certificate for the WEB source submitted under R307-250-5.

R307-250-12. Compliance.

(1) Compliance with Allowance Limitations.

(a) The WEB source must hold allowances, in accordance with (b) and (c) below and R307-250-11, as of the allowance transfer deadline in the WEB source's compliance account, [~~except as provided in (d) below for units monitored according to~~]together with any current control year allowances held in the WEB source's special reserve compliance account under R307-250-9(1)(b), in an amount not less than the total sulfur dioxide emissions for the control period from the WEB source, as determined under the monitoring and reporting requirements of R307-250-9.

(i) For each source that is a WEB source on or before the program trigger date, the first control period is the calendar year that is six years following the calendar year for which sulfur dioxide emissions exceeded the milestone as determined in accordance with SIP Section XX.E.1.

(ii) For any existing source that becomes a WEB source after the program trigger date, the first control period is the calendar year that is four years following the inventory year in which the source became a WEB source.

(iii) For any new WEB source after the program trigger date, the first control period is the first full calendar year that the source is in operation.

(iv) If the WEB Trading Program is triggered in accordance with the 2013 review procedures in SIP Section XX.E.1.d, the first control period for each source that is a WEB source on or before the program trigger date is the year 2018.

(b) Allowance transfer deadline. An allowance may only be deducted from the WEB source's compliance account if:

(i) the allowance was allocated for the current control period or meets the requirements in R307-250-11 for use of allowances from a previous control period, and

(ii) the allowance was held in the WEB source's compliance account as of the allowance transfer deadline for the current control period, or was transferred into the compliance account by an allowance transfer correctly submitted for recording by the allowance transfer deadline for the current control period.

(c) Compliance with allowance limitations shall be determined as follows.[~~by comparing the following numbers:~~]

(i) The total annual sulfur dioxide emissions for all sulfur dioxide emitting units at the source that are monitored under R307-250-9(1)(b), as[~~the monitored sulfur dioxide emissions data~~] reported by the source to the executive secretary, in accordance with R307-250-9, and recorded in the emissions tracking database shall be compared to the allowances held in the source's special reserve compliance account as of the allowance transfer deadline for the current control period, adjusted in accordance with R307-250-11. If the emissions are equal to or less than the allowances in such account, all such allowances shall be retired to satisfy the obligation to hold allowances for such emissions. If the total emissions from such units exceed the allowances in such special reserve compliance account, the WEB source shall account for such excess emissions in the following paragraph (ii).

(ii) The total annual sulfur dioxide emissions for all sulfur dioxide emitting units at the source that are monitored under R307-250-9(1)(a), as reported by the source to the executive secretary in accordance with R307-250-9 and recorded in the emissions tracking database, together with any excess emissions as calculated in the preceding paragraph (i), shall be compared to the allowances held in the source's compliance account as of the allowance transfer deadline for the current control period, adjusted in accordance with R307-250-11.

(iii) If the comparison in paragraph (ii) above results in emissions that exceed the allowances held in the source's compliance account, the source has exceeded its allowance limitation and the excess emissions are subject to the allowance deduction penalty in R307-250-12(3)(a).

(d) Other than allowances in a special reserve compliance account for units monitored under R307-250-9(1)(b), to [~~, and~~

~~(ii) the allowance allocations and transfers recorded in the allowance tracking system, either in a compliance account or a special reserve account, adjusted in accordance with R307-250-11(c).~~

~~(d) Deduction of Allowances.~~

~~(i) WEB Sources Monitoring According to R307-250-9(1)(a). To~~]the extent consistent with R307-250-11, allowances shall be deducted for a WEB source for compliance with the allowance limitation as directed by the WEB source's account representative. Deduction of any other allowances as necessary for compliance with the allowance limitation shall be on a first-in, first-out accounting basis in the order of the date and time of their recording in the WEB source's compliance account, beginning with the allowances allocated to the WEB source and continuing with the allowances transferred to the WEB source's compliance account from another compliance account or general account. The allowances held in a special reserve compliance account pursuant to R307-250-9(1)(b) shall be deducted as specified in paragraph (c)(i) above.[

~~(ii) WEB Sources Monitoring According to R307-250-9(1)(b). The total emissions recorded in the emissions tracking database shall be compared to the allowances held in the source's special reserve compliance account as of the allowance transfer deadline of the current~~

~~control period. If the emissions are less than or equal to the number of allowances, the allowances shall be retired.~~]

(2) Certification of Compliance.

(a) For each control period in which a WEB source is subject to the allowance limitation, the account representative of the source shall submit to the executive secretary a compliance certification report for the source.

(b) The compliance certification report shall be submitted no later than the allowance transfer deadline of each control period, and shall contain the following:

(i) identification of each WEB source;

(ii) at the account representative's option, the serial numbers of the allowances that are to be deducted from a source's compliance account or special reserve compliance account for compliance with the allowance limitation; and

(iii) the compliance certification report according to (c) below.

(c) In the compliance certification report, the account representative shall certify, based on reasonable inquiry of those persons with primary responsibility for operating the WEB source in compliance with the WEB Trading Program, whether the WEB source for which the compliance certification is submitted was operated in compliance with the requirements of the WEB Trading Program applicable to the source during the control period covered by the report, including:

(i) whether the WEB source operated in compliance with the sulfur dioxide allowance limitation;

(ii) whether sulfur dioxide emissions data was submitted to the executive secretary in accordance with R307-250-9(8) and other applicable requirements for review, revision as necessary, and finalization;

(iii) whether the monitoring plan for the WEB source has been maintained to reflect the actual operation and monitoring of the source, and contains all information necessary to attribute sulfur dioxide emissions to the source, in accordance with R307-250-9(2[~~1~~]);

(iv) whether all the sulfur dioxide emissions from the WEB source if applicable, were monitored or accounted for either through the applicable monitoring or through application of the appropriate missing data procedures;

(v) if applicable, whether any sulfur dioxide emitting unit for which the WEB source is not required to monitor in accordance with R307-250-9(1)(a)(iii) of this rule remained permanently retired and had no emissions for the entire applicable period; and

(vi) whether there were any changes in the method of operating or monitoring the WEB source that required monitor recertification. If there were any such changes, the report must specify the nature, reason, and date of the change, the method to determine compliance status subsequent to the change, and specifically, the method to determine sulfur dioxide emissions.

(3) Penalties for Any WEB Source Exceeding Its Allowance Limitations.

(a) Allowance Deduction Penalty[~~ies~~].

(i) An allowance deduction penalty will be assessed equal to [~~two~~]three times the number of the WEB source's tons of sulfur dioxide emissions in excess of its allowance limitation for a control period, determined in accordance with R307-250-12(1). Allowances allocated for the following control period in the amount of the allowance deduction penalty will be deducted from the source's compliance account. If the compliance account does not have sufficient allowances allocated for that control period, the required number of allowances will be deducted from the WEB source's compliance account regardless of the control period for which they were allocated, once allowances are recorded in the account.

(ii) Any allowance deduction required under R307-250-12(1)(c) shall not affect the liability of the owners and operators of the WEB source for any fine, penalty or assessment or their obligation to comply with any other remedy, for the same violation, as ordered under the Clean Air Act, implementing regulations or Utah Code 19-2. Accordingly, a violation can be assessed each day of the control period for each ton of sulfur dioxide emissions in excess of its allowance limitation, or for each other violation of R307-250.[

~~(b) Financial penalties. The penalty sought for emissions of sulfur dioxide by a source in excess of its emission limitation for a control period shall be $5,000 per ton.~~]

(4) Liability.

(a) WEB Source liability for non-compliance. Separate and regardless of any allowance deduction penalty[~~or financial penalty~~], a WEB source that violates any requirement of this Rule is subject to civil and criminal penalties under Utah Code 19-2. Each day of the control period is a separate violation, and each ton of sulfur dioxide emissions in excess of a source's allowance limitation is a separate violation.

(b) General Liability.

(i) Any provision of the WEB Trading Program that applies to a source or an account representative shall apply also to the owners and operators of such source.

(ii) Any person who violates any requirement or prohibition of the WEB Trading Program will be subject to enforcement pursuant to Utah Code 19-2.

(iii) Any person who knowingly makes a false material statement in any record, submission, or report under this WEB Trading Program shall be subject to criminal enforcement pursuant to the Utah Code.

R307-250-13. Special Penalty Provisions for the 2018 Milestone.

(1) If the WEB Trading Program is triggered as outlined in SIP Section XX.E.1, and the first control period will not occur until after the year 2018, the following provisions shall apply for the 2018 emissions year.

(a) All WEB sources shall register, and shall open a compliance account within 180 days after the program trigger date, in accordance with R307-250-6(1) and R307-250-8.

(b) The TSA will record the allowances for the 2018 control period for each WEB source in the source's compliance account once the executive secretary allocates the 2018 allowances under SIP Section XX.E.3.a and XX.E.4.

(c) The allowance transfer deadline is midnight Pacific Standard Time on May 31[~~0~~], 2021 (or if this date is not a business day, midnight of the first business day thereafter). WEB sources may transfer allowances as provided in R307-250-10(1) until the allowance transfer deadline.

(d) A WEB source must hold allowances allocated for 2018, including those transferred into the compliance account or a special reserve account by an allowance transfer correctly submitted by the allowance transfer deadline, in an amount not less than the WEB source's total sulfur dioxide emissions for 2018. Emissions will be determined using the pre-trigger monitoring provisions in SIP Section XX.E.2, and R307-150

(e) In accordance with R307-250-11(4) and (d) above, the executive secretary will seek a minimum[~~An allowance deduction penalty and~~] financial penalty of $5,000 per ton of sulfur dioxide emissions in excess of the WEB source's allowance limitation. [~~shall~~

~~be assessed and levied in accordance with R307-250-11(4), R307-250-12(1)(d) and R307-250-12(3), except that sulfur dioxide emissions shall be determined under R307-250-13(1)(d).~~]

(i) Any source may resolve its excess emissions violation by agreeing to a streamline settlement approach where the source pays a penalty of $5,000 per ton or partial ton of excess emissions, and payment is received within 90 calendar days after the issuance of a notice of violation.

(ii) Any source that does not resolve its excess emissions violation in accordance with the streamlined settlement approach in (i) above will be subject to enforcement action in which the executive secretary will seek a financial penalty for the excess emissions based on the statutory maximum civil penalties.

(f) Each ton of sulfur dioxide emissions in excess of a source's allowance limitation is a separate violation and each day of a control period is a separate violation.

(2) The provisions in R307-250-13 shall continue to apply for each year after the 2018 emission year until:

(a) the first control period under the WEB trading program; or

(b) the executive secretary determines, in accordance with SIP Section XX.E.1.c(10), that the 2018 sulfur dioxide milestone has been met.

(3) If the special penalty provisions continue after the year 2018 as outlined in (2) above, the deadlines listed in (1)(b[~~a~~]) through (e[~~d~~]) above will be adjusted as follows:

(i) for the 2019 control period the dates will be adjusted forward by one year, except that the allowance transfer deadline shall be midnight Pacific Standard Time on May 31, 2021 (or if this date is not a business day, midnight of the first business day thereafter); and

(ii) for each [~~additional year~~]control period after 2018 that the special penalty provisions are assessed, the dates in (i) above for the 2019 control period will be adjusted forward by one year.

(4) The TSA will record the same number of allowances for each WEB source as were recorded for the 2018 control period for each subsequent control period.

KEY: air pollution, sulfur dioxide, market trading program
Date of Enactment or Last Substantive Amendment: [~~December 31, 2003~~]2008
Notice of Continuation: February 8, 2008
Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a); 19-2-104(3)(e)

♦ ♦

Environmental Quality, Water Quality
R317-8
Utah Pollutant Discharge Elimination System (UPDES)

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31584
FILED: 06/16/2008, 16:11

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah Pollutant Discharge Elimination System (UPDES) program is a federal-based program delegated to the state by EPA under the federal Clean Water Act. The proposed changes incorporate changes to implementing regulations at 40 CFR 403 completed in October of 2005 and July of 1997.

SUMMARY OF THE RULE OR CHANGE: The required changes for approved pretreatment programs are slug flow control plan, clarifying grab/composite samples, requirement for noncategorical Significant Industrial Users (SIUs) to report all monitoring data and significant noncompliance (SNC) determination giving the programs a broader array of numeric or narrative violations. The optional changes include SNC publication, SNC application to Industrial Users (IUs), SNC late reports, pollutants not present, general control mechanism, best management plans (BMPs) as local limits, removal credits regarding combined sewer overflows, equivalent concentration limits, nonsignificant Categorical Industrial User (CIU), and middle tier CIU. Minor changes include: net/gross calculations, wording to the technical review criteria, signatory requirements, notification by IUs of changed discharge, formatting, rule references, and grammatical corrections.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-5-105 and 40 CFR 403

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Updates 40 CFR 403.6, 40 CFR 403.7, and 40 CFR 403.13 to May 16, 2008, version

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The changes are of a technical nature and will not result in any significant costs or savings to the state budget. Proposed changes will be implemented with current resources.

❖ LOCAL GOVERNMENTS: The proposed changes address technical and programmatic aspects of approved pretreatment programs at publicly owned treatment works (POTW). Pretreatment program staff at these facilities will be required to make sure that all required changes are incorporated into their programs and if optional changes are adopted, that appropriate language is used. The Division of Water Quality (DWQ) anticipates that the changes will not be significant and can be addressed with existing staff. No costs or savings to local government are anticipated.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Businesses which discharge to a POTW with an approved pretreatment program could realize a saving in oversight, sampling and inspection costs if the POTW chooses to implement the optional aspects of the proposed rule changes. The level of savings is unknown as DWQ cannot anticipate how many pretreatment programs will implement the optional components of the change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed changes address technical and programmatic aspects of approved pretreatment programs at publicly owned treatment works (POTW). Pretreatment program staff at these facilities will be required to make sure that all required changes are incorporated into their programs and if optional changes are adopted, that appropriate language is used. DWQ anticipates that the changes will not be significant and can be addressed

with existing staff. Businesses which discharge to a POTW with an approved pretreatment program could realize a saving in oversight, sampling and inspection costs if the POTW chooses to implement the optional aspects of the proposed rule changes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses which discharge to a POTW with an approved pretreatment program could realize a saving in oversight, sampling and inspection costs if the POTW chooses to implement the optional aspects of the proposed rule changes. Walter Baker, Executive Secretary of Water Quality Board

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
Dave Wham at the above address, by phone at 801-538-6052, by FAX at 801-538-6016, or by Internet E-mail at dwham@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

AUTHORIZED BY: Walter Baker, Director

R317. Environmental Quality, Water Quality.
R317-8. Utah Pollutant Discharge Elimination System (UPDES).
R317-8-1. General Provisions and Definitions.

1.1 COMPARABILITY WITH THE CWA. The UPDES rules promulgated pursuant to the Utah Water Quality Act are intended to be compatible with the Federal regulations adopted pursuant to CWA.

1.2 CONFLICTING PROVISIONS. The provisions of the UPDES rules are to be construed as being compatible with and complementary to each other. In the event that any of these rules are found by a court of competent jurisdiction to be contradictory, the more stringent provisions shall apply.

1.3 SEVERABILITY. In the event that any provision of these rules is found to be invalid by a court of competent jurisdiction, the remaining UPDES rules shall not be affected or diminished thereby.

1.4 ADMINISTRATION OF THE UPDES PROGRAM. The Executive Secretary of the Utah Water Quality Board has responsibility for the administration of the UPDES program, including pretreatment. The responsibility for the program is delegated to the Executive Secretary in accordance with UCA Subsection 19-5-104(11) and UCA Subsection 19-5-107(2)(a). The Executive Secretary has the responsibility for issuance, denial, modification, revocation and enforcement of UPDES permits, including general permits, Federal facilities permits, and sludge permits; and approval and enforcement authority for the pretreatment program.

1.5 DEFINITIONS. The following terms have the meaning as set forth unless a different meaning clearly appears from the context or unless a different meaning is stated in a definition applicable to only a portion of these rules:

(1) "Administrator" means the Administrator of the United States Environmental Protection Agency, or an authorized representative.

(2) "Applicable standards and limitations" means all standards and limitations to which a discharge, a sewage sludge use or disposal practice, or a related activity is subject under Subsection 19-5-104(6) of the Utah Water Quality Act and regulations promulgated pursuant thereto, including but not limited to effluent limitations, water quality standards, standards of performance, toxic effluent standards or prohibitions, best management practices, pretreatment standards, and standards for sewage sludge use or disposal.

(3) "Application" means the forms approved by the Utah Water Quality Board, which are the same as the EPA standard NPDES forms, for applying for a UPDES permit, including any additions, revisions or modifications.

(4) "Average monthly discharge limit" means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharge measured during a calendar month divided by the number of daily discharges measured during the month.

(5) "Average weekly discharge limit" means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

(6) "Best management practices (BMPs)" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment requirements, operating procedures, practices to control plant site runoff, spillage or leaks, sludge or waste disposal or drainage from raw material storage.

(7) "Class I sludge management facility" means any POTW required to have an approved pretreatment program under R317-8-8 and any other treatment works treating domestic sewage classified as a Class I sludge management facility by the Executive Secretary, because of the potential for its sludge use or disposal practices to adversely affect public health and the environment.

(8) "Continuous discharge" means a discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.

(9) "CWA" means the Clean Water Act as subsequently amended (33 U.S.C. 1251 et seq.).

(10) "Daily discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

(11) "Direct discharge" means the discharge of a pollutant.

(12) "Discharge of a pollutant" means any addition of any pollutants to "waters of the State" from any "point source." This definition includes additions of pollutants into waters of the State from: surface runoff which is collected or channeled[~~channelled~~] by man; discharges through pipes, sewers, or other conveyances owned by the

State, a municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any "indirect discharger."

(13) "Economic impact consideration" means the reasonable consideration given by the Executive Secretary to the economic impact of water pollution control on industry and agriculture; provided, however, that such consideration shall be consistent and in compliance with the CWA and EPA promulgated regulations.

(14) "Executive Secretary" means the Executive Secretary of the Utah Water Quality Board or its authorized representative.

(15) "Discharge Monitoring Report (DMR)" means EPA uniform national form or equivalent State form, including any subsequent additions, revisions or modifications, for the reporting of self-monitoring results by permittees.

(16) "Draft permit" means a document prepared under R317-8-6.3 indicating the Executive Secretary's preliminary decision to issue or deny, modify, revoke and reissue, terminate, or reissue a permit. A notice of intent to terminate a permit, and a notice of intent to deny a permit are types of draft permits. A denial of a request for modification, revocation and reissuance, or termination as provided in R317-8-5.6 is not a draft permit. A proposed permit prepared after the close of the public comment period is not a draft permit.

(17) "Effluent limitation" means any restriction imposed by the Executive Secretary on quantities, discharge rates, and concentrations of pollutants which are discharged from point sources into waters of the State.

(18) "Effluent limitations guidelines" means a regulation published by the Administrator under section 304(b) of CWA to adopt or revise effluent limitations.

(19) "Environmental Protection Agency (EPA)" means the United States Environmental Protection Agency.

(20) "Facility or activity" means any UPDES point source, or any other facility or activity, including land or appurtenances thereto, that is subject to regulation under the UPDES program.

(21) "General permit" means any UPDES permit authorizing a category of discharges within a geographical area, and issued under R317-8-2.5.

(22) "Hazardous substance" means any substance designated under 40 CFR Part 116.

(23) "Indirect discharge" means a nondomestic discharger introducing pollutants to a publicly owned treatment works.

(24) "Interstate agency" means an agency of which Utah and one or more states is a member, established by or under an agreement or compact, or any other agency, of which Utah and one or more other states are members, having substantial powers or duties pertaining to the control of pollutants.

(25) "Major facility" means any UPDES facility or activity classified as such by the Executive Secretary in conjunction with the Regional Administrator.

(26) "Maximum daily discharge limitation" means the highest allowable daily discharge.

(27) "Municipality" means a city, town, district, county, or other public body created by or under the State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes. For purposes of these rules, an agency designated by the Governor under Section 208 of the CWA is also considered to be a municipality.

(28) "National Pollutant Discharge Elimination System (NPDES)" means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements under Sections 307, 402, 318 and 405 of the CWA.

(29) "New discharger" means any building, structure, facility, or installation:

(a) From which there is or may be a "discharge of pollutants;"

(b) That did not commence the "discharge of pollutants" at a particular "site" prior to August 13, 1979;

(c) Which is not a "new source;" and

(d) Which has never received a finally effective UPDES permit for discharges at that "site."

This definition includes an "indirect discharger" which commenced discharging into waters of the state after August 13, 1979.

(30) "New source" means any building, structure, facility, or installation from which there is or may be a direct or indirect discharge of pollutants, the construction of which commenced;

(a) After promulgation of EPA's standards of performance under Section 306 of CWA which are applicable to such source, or

(b) After proposal of Federal standards of performance in accordance with Section 306 of CWA which are applicable to such source, but only if the Federal standards are promulgated in accordance with Section 306 within 120 days of their proposal.

(31) "Non-continuous or batch discharge" for a discharge to be considered a non-continuous or batch discharge the following must apply:

(a) Frequency of a non-continuous or batch discharge:

i. shall not occur more than once every three (3) weeks,

ii. shall not be more than once during the three (3) weeks and

iii. shall not exceed 24 hours;

(b) Shall not cause a slug load at the POTW.

(32)[~~(31)~~] "Owner or operator" means the owner or operator of any facility or activity subject to regulation under the UPDES program.

(33)[~~(32)~~] "Permit" means an authorization, license, or equivalent control document issued by the Executive Secretary to implement the requirements of the UPDES regulations. "Permit" includes a UPDES "general permit." The term does not include any document which has not yet been the subject of final agency action, such as a draft permit or a proposed permit.

(34)[~~(33)~~] "Person" means any individual, corporation, partnership, association, company or body politic, including any agency or instrumentality of the United States government.

(35)[~~(34)~~] "Point source" means any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft, from which pollutants are or may be discharged. This term does not include agricultural storm-water runoff or return flows from irrigated agriculture.

(36)[~~(35)~~] "Pollutant" means, for the purpose of these regulations, dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. It does not mean:

(a) Sewage from vessels; or

(b) Water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by

authority of the State in which the well is located, and if the State determines that the injection or disposal will not result in the degradation of ground or surface water resources.

(37)[~~(36)~~] "Pollution" means any man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of any waters of the State, unless such alteration is necessary for the public health and safety. Alterations which are not consistent with the requirements of the CWA and implementing regulations shall not be deemed to be alterations necessary for the public health and safety. A discharge not in accordance with Utah Water Quality Standards, stream classification, and UPDES permit requirements, including technology-based standards shall be deemed to be pollution.

(38)[~~(37)~~] "Primary industry category" means any industry category listed in R317-8-3.11.

(39)[~~(38)~~] "Privately owned treatment works" means any device or system which is used to treat wastes from any facility whose operator is not the operator of the treatment works and which is not a POTW.

(40)[~~(39)~~] "Process wastewater" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

(41)[~~(40)~~] "Proposed permit" means a UPDES permit prepared after the close of the public comment period and, when applicable, any public hearing and adjudicative proceedings, which is sent to EPA for review before final issuance by the Executive Secretary. A proposed permit is not a draft permit.

(42)[~~(41)~~] "Publicly-owned treatment works" (POTW) means any facility for the treatment of pollutants owned by the State, its political subdivisions, or other public entity. For the purposes of these regulations, POTW includes sewers, pipes or other conveyances conveying wastewater to a POTW providing treatment, treatment of pollutants includes recycling and reclamation, and pollutants refers to municipal sewage or industrial wastes of a liquid nature.

(43)[~~(42)~~] "Recommencing discharger" means a source which resumes discharge after terminating operation.

(44)[~~(43)~~] "Regional Administrator" means the Regional Administrator of the Region VIII office of the EPA or the authorized representative of the Regional Administrator.

(45)[~~(44)~~] "Schedule of compliance" means a schedule of remedial measures included in a permit, including an enforceable sequence of interim requirements leading to compliance with the Utah Water Quality Act and rules promulgated pursuant thereto.

(46)[~~(45)~~] "Secondary industry category" means any industry category which is not a primary industry category.

(47)[~~(46)~~] "Septage" means the liquid and solid material pumped from a septic tank, cesspool, or similar domestic sewage treatment system, or a holding tank when the system is cleaned or maintained.

(48)[~~(47)~~] "Seven (7) consecutive day discharge limit" means the highest allowable average of daily discharges over a seven (7) consecutive day period.

(49)[~~(48)~~] "Sewage from vessels" means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes that are discharged from vessels and regulated under Section 312 of CWA.

(50)[~~(49)~~] "Sewage sludge" means any solid, semi-solid, or liquid residue removed during the treatment of municipal wastewater or domestic sewage. Sewage sludge includes, but is not limited to, solids removed during primary, secondary or advanced wastewater treatment, scum, septage, portable toilet dumpings, type III marine sanitation device pumpings, and sewage sludge products. Sewage sludge does not include grit or screenings, or ash generated during the incineration of sewage sludge.

(51)[~~(50)~~] "Sewage sludge use or disposal practice" means the collection, storage, treatment, transportation, processing, monitoring, use, or disposal of sewage sludge.

(52)[~~(51)~~] "Site" means the land or water area where any "facility or activity" is physically located or conducted, including adjacent land used in connection with the facility or activity.

(53)[~~(52)~~] "Sludge-only facility" means any treatment works treating domestic sewage whose methods of sewage sludge use or disposal are subject to rules promulgated pursuant to Section 19-5-104 of the Utah Water Quality Act and which is required to obtain a permit under R317-8-2.1.

(54)[~~(53)~~] "Standards for sewage sludge use or disposal" means the rules promulgated pursuant to Section 19-5-104 of the Utah Water Quality Act which govern minimum requirements for sludge quality, management practices, and monitoring and reporting applicable to sewage sludge or the use or disposal of sewage sludge by any person.

(55)[~~(54)~~] "State/EPA Agreement" means an agreement between the State and the Regional Administrator which coordinates State and EPA activities, responsibilities and programs, including those under the CWA programs.

(56)[~~(55)~~] "Thirty (30) consecutive day discharge limit" means the highest allowable average of daily discharges over a thirty (30) consecutive day period.

(57)[~~(56)~~] "Toxic pollutant" means any pollutant listed as toxic in R317-8-7.6 or, in the case of sludge use or disposal practices, any pollutant identified as toxic in State adopted rules for the disposal of sewage sludge.

(58)[~~(57)~~] "Treatment works treating domestic sewage" means a POTW or any other sewage sludge or waste water treatment devices or systems, regardless of ownership (including federal facilities), used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated for the disposal of sewage sludge. This definition does not include septic tanks or similar devices. For purposes of this definition, "domestic sewage" includes waste and waste water from humans or household operations that are discharged to or otherwise enter a treatment works.

(59)[~~(58)~~] "Variance" means any mechanism or provision under the UPDES regulations which allows modification to or waiver of the generally applicable effluent limitation requirements or time deadlines.

(60)[~~(59)~~] "Waters of the State" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this State or any portion thereof, except that bodies of water confined to and retained within the limits of private property, and which do not develop into or constitute a nuisance, or a public health hazard, or a menace to fish or wildlife, shall not be considered to be "waters of the State." The exception for confined bodies of water does not apply to any waters which meet the definition of "waters of the United States" under 40 CFR 122.2. Waters are considered to be confined to and retained within the limits of private property only if there is no discharge or seepage to either surface water or groundwater. Waters of the State includes "wetlands" as defined in the Federal Clean Water Act.

(61)[~~(60)~~] "Wetlands" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstance do support, a prevalence of vegetation typically adapted for life in saturated soil

conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

(62)[~~(61)~~] "Whole effluent toxicity" means the aggregate toxic effect of an effluent as measured directly by a toxicity test.

(63)[~~(62)~~] "Utah Pollutant Discharge Elimination System (UPDES)" means the State-wide program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements under the Utah Water Quality Act.

1.6 DEFINITIONS APPLICABLE TO STORM-WATER DISCHARGES.

(1) "Co-Permittee" means a permittee to a UPDES permit that is only responsible for permit conditions relating to the discharge for which it is operator.

(2) "Illicit discharge" means any discharge to a municipal separate storm sewer that is not composed entirely of storm water except discharges pursuant to a UPDES permit (other than the UPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from fire fighting activities.

(3) "Incorporated place" means a city or town that is incorporated under the laws of Utah.

(4) "Large municipal separate storm sewer system" means all municipal separate storm sewers that are:

(a) Located in an incorporated place with a population of 250,000 or more as determined by the 1990 Decennial Census by the Bureau of Census; or

(b) Located in counties with unincorporated urbanized areas with a population of 250,000 or more according to the 1990 Decennial Census by the Bureau of Census, except municipal separate storm sewers that are located in the incorporated places, townships or towns within the County; or

(c) Owned or operated by a municipality other than those described in R317-8-1.6(4)(a) or (b) and that are designated by the Executive Secretary as part of a large or medium municipal separate storm sewer system. See R317-8-3.9(6)(a) for provisions regarding this definition.

(5) "Major municipal separate storm sewer outfall" (or "major outfall") means a municipal separate storm sewer outfall that discharges from a single pipe with an inside diameter of 36 inches or more or its equivalent (discharge from a single conveyance other than circular pipe which is associated with a drainage area of more than 50 acres); or for municipal separate storm sewers that receive storm water from lands zoned for industrial activity (based on comprehensive zoning plans or the equivalent), an outfall that discharges from a single pipe with an inside diameter of 12 inches or more or from its equivalent (discharge from other than a circular pipe associated with a drainage area of 2 acres or more).

(6) "Major outfall" means a major municipal separate storm sewer outfall.

(7) "Medium municipal separate storm sewer system" means all municipal separate storm sewers that are:

(a) Located in an incorporated place with a population of 100,000 or more but less than 250,000, as determined by the 1990 Decennial Census by the Bureau of Census;

(b) Located in counties with unincorporated urbanized areas with a population greater than 100,000 but less than 250,000 as determined by the 1990 Decennial Census by the Bureau of the Census; or

(c) Owned or operated by a municipality other than those described in R317-8-1.6(4)(a) and (b) and that are designated by the Executive Secretary as part of the large or medium municipal separate storm sewer system. See R317-8-3.9(6)(b) for provisions regarding this definition.

(8) "MS4" means a municipal separate storm sewer system.

(9) "Municipal separate storm sewer system" means all separate storm sewers that are defined as "large" or "medium" or "small" municipal separate storm sewer systems pursuant to paragraphs R317-8-1.6(4), (7), and (14) of this section, or designated under paragraph R317-8-3.9(1)(a)5 of this section.

(10) "Outfall" means a point source at the point where a municipal separate storm sewer discharges to waters of the State and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other waters of the State and are used to convey waters of the State.

(11) "Overburden" means any material of any nature, consolidated or unconsolidated, that overlies a mineral deposit, excluding topsoil or similar naturally occurring surface materials that are not disturbed by mining operations.

(12) "Runoff coefficient" means the fraction of total rainfall that will appear at a conveyance as runoff.

(13) "Significant materials" means, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under section 101(14) of CERCLA: any chemical the facility is required to report pursuant to section 313 of Title III of SARA: fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with storm water discharges.

(14) "Small municipal separate storm sewer system" means all separate storm sewers that are:

(a) Owned or operated by the United States, State of Utah, city, town, county, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial waste, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the State.

(b) Not defined as "large" or "medium" municipal separate storm sewer system pursuant to paragraphs R317-8-1.6(4) and (7) of this section, or designated under paragraph R317-8-3.9(1)(a)5 of this section.

(c) This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.

(15) "Small MS4" means a small municipal separate storm sewer system.

(16) "Storm water" means storm water runoff, snow melt runoff, and surface runoff and drainage.

(17) "Storm water discharge associated with industrial activity" means the discharge from any conveyance which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the UPDES program. See R317-8-3.9(6)(c) and (d) for provisions applicable to this definition.

(18) "Uncontrolled sanitary landfill means a landfill or open dump, whether in operation or closed, that does not meet the requirements for runon or runoff controls established pursuant to subtitle D of the Solid Waste Disposal Act.

1.7 ABBREVIATIONS AND ACRONYMS. The following abbreviations and acronyms, as used throughout the UPDES regulations, shall have the meaning given below:

(1) "BAT" means best available technology economically achievable;

(2) "BCT" means best conventional pollutant control technology;

(3) "BMPs" means best management practices;

(4) "BOD" means biochemical oxygen demands;

(5) "BPT" means best practicable technology currently available;

(6) "CFR" means Code of Federal Regulations;

(7) "COD" means chemical oxygen demand;

(8) "CWA" means the Federal Clean Water Act;

(9) "DMR" means discharge monitoring report;

(10) "NPDES" means National Pollutant Discharge Elimination System;

(11) "POTW" means publicly owned treatment works;

(12) "SIC" means standard industrial classification;

(13) "TDS" means total dissolved solids;

(14) "TSS" means total suspended solids;

(15) "UPDES" means Utah Pollutant Discharge Elimination System;

(16) "UWQB" means the Utah Water Quality Board;

(17) "WET" means whole effluent toxicity.

1.8 UPGRADE AND RECLASSIFICATION. Upgrading or reclassification of waters of the State by the Utah Water Quality Board may be done periodically, but only using procedures and in a manner consistent with the requirements of State and Federal law.

1.9 PUBLIC PARTICIPATION. In addition to adjudicatory proceedings required under the State Administrative Procedures Act and proceedings otherwise outlined or referenced in these regulations, the Executive Secretary will investigate and provide written response to all citizen complaints. In addition, the Executive Secretary shall not oppose intervention in any civil or administrative proceeding by any citizen where permissive intervention may be authorized by statute, rule or regulation. The Executive Secretary will publish notice of and provide at least 30 days for public comment on any proposed settlement of any enforcement action.

1.10 INCORPORATION OF FEDERAL REGULATIONS BY REFERENCE. The State adopts the following Federal standards and procedures, effective as of December 8, 1999 unless otherwise noted, which are incorporated by reference:

(1) 40 CFR 129 (Toxic Effluent Standards) with the following exceptions:

(a) Substitute "UPDES" for all federal regulation references to "NPDES".

(b) Substitute "Executive Secretary" for all federal regulation references to "State Director".

(c) Substitute "R317-8-4.4, R317-8-6, and R317-8-7" for all federal regulation references to "40 CFR Parts 124 and 125".

(2) 40 CFR 133 (Secondary Treatment Regulation) with the following exceptions:

(a) 40 CFR 133.102 for which R317-1-3.2 is substituted.

(b) 40 CFR 133.105.

(c) Substitute "UPDES" or "Utah Pollutant Discharge Elimination System" for all federal regulation references for "NPDES" or "National Pollutant Discharge Elimination System", respectively.

(d) Substitute "Executive Secretary" for all federal regulation references to "State Director" in 40 CFR 133.103.

(3) 40 CFR 136 (Guidelines Establishing Test Procedures for the Analysis of Pollutants)

(4) 40 CFR 403.6 (National Pretreatment Standards and Categorical Standards), effective as of May 16, 2008, with the following exception:

(a) Substitute "Executive Secretary" for all federal regulation references to "Director".

(5) 40 CFR 403.7, effective as of May 16, 2008, (Removal Credits)

(6) 40 CFR 403.13, effective as of May 16, 2008, (Variances from Categorical Pretreatment Standards for Fundamentally Different Factors)

[~~(7) 40 CFR 403.15 (Net/Gross Calculation)~~

] (7)[~~(8)~~] 40 CFR Parts 405 through 411

(8)[~~(9)~~] 40 CFR Part 412, effective as of February 12, 2003, with the following changes:

(a) Substitute "Executive Secretary" for all federal regulation references to "Director".

(b) Substitute "UPDES" for all federal regulation references to "NPDES".

(c) Substitute "Comprehensive Nutrient Management Plan" for all federal regulation references to "nutrient management plan".

(d) In 412.37(b), replace the reference 122.21(i)(1) with R317-8-3.6(2); and 122.42(e)(1)(ix) with R317-8-4.1(15)(d)1.i.

(e) In 412.37(c), replace the reference 122.42(e)(1)(ix) with R317-8-4.1(15)(d)1.i.

(9)[~~(10)~~] 40 CFR Parts 413 through 471

(10)[~~(11)~~] 40 CFR 503 (Standards for the Use or Disposal of Sewage Sludge), effective as of the date that responsibility for implementation of the federal Sludge Management Program is delegated to the State except as provided in R317-1-6.4, with the following changes:

(a) Substitute "Executive Secretary" for all federal regulation references to "Director".

(11)[~~(12)~~] 40 CFR 122.30

(12)[~~(13)~~] 40 CFR 122.32

(a) In 122.32(a)(2), replace the reference 122.26(f) with R317-8-3.9(5).

(13)[~~(14)~~] 40 CFR 122.33

(a) In 122.33(b)(2)(i), replace the reference 122.21(f) with R317-8-3.1(6).

(b) In 122.33(b)(2)(i), replace the reference 122.21(f)(7) with R317-8-3.1(6)(g).

(c) In 122.33(b)(2)(ii), replace the reference 122.26(d)(1) and (2) with R317-8-3.9(3)(a) and (b)

(d) In 122.33(b)(3), replace the reference 122.26 with R317-8.

(e) In 122.33(b)(3), replace the reference 122.26(d)(1)(iii) and (iv); and (d)(2)(iv) with R317-8-3.9(3)(a)3 and 4; and (3)(b)4.

(14)[~~(15)~~] 40 CFR 122.34

(a) In 122.34(a), replace the reference 122.26(d) with R317-8-3.9(3).

(b) In 122.34(b)(3)(i), replace the reference 122.26(d)(2) with R317-8-3.9(3)(b).

(c) In 122.34(b)(4)(i), replace the reference 122.26(b)(15)(i) with R317-8-3.9(6)(e)1.

(d) In 122.34(f), replace the references 122.41 through 122.49 with R317-8-4.1 through R317-8-5.4.

(e) In 122.34(g)(2), replace the reference 122.7 with R317-8-3.3.

(15)[~~(16)~~] 40 CFR 122.35

(a) In 122.35, replace the reference 122 with R317-8.

(16)[~~(17)~~] 40 CFR 122.36

(17)[~~(18)~~] For the references R317-8-1.10(12[~~13~~]), (13[~~14~~]), (14[~~15~~]), (15[~~16~~]), and (16[~~17~~]), make the following substitutions:

(a) "The Executive Secretary of the Water Quality Board" for the "NPDES permitting authority"

(b) "UPDES" for "NPDES"

(18)[~~(19)~~] 40 CFR 122.23, effective as of February 12, 2003, with the following changes:

(a) Substitute "Executive Secretary" for all federal regulation references to "Director".

(b) Substitute "UPDES" for all federal regulation references to "NPDES".

(c) In 122.23(d)(3), replace the reference 122.21 with R317-8-3.1; and 122.28 with R317-8-2.5.

(d) In 122.23(e), replace the reference 122.42 (e)(1)(vi)-(ix) with R317-8-4.1(15)(d)1.f.-i.

(e) In 122.23(f)(2), replace the reference 122.21(f) with R317-8-3.1(6); and 122.21(i)(1)(i)-(ix) with R317-8-3.6(2)(a)-(i).

(f) In 122.23(h), replace the reference 122.21(g) with R317-8-3.1(4).

R317-8-3. Application Requirements.

. . . . . .

3.9 STORM WATER DISCHARGES

(1) Permit requirement.

(a) Prior to October 1, 1992, a permit shall not be required for a discharge composed entirely of storm water, except for:

1. A discharge with respect to which a permit has been issued prior to February 4, 1987;

2. A discharge associated with industrial activity;

3. A discharge from a large municipal separate storm sewer system;

4. A discharge from a medium municipal separate storm sewer system;

5. A discharge which the Executive Secretary determines contributes to a violation of water quality standard or is a significant contributor of pollutants to waters of the State. This designation may include a discharge from any conveyance or system of conveyances used for collecting and conveying storm water runoff or a system of discharges from municipal separate storm sewers, except for those discharges from conveyances which do not require a permit under this section or agricultural storm water runoff which is exempted from the definition of point source. The Executive Secretary may designate discharges from municipal separate storm sewers on a system-wide or jurisdiction-wide basis. In making this determination the Executive Secretary may consider the following factors:

a. The location of the discharge with respect to waters of the State;

b. The size of the discharge;

c. The quantity and nature of the pollutants discharged to waters of the State; and

d. Other relevant factors.

(b) The Executive Secretary may not require a permit for discharges of storm water runoff from mining operations or oil and gas exploration, production, processing, or treatment operations or transmission facilities, composed entirely of flows which are from conveyances or systems of conveyances (including but not limited to pipes, conduits, ditches, and channels) used for collecting and conveying precipitation runoff and which are not contaminated by contact with or do not come into contact with any overburden, raw material, intermediate products, finished product, by product, or waste products located on the site of such operations.

(c) Large and medium municipal separate storm sewer systems.

1. Permits must be obtained for all discharges from large and medium municipal separate storm sewer systems.

2. The Executive Secretary may either issue one system-wide permit covering all discharges from municipal separate storm sewers within a large or medium municipal storm sewer system or issue distinct permits for appropriate categories of discharges within a large or medium municipal separate storm sewer system including, but not limited to: all discharges owned or operated by the same municipality; located within the same jurisdiction; all discharges within a system that discharge to the same watershed; discharges within a system that are similar in nature; or individual discharges from municipal separate storm sewers within the system.

3. The operator of a discharge from a municipal separate storm sewer which is part of a large or medium municipal separate storm sewer system must either:

a. Participate in a permit application (to be a permittee or a co-permittee) with one or more other operators of discharges from the large or medium municipal storm sewer system which covers all, or a portion of all, discharges from the municipal separate storm sewer system;

b. Submit a distinct permit application which only covers discharges from the municipal separate storm sewers for which the operator is responsible; or

4. A regional authority may be responsible for submitting a permit application under the following guidelines:

i. The regional authority together with co-applicants shall have authority over a storm water management program that is in existence, or shall be in existence at the time part 1 of the application is due;

ii. The permit applicant or co-applicants shall establish their ability to make a timely submission of part 1 and part 2 of the municipal application;

iii. Each of the operators of municipal separate storm sewers within the systems described in R317-8-1.6(4)(a),(b) and (c) or R317-8-1.6(7)(a),(b), and (c), that are under the purview of the designated regional authority, shall comply with the application requirements of R317-8-3.9(3).

5. One permit application may be submitted for all or a portion of all municipal separate storm sewers within adjacent or interconnected large or medium municipal separate storm sewer systems. The Executive Secretary may issue one system-wide permit covering all, or a portion of all municipal separate storm sewers in adjacent or interconnected large or medium municipal separate storm sewer systems.

6. Permits for all or a portion of all discharges from large or medium municipal separate storm sewer systems that are issued on a system-wide, jurisdiction-wide, watershed or other basis may specify different conditions relating to different discharges covered by the permit, including different management programs for different drainage areas which contribute storm water to the system.

7. Co-permittees need only comply with permit conditions relating to discharges from the municipal separate storm sewers for which they are operators.

(d) Discharges through large and medium municipal separate storm sewer systems. In addition to meeting the requirements of R317-8-3.9(2), an operator of a storm water discharge associated with industrial activity which discharges through a large or medium municipal separate storm sewer system shall submit, to the operator of the municipal separate storm sewer system receiving the discharge no

later than May 15, 1991, or 180 days prior to commencing such discharge: the name of the facility; a contact person and phone number; the location of the discharge; a description, including Standard Industrial Classification, which best reflects the principal products or services provided by each facility; and any existing UPDES permit number.

(e) Other municipal separate storm sewers. The Executive Secretary may issue permits for municipal separate storm sewers that are designated under R317-8-3.9(1)(a)(5) on a system-wide basis, jurisdiction-wide basis, watershed basis or other appropriate basis, or may issue permits for individual discharges.

(f) Non-municipal separate storm sewers. For storm water discharges associated with industrial activity from point sources which discharge through a non-municipal or non-publicly owned separate storm sewer system, the Executive Secretary, in his discretion, may issue: a single UPDES permit, with each discharger a co-permittee to a permit issued to the operator of the portion of the system that discharges into waters of the State; or, individual permits to each discharger of storm water associated with industrial activity through the non-municipal conveyance system.

1. All storm water discharges associated with industrial activity that discharge through a storm water discharge system that is not a municipal separate storm sewer must be covered by an individual permit, or a permit issued to the operator of the portion of the system that discharges to waters of the State, with each discharger to the non-municipal conveyance a co-permittee to that permit.

2. Where there is more than one operator of a single system of such conveyances, all operators of storm water discharges associated with industrial activity must submit applications.

3. Any permit covering more than one operator shall identify the effluent limitations, or other permit conditions, if any, that apply to each operator.

(g) Combined sewer systems. Conveyances that discharge storm water runoff combined with municipal sewage are point sources that must obtain UPDES permits and that are not subject to the provisions of this section.

(h) Small municipal, small construction, TMDL pollutants of concern, and significant contributors of pollution.

1. On and after October 1, 1994, for discharges composed entirely of storm water, that are not required by paragraph (1)(a) of this section to obtain a permit, operators shall be required to obtain a UPDES permit only if:

a. The discharge is from a small MS4 required to be regulated pursuant to 40 CFR 122.32 (see R317-8-1.10(10[~~11~~])).

b. The discharge is a storm water discharge associated with small construction activity pursuant to paragraph R317-8-3.9(6)(e).

c. The Executive Secretary or authorized representative determines that storm water controls are needed for the discharge based on wasteload allocations that are part of "total maximum daily loads" (TMDLs) that address the pollutant(s) of concern; or

d. The Executive Secretary or authorized representative determines that the discharge, or category of discharges within a geographic area, contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the State.

2. Operators of small MS4s designated pursuant to paragraphs (1)(h)1.a., (1)(h)1.c., and (1)(h)1.d. of this section shall seek coverage under an UPDES permit in accordance with 40 CFR 122.33, 122.34, and 122.35 (see R317-8-1.10(11[~~12~~]) through R317-8-1.10(13[~~14~~]). Operators of non-municipal sources designated pursuant to paragraph (1)(h)1.b; (1)(h)1.c; and (1)(h)1.d of this section shall seek coverage under a UPDES permit in[~~permitin~~] accordance with paragraph (2)(a) of this section.

3. Operators of storm water discharges designated pursuant to paragraphs (1)(h)1.c. and (1)(h)1.d. of this section shall apply to the Executive Secretary for a permit within 180 days of receipt of notice, unless permission for a later date is granted by the Executive Secretary (see R317-8-3.6(3)).

(2) Application requirements for storm water discharges associated with industrial activity and storm water discharges associated with small construction activity.

(a) Individual application. Dischargers of storm water associated with industrial activity and with small construction activity are required to apply for an individual permit or seek coverage under a promulgated storm water general permit. Facilities that are required to obtain an individual permit, or any discharge of storm water which the Executive Secretary is evaluating under R317-8-3.9(1)(a)5 and is not a municipal separate storm sewer, and which is not part of a group application described under paragraph R317-8-3.9(2)(b) of this section, shall submit an UPDES application in accordance with R317-8-3.1 and supplemented by the provisions of the remainder of this paragraph. Applicants for discharges composed entirely of storm water shall submit Forms 1 and 2F. Applicants for discharges composed of storm water and non-storm water shall submit EPA Forms 1, 2C, and 2F. Applicants for new sources or new discharges composed of storm water and non-storm water shall submit EPA Forms 1, 2D, and 2F.

1. Except as provided in R317-8-3.9(2)(a)2, 3, and 4, the operator of a storm water discharge associated with industrial activity subject to this section shall provide:

a. A site map showing topography (or indicating the outline of drainage areas served by the outfall(s) covered in the application if a topographic map is unavailable) of the facility including: each of its drainage and discharge structures; the drainage area of each storm water outfall; paved areas and buildings within the drainage area of each storm water outfall; each past or present area used for outdoor storage or disposal of significant materials; each existing structural control measure to reduce pollutants in storm water runoff; materials loading and access areas; areas where pesticides, herbicides, soil conditioners and fertilizers are applied; each of its hazardous waste treatment, storage or disposal facilities (including each area not required to have a RCRA permit which is used for accumulating hazardous waste); each well where fluids from the facility are injected underground; springs, and other surface water bodies which receive storm water discharges from the facility;

b. An estimate of the area of impervious surfaces (including paved areas and building roofs) and the total area drained by each outfall (within a mile radius of the facility) and a narrative description of the following: Significant materials that in the three years prior to the submittal of this application have been treated, stored or disposed in a manner to allow exposure to storm water; method of treatment, storage or disposal of such materials; materials management practices employed, in the three years prior to the submittal of this application, to minimize contact by these materials with storm water runoff; materials loading and access areas; the location, manner and frequency in which pesticides, herbicides, soil conditioners and fertilizers are applied; the location and a description of existing structural and non-structural control measures to reduce pollutants in storm water runoff; and a description of the treatment the storm water receives, including the ultimate disposal of any solid or fluid wastes other than by discharge;

c. A certification that all outfalls that should contain storm water discharges associated with industrial activity have been tested or

evaluated for the presence of non-storm water discharges which are not covered by a UPDES permit; tests for such non-storm water discharges may include smoke tests, fluorometric dye tests, analysis of accurate schematics, as well as other appropriate tests. The certification shall include a description of the method used, the date of any testing, and the on-site drainage points that were directly observed during a test;

d. Existing information regarding significant leaks or spills of toxic or hazardous pollutants at the facility that have taken place within the three years prior to the submittal of this application;

e. Quantitative data based on samples collected during storm events and collected in accordance with R317-8-3.1 from all outfalls containing a storm water discharge associated with industrial activity for the following parameters:

i. Any pollutant limited in an effluent guideline to which the facility is subject;

ii. Any pollutant listed in the facility's UPDES permit for its process wastewater (if the facility is operating under an existing UPDES permit);

iii. Oil and grease, pH, BOD5, COD, TSS, total phosphorus, total Kjeldahl nitrogen, and nitrate plus nitrite nitrogen;

iv. Any information on the discharge required under R317-8-3.5(7)(d) and (e);

v. Flow measurements or estimates of the flow rate, and the total amount of discharge for the storm event(s) sampled, and the method of flow measurement or estimation; and

vi. The date and duration (in hours) of the storm event(s) sampled, rainfall measurements or estimates of the storm event (in inches) which generated the sampled runoff and the duration between the storm event sampled and the end of the previous measurable (greater than O.1 inch rainfall) storm event (in hours);

f. Operators of a discharge which is composed entirely of storm water are exempt from R317-8-3.5(2),(3),(4),(5),(7)(a),(c), and (f); and

g. Operators of new sources or new discharges which are composed in part or entirely of storm water must include estimates for the pollutants or parameters listed in R317-8-3.9(2)(a)1e instead of actual sampling data, along with the source of each estimate. Operators of new sources or new discharges composed in part or entirely of storm water must provide quantitative data for the parameters listed in R317-8-3.5(2)(a)1e within two years after commencement of discharge, unless such data has already been reported under the monitoring requirements of the UPDES permit for the discharge. Operators of a new source or new discharge which is composed entirely of storm water are exempt from the requirements of R317-8-3.2(3)(b) and (c) and 3.2(5).

2. An operator of an existing or new storm water discharge that is associated with industrial activity solely under R317-8-3.9(6)(c)11 of this section or is associated with small construction activity solely under paragraph R317-8-3.9(6)(e) of this section, is exempt from the requirements of R317-8-3.5 and R317-8-3.9(2)(a)1. Such operator shall provide a narrative description of:

a. The location (including a map) and the nature of the construction activity;

b. The total area of the site and the area of the site that is expected to undergo excavation during the life of the permit;

c. Proposed measures, including best management practices, to control pollutants in storm water discharges during construction, including a brief description of applicable State and local erosion and sediment control requirements;

d. Proposed measures to control pollutants in storm water discharges that will occur after construction operations have been completed, including a brief description of applicable State or local erosion and sediment control requirements;

e. An estimate of the runoff coefficient of the site and the increase in impervious area after the construction addressed in the permit application is completed, the nature of fill material and existing data describing the soil or the quality of the discharge; and

f. The name of the receiving water.

3. The operator of an existing or new discharge composed entirely of storm water from an oil or gas exploration, production, processing, or treatment operation, or transmission facility is not required to submit a permit application in accordance with R317-8-3.9(2)(a)1, unless the facility:

a. Has had a discharge of storm water resulting in the discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR 117.21 or 40 CFR 302.6 at anytime since November 16, 1987;

b. Has had a discharge of storm water resulting in the discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR 110.6 at any time since November 16, 1987; or

c. Contributes to a violation of a water quality standard.

4. The operator of an existing or new discharge composed entirely of storm water from a mining operation is not required to submit a permit application unless the discharge has come into contact with any overburden, raw material, intermediate products, finished product, byproduct or waste products located on the site of such operations.

5. Applicants shall provide such other information the Executive Secretary may reasonably require to determine whether to issue a permit and may require any facility subject to R317-8-3.9(2)(a)2 to comply with R317-8-3.9(2)(a)1.

(3) Application requirements for large and medium municipal separate storm sewer discharges. The operator of a discharge from a large or medium municipal separate storm sewer or a municipal separate storm sewer that is designated by the Executive Secretary under R317-8-3.9(1)(a)5, may submit a jurisdiction-wide or system-wide permit application. Where more than one public entity owns or operates a municipal separate storm sewer within a geographic area (including adjacent or interconnected municipal separate storm sewer systems), such operators may be a coapplicant to the same application. Permit applications for discharges from large and medium municipal storm sewers or municipal storm sewers designated under R317-8-3.9(1)(a)5 shall include:

(a) Part 1. Part 1 of the application shall consist of:

1. General information. The applicants' name, address, telephone number of contact person, ownership status and status as a State or local government entity.

2. Legal authority. A description of existing legal authority to control discharges to the municipal separate storm sewer system. When existing legal authority is not sufficient to meet the criteria provided in R317-8-3.9(3)(b)1, the description shall list additional authorities as will be necessary to meet the criteria and shall include a schedule and commitment to seek such additional authority that will be needed to meet the criteria.

3. Source identification.

a. A description of the historic use of ordinances, guidance or other controls which limited the discharge of non-storm water discharges to any Publicly Owned Treatment Works serving the same area as the municipal separate storm sewer system.

b. A USGS 7.5 minute topographic map (or equivalent topographic map with a scale between 1:10,000 and 1:24,000 if cost

effective) extending one mile beyond the service boundaries of the municipal storm sewer system covered by the permit application. The following information shall be provided:

i. The location of known municipal storm sewer system outfalls discharging to waters of the State;

ii. A description of the land use activities (e.g. divisions indicating undeveloped, residential, commercial, agriculture and industrial uses) accompanied with estimates of population densities and projected growth for a ten year period within the drainage area served by the separate storm sewer. For each land use type, and estimate of an average runoff coefficient shall be provided;

iii. The location and a description of the activities of the facility of each currently operating or closed municipal landfill or other treatment, storage or disposal facility for municipal waste;

iv. The location and the permit number of any known discharge to the municipal storm sewer that has been issued a UPDES permit;

v. The location of major structural controls for storm water discharge (retention basins, detention basins, major infiltration devices, etc.); and

vi. The identification of publicly owned parks, recreational areas, and other open lands.

4. Discharge characterization.

a. Monthly mean rain and snow fall estimates (or summary of weather bureau data) and the monthly average number of storm events.

b. Existing quantitative data describing the volume and quality of discharges from the municipal storm sewer, including a description of the outfalls sampled, sampling procedures and analytical methods used.

c. A list of water bodies that receive discharges from the municipal separate storm sewer system, including downstream segments, lakes and estuaries, where pollutants from the system discharges may accumulate and cause water degradation and a brief description of known water quality impacts. At a minimum, the description of impacts shall include a description of whether the water bodies receiving such discharges have been:

i. Assessed and reported in CWA 305(b) reports submitted by the State, the basis for the assessment (evaluated or monitored), a summary of designated use support and attainment of Clean Water Act (CWA) goals (fishable and swimmable waters), and causes of nonsupport of designated uses;

ii. Listed under section 304(l)(1)(A)(i), section 304(l)(1)(A)(ii), or section 304(l)(1)(B) of the CWA that is not expected to meet water quality standards or water quality goals;

iii. Listed in Utah Nonpoint Source Assessments that, without additional action to control nonpoint sources of pollution, cannot reasonably be expected to attain or maintain water quality standards due to storm sewers, construction, highway maintenance and runoff from municipal landfills and municipal sludge adding significant pollution (or contributing to a violation of water quality standards);

iv. Identified and classified according to eutrophic condition of publicly owned lakes listed in State reports required under section 314(a) of the CWA (include the following: A description of those publicly owned lakes for which uses are known to be impaired; a description of procedures, processes and methods to control the discharge of pollutants from municipal separate storm sewers into such lakes; and a description of methods and procedures to restore the quality of such lakes);

v. Recognized by the applicant as highly valued or sensitive waters;

vi. Defined by the state or U.S. Fish and Wildlife Service's National Wetlands Inventory as wetlands; and

vii. Found to have pollutants in bottom sediments, fish tissue or biosurvey data.

d. Field screening. Results of a field screening analysis for illicit connections and illegal dumping for either selected field screening points or major outfalls covered in the permit application. At a minimum, a screening analysis shall include a narrative description, for either each field screening point or major outfall, of visual observations made during dry weather periods. If any flow is observed, two grab samples shall be collected during a 24 hour period with a minimum period of four hours between samples. For all such samples, a narrative description of the color, odor, turbidity, the presence of an oil sheen or surface scum as well as any other relevant observations regarding the potential presence of non-storm water discharges or illegal dumping shall be provided. In addition, a narrative description of the results of a field analysis using suitable methods to estimate pH, total chlorine, total copper, total phenol, and detergents (or surfactants) shall be provided along with a description of the flow rate. Where the field analysis does not involve analytical methods approved under 40 CFR part 136, the applicant shall provide a description of the method used including the name of the manufacturer of the test method along with the range and accuracy of the test. Field screening points shall be either major outfalls or other outfall points (for any other point of access such as manholes) randomly located throughout the storm sewer system by placing a grid over a drainage system map and identifying those cells of the grid which contain a segment of the storm sewer system or major outfall. The field screening points shall be established using the following guidelines and criteria:

i. A grid system consisting of perpendicular north-south and east-west lines spaced 1/4 mile apart shall be overlayed on a map of the municipal storm sewer system, creating a series of cells;

ii. All cells that contain a segment of the storm sewer system shall be identified; one field screening point shall be selected in each cell; major outfalls may be used as field screening points;

iii. Field screening points should be located downstream of any sources of suspected illegal or illicit activity;

iv. Field screening points shall be located to the degree practicable at the farthest manhole or other accessible location downstream in the system, within each cell; however, safety of personnel and accessibility of the location should be considered in making this determination;

v. Hydrological conditions; total drainage area of the site; population density of the site; traffic density; age of the structures or building in the area; history of the area; and land use types;

vi. For medium municipal separate storm sewer systems, no more than 250 cells need to have identified field screening points; in large municipal separate storm sewer systems, no more than 500 cells need to have identified field screening points; cells established by the grid that contain no storm sewer segments will be eliminated from consideration; if fewer than 250 cells in medium municipal sewers are created, and fewer than 500 in large systems are created by the overlay on the municipal sewer map, then all those cells which contain a segment of the sewer system shall be subject to field screening (unless access to the separate storm sewer system is impossible); and

vii. Large or medium municipal separate storm sewer systems which are unable to utilize the procedures described in R317-8-3.9(3)(a)4di-vi, because a sufficiently detailed map of the separate storm sewer systems is unavailable, shall field screen no more than 500 or 250 major outfalls respectively (or all major outfalls in the system, if less); in such circumstances, the applicant shall establish a grid system consisting of north-south and east-west lines spaced 1/4 mile apart as an

overlay to the boundaries of the municipal storm sewer system, thereby creating a series of cells; the applicant will then select major outfalls in as many cells as possible until at least 500 major outfalls (large municipalities) or 250 major outfalls (medium municipalities) are selected; a field screening analysis shall be undertaken at these major outfalls.

e. Characterization plan. Information and a proposed program to meet the requirements of R317-8-3.9(3)(b)3. Such description shall include: the location of outfalls or field screening points appropriate for representative data collection under R317-8-3.9(3)(b)3.a, a description of why the outfall or field screening point is representative, the seasons during which sampling is intended, a description of the sampling equipment. The proposed location of outfall or field screening points for such sampling should reflect water quality concerns to the extent practicable.

5. Management programs.

a. A description of the existing management programs to control pollutants from the municipal separate storm sewer system. The description shall provide information on existing structural and source controls, including operation and maintenance measures for structural controls, that are currently being implemented. Such controls may include, but are not limited to: Procedures to control pollution resulting from construction activities; floodplain management controls; wetland protection measures; best management practices for new subdivisions; and emergency spill response programs. The description may address controls established under State law as well as local requirements.

b. A description of the existing program to identify illicit connections to the municipal storm sewer system. The description should include inspection procedures and methods for detecting and preventing illicit discharges, and describe areas where this program has been implemented.

6. Financial resources. A description of the financial resources currently available to the municipality to complete part 2 of the permit application. A description of the municipality's budget for existing storm water programs, including an overview of the municipality's financial resources and budget, including overall indebtedness and assets, and sources of funds for storm water programs.

(b) Part 2. Part 2 of the application shall consist of:

1. Adequate legal authority. A demonstration that the applicant can operate pursuant to legal authority established by statute, ordinance or series of contracts which authorizes or enables the applicant at a minimum to:

a. Control through ordinance, permit, contract, order or similar means, the contribution of pollutants to the municipal storm sewer by storm water discharges associated with industrial activity and the quality of storm water discharged from sites of industrial activity;

b. Prohibit through ordinance, order or similar means, illicit discharges to the municipal separate storm sewer;

c. Control through ordinance, order or similar means the discharge to a municipal separate storm sewer of spills, dumping or disposal of materials other than storm water;

d. Control through interagency agreements among coapplicants the contribution of pollutants from one portion of the municipal system to another portion of the municipal system;

e. Require compliance with conditions in ordinances, permits, contracts or orders; and

f. Carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with permit conditions including the prohibition on illicit discharges to the municipal separate storm sewer.

2. Source identification. The location of any major outfall that discharges to waters of the State that was not reported under R317-8-3.9(3)(a)3b 1. Provide an inventory, organized by watershed of the name and address, and a description (such as SIC codes) which best reflects the principal products or services provided by each facility which may discharge, to the municipal separate storm sewer, storm water associated with industrial activity;

3. Characterization data. When "quantitative data" for a pollutant are required, the applicant must collect a sample of effluent in accordance with R317-8-3.5(7) and analyze it for the pollutant in accordance with analytical methods approved under 40 CFR part 136. When no analytical method is approved the applicant may use any suitable method but must provide a description of the method. The applicant must provide information characterizing the quality and quantity of discharges covered in the permit application, including:

a. Quantitative data from representative outfalls designated by the Executive Secretary (based on information received in part 1 of the application, the Executive Secretary shall designate between five and ten outfalls or field screening points as representative of the commercial, residential and industrial land use activities of the drainage area contributing to the system or, where there are less than five outfalls covered in the application, the Executive Secretary shall designate all outfalls) developed as follows:

i. For each outfall or field screening point designated, samples shall be collected of storm water discharges from three storm events occurring at least one month apart in accordance with R317-8-3.5(7) (the Executive Secretary may allow exemptions to sampling three storm events when climatic conditions create good cause for such exemptions);

ii. A narrative description shall be provided of the date and duration of the storm event(s) sampled, rainfall estimates of the storm event which generated the sampled discharge and the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event;

iii. For samples collected and described under R317-8-3.9(3)(b)3.a i and ii, quantitative data shall be provided for: the organic pollutants listed in Table II; the pollutants listed in Table III (other toxic pollutants metals, cyanide, and total phenols) of R317-8-3.13, and for the following pollutants:

Total suspended solids (TSS)
Total dissolved solids (TDS)
COD
BOD5
Oil and grease
[~~E. coli~~]Fecal coliform
Fecal streptococcus
pH
Total Kjeldahl nitrogen
Nitrate plus nitrite
Dissolved phosphorus
Total ammonia plus organic nitrogen
Total phosphorus

iv. Additional limited quantitative data required by the Executive Secretary for determining permit conditions (the Executive Secretary may require that quantitative data shall be provided for additional parameters, and may establish sampling conditions such as the location, season of sample collection, form of precipitation and other parameters necessary to insure representativeness);

b. Estimates of the annual pollutant load of the cumulative discharges to waters of the State from all identified municipal outfalls

and the event mean concentration of the cumulative discharges to waters of the State from all identified municipal outfalls during a storm event for BOD5, COD, TSS, dissolved solids, total nitrogen, total ammonia plus organic nitrogen, total phosphorus, dissolved phosphorus, cadmium, copper, lead, and zinc. Estimates shall be accompanied by a description of the procedures for estimating constituent loads and concentrations, including any modeling[~~modelling~~], data analysis, and calculation methods;

c. A proposed schedule to provide estimates for each major outfall identified in either R317-8-3.9(3)(b)2 or R317-8-3.9(3)(a)3b 1 of the seasonal pollutant load and of the event mean concentration of a representative storm for any constituent detected in any sample required under R317-8-3.9(3)(b)3a of this section; and

d. A proposed monitoring program for representative data collection for the term of the permit that describes the location of outfalls or field screening points to be sampled (or the location of instream stations), why the location is representative, the frequency of sampling, parameters to be sampled, and a description of sampling equipment.

4. Proposed management program. A proposed management program covers the duration of the permit. It shall include a comprehensive planning process which involves public participation and where necessary intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent practicable using management practices, control techniques and system, design and engineering methods, and such other provisions which are appropriate. The program shall also include a description of staff and equipment available to implement the program. Separate proposed programs may be submitted by each coapplicant. Proposed programs may impose controls on a system wide basis, a watershed basis, a jurisdiction basis, or on individual outfalls. Proposed programs will be considered by the Executive Secretary when developing permit conditions to reduce pollutants in discharges to the maximum extent practicable. Proposed management programs shall describe priorities for implementing controls. Such programs shall be based on:

a. A description of structural and source control measures to reduce pollutants from runoff from commercial and residential areas that are discharged from the municipal storm sewer system that are to be implemented during the life of the permit, accompanied with an estimate of the expected reduction of pollutant loads and a proposed schedule for implementing such controls. At a minimum, the description shall include:

i. A description of maintenance activities and a maintenance schedule for structural controls to reduce pollutants (including floatables) in discharges from municipal separate storm sewers;

ii. A description of planning procedures including a comprehensive master plan to develop, implement and enforce controls to reduce the discharge of pollutants from municipal separate storm sewers which receive discharges from areas of new development and significant redevelopment. Such plan shall address controls to reduce pollutants in discharges from municipal separate storm sewers after construction is completed. Controls to reduce pollutants in discharges from municipal separate storm sewers containing construction site runoff are addressed in R317-8-3.9(3)(b)4d;

iii. A description of practices for operating and maintaining public streets, roads and highways and procedures for reducing the impact on receiving waters of discharges from municipal storm sewer systems, including pollutants discharged as a result of deicing activities;

iv. A description of procedures to assure that flood management projects assess the impacts on the water quality of receiving water bodies and that existing structural flood control devices have been evaluated to determine if retrofitting the device to provide additional pollutant removal from storm water is feasible.

v. A description of a program to monitor pollutants in runoff from operating or closed municipal landfills or other treatment, storage or disposal facilities for municipal waste, which shall identify priorities and procedures for inspections and establishing and implementing control measures for such discharges (this program can be coordinated with the program developed under R317-8-3.9(3)(b)4c); and

vi. A description of a program to reduce to the maximum extent practicable, pollutants in discharges from municipal separate storm sewers associated with the application of pesticides, herbicides and fertilizer which will include, as appropriate, controls such as educational activities, permits, certifications and other measures for commercial applicators and distributors, and controls for application in public right-of-ways and at municipal facilities.

b. A description of a program, including a schedule, to detect and remove illicit discharges and improper disposal into the storm sewer. The proposed program shall include:

i. A description of a program, including inspections, to implement and enforce an ordinance, orders or similar means to prevent illicit discharges to the municipal separate storm sewer system; this program description shall address all types of illicit discharges, however the following category of non-storm water discharges or flows shall be addressed where such discharges are identified by the municipality as sources of pollutants to waters of the State: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration to separate storm sewers, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water (program descriptions shall address discharges or flows from fire fighting only where such discharges or flows are identified as significant sources of pollutants to waters of the State);

ii. A description of procedures to conduct on-going field screening activities during the life of the permit, including areas or locations that will be evaluated by such field screens;

iii. A description of procedures to be followed to investigate portions of the separate storm sewer system that, based on the results of the field screen, or other appropriate information, indicate a reasonable potential of containing illicit discharges or other sources of non-storm water (such procedures may include: sampling procedures for constituents such as [~~E. coli~~]fecal coliform, fecal streptococcus, surfactants (MBAS), residual chlorine, fluorides and potassium; testing with fluorometric dyes; or conducting in storm sewer inspections where safety and other considerations allow. Such description shall include the location of storm sewers that have been identified for such evaluation);

iv. A description of procedures to prevent, contain, and respond to spills that may discharge into the municipal separate storm sewer;

v. A description of a program to promote, publicize and facilitate public reporting of the presence of illicit discharges or water quality impacts associated with discharges from municipal separate storm sewers;

vi. A description of educational activities, public information activities, and other appropriate activities to facilitate the proper management and disposal of used oil and toxic materials; and

vii. A description of controls to limit infiltration of seepage from municipal sanitary sewers to municipal separate storm sewer systems where necessary;

c. A description of a program to monitor and control pollutants in storm water discharges to municipal systems from municipal landfills, hazardous waste treatment, disposal and recovery facilities, industrial facilities that are subject to section 313 of title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA), and industrial facilities that the municipal permit applicant determines are contributing a substantial pollutant loading to the municipal storm sewer system. The program shall:

i. Identify priorities and procedures for inspection and establishing and implementing control measures for such discharges;

ii. Describe a monitoring program for storm water discharges associated with the industrial facilities identified in R317-8-3.9(b)4c to be implemented during the term of the permit, including the submission of quantitative data on the following constituents: any pollutants limited in effluent guidelines subcategories, where applicable; any pollutant listed in an existing UPDES permit for a facility; oil and grease, COD, pH, BOD5, TSS, total phosphorus, total Kjeldahl nitrogen, nitrate plus nitrite nitrogen, and any information on discharges required under R317-8-3.5(7)(d) 1, 2, and (e).

d. A description of a program to implement and maintain structural and non-structural best management practices to reduce pollutants in storm water runoff from construction sites to the municipal storm sewer system, which shall include:

i. A description of procedures for site planning which incorporate consideration of potential water quality impacts;

ii. A description of requirements for nonstructural and structural best management practices;

iii. A description of procedures for identifying priorities for inspecting sites and enforcing control measures which consider the nature of the construction activity, topography, and the characteristics of soils and receiving water quality; and

iv. A description of appropriate educational and training measures for construction site operators.

v. Assessment of controls. Estimated reductions in loadings of pollutants from discharges of municipal storm sewer constituents from municipal storm sewer systems expected as the result of the municipal storm water quality management program. The assessment shall also identify known impacts of storm water controls on ground water.

vi. Fiscal analysis. For each fiscal year to be covered by the permit, a fiscal analysis of the necessary capital and operation and maintenance expenditures necessary to accomplish the activities of the programs under R317-8-3.9(8)(b) 3 and 4. Such analysis shall include a description of the source of funds that are proposed to meet the necessary expenditures, including legal restrictions on the use of such funds.

vii. Where more than one legal entity submits an application, the application shall contain a description of the rules and responsibilities of each legal entity and procedures to ensure effective coordination.

viii. Where requirements under R317-8-3.9(3)(a)4e, 3.9(3)(b)3b, and 3.9(3)(b)4 are not practicable or are not applicable, the Executive Secretary may exclude any operator of a discharge from a municipal separate storm sewer which is designated under R317-8-3.9(1)(a)5, R317-8-1.6(4)(b) or R317-8-1.6(7)(b) from such requirements. The Executive Secretary shall not exclude the operator of a discharge from a municipal separate storm sewer located in incorporated places with populations greater than 100,000 and less than 250,000 according to the latest decennial census by Bureau of Census; or located in counties with unincorporated urbanized areas with a population of 250,000 or more according to the latest decennial census by the Bureau of Census, from any of the permit application requirements except where authorized.

(4) Application deadlines. Any operator of a point source required to obtain a permit under R317-8-3.9(1)(a) that does not have an effective UPDES permit authorizing discharges from its storm water outfalls shall submit an application in accordance with the following deadlines:

(a) Storm water discharges associated with industrial activities.

1. Except as provided in paragraph (4)(a)2. Of this section, for any storm water discharge associated with industrial activity identified in paragraphs R317-8-3.9(6)(d)1 through 11 of this section that is not authorized by a storm water general permit, a permit application made pursuant to paragraph R317-8-3.9(2) of this section must be submitted to the Executive Secretary by October 1, 1992;

2. For any storm water discharge associated with industrial activity from a facility that is owned or operated by a municipality with a population of less than 100,000 that is not authorized by a general or individual permit, other than an airport, powerplant, or uncontrolled sanitary landfill, the permit application must be submitted to the Executive Secretary by March 10, 2003.

(b) For any discharge from a large municipal separate storm sewer system:

1. Part 1 of the application shall be submitted to the Executive Secretary by November 18, 1991;

2. Based on information received in the part 1 application the Executive Secretary will approve or deny a sampling plan within 90 days after receiving the part 1 application;

3. Part 2 of the application shall be submitted to the Executive Secretary by November 16, 1992.

(c) For any discharge from a medium municipal separate storm sewer system;

1. Part 1 of the application shall be submitted to the Executive Secretary by May 18, 1992.

2. Based on information received in the part 1 application the Executive Secretary will approve or deny a sampling plan within 90 days after receiving the part 1 application.

3. Part 2 of the application shall be submitted to the Executive Secretary by May 17, 1993.

(d) A permit application shall be submitted to the Executive Secretary within 180 days of notice, unless permission for a later date is granted by the Executive Secretary for;

1. A storm water discharge which the Executive Secretary determines that the discharge contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the State.

2. A storm water discharge subject to R317-8-3.9(2)(a)5.

(e) Facilities with existing UPDES permits for storm water discharges associated with industrial activity shall maintain existing permits. New applications shall be submitted 180 days before the expiration of such permits. Facilities with expired permits or permits due to expire before May 18, 1992, shall submit applications in accordance with the deadline set forth in R317-8-3.9(4)(a).

(f) For any storm water discharge associated with small construction activity identified in paragraph R317-8-3.9(6)(e)1. of this section, see R317-8-3.1(2). Discharges from these sources require permit authorization by March 10, 2003, unless designated for coverage before then.

(g) For any discharge from a regulated small MS4, the permit application made under 40 CFR 122.33 (see R317-8-1.10(11[~~12~~])) must be submitted to the Executive Secretary by:

1. March 10, 2003 if designated under 40 CFR 122.32 (a)(1) (see R317-8-1.10(10[~~11~~])) unless your MS4 serves a jurisdiction with a

population under 10,000 and the Executive Secretary has established a phasing schedule under 40 CFR 123.35 (d)(3); or

2. Within 180 days of notice, unless the Executive Secretary grants a later date, if designated under 40 CFR 122.32(a)(2) and 40 CFR 122.33(c)(2) (see R317-8-1.10(10[~~11~~]) and (11[~~12~~])).

(5) Petitions.

(a) Any operator of a municipal separate storm sewer system may petition the Executive Secretary to require a separate UPDES permit for any discharge into the municipal separate storm sewer system.

(b) Any person may petition the Executive Secretary to require a UPDES permit for a discharge which is composed entirely of storm water which contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the State.

(c) The owner or operator of a municipal separate storm sewer system may petition the Executive Secretary to reduce the Census estimates of the population served by such separate system to account for storm water discharge to combined sewers that is treated in a publicly owned treatment works. In municipalities in which combined sewers are operated, the Census estimates of population may be reduced proportional to the fraction, based on estimated lengths, of the length of combined sewers over the sum of the length of combined sewers and municipal separate storm sewers where an applicant has submitted the UPDES permit number associated with each discharge point and a map indicating areas served by combined sewers and the location of any combined sewer overflow discharge point.

(d) Any person may petition the Executive Secretary for the designation of a large, medium, or small municipal separate storm sewer system as defined by R317-8-1.6(4), (7), and (14).

(e) The Executive Secretary shall make a final determination on any petition received under this section within 90 days after receiving the petition with the exception of the petitions to designate a small MS4 in which case the Executive Secretary shall make a final determination on the petition within 180 days after its receipt.

(6) Provisions Applicable to Storm Water Definitions.

(a) The Executive Secretary may designate a municipal separate storm sewer system as part of a large system due to the interrelationship between the discharges of designated storm sewer and the discharges from the municipal separate storm sewers described under R317-8-1.6(4)(a) or (b). In making the determination under R317-8-1.6(4)(b) the Executive Secretary may consider the following factors:

1. Physical interconnections between the municipal separate storm sewers;

2. The location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in R317-8-1.6(3)(a);

3. The quantity and nature of pollutants discharged to waters of the State;

4. The nature of the receiving waters; and

5. Other relevant factors; or

The Executive Secretary may, upon petition, designate as a large municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a storm water management regional authority based on a jurisdictional, watershed, or other appropriate basis that includes one or more of the systems described in R317-8-1.6(4).

(b) The Executive Secretary may designate a municipal separate storm sewer system as part of a medium system due to the interrelationship between the discharges of designated storm sewer and the discharges from the municipal separate storm sewers describer under R317-8-1.6(7)(a) or (b). In making the determination under R317-8-1.6(7)(b) the Executive Secretary may consider the following factors;

1. Physical interconnections between the municipal separate storm sewers;

2. The location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in R317-8-1.6(7)(a);

3. The quantity and nature of pollutants discharged to waters of the State;

4. The nature of the receiving waters; or

5. Other relevant factors; or

The Executive Secretary may, upon petition, designate as a medium municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a storm water management regional authority based on a jurisdictional, watershed, or other appropriate basis that includes one or more of the systems described in R317-8-1.6(7)(a), (b), and (c).

(c) Storm water discharges associated with industrial activity means the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the UPDES program under this part R317-8. For the categories of industries identified in this section, the term includes, but is not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste materials, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste water (as defined in 40 CFR 401); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and final products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. For the purpose of this paragraph, material handling activities include storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, by-product or waste product. The term excludes areas located on plant lands separate from plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas. Industrial facilities (including industrial facilities that are federally, State, or municipally owned or operated that meet the description of the facilities listed in paragraphs (d)1. through(11.) of this section) include those facilities designated under the provisions of paragraph (1)(a)5. of this section.

d. The following categories of facilities are considered to be engaging in "industrial activity" for the purposes of this section (see R317-8-3.9(1)(a)2 and (6)(c)).

1. Facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards, or toxic pollutant effluent standards under 40 CFR subchapter N except facilities with toxic pollutant effluent standards which are exempted under category R317-8-3.9(6)(c)11;

2. Facilities classified as Standard Industrial Classifications 24 (except 2434), 26 (except 265 and 267), 28 (except 283 and 285), 29, 311, 32 (except 323), 33, 3441, 373;

3. Facilities classified as Standard Industrial Classifications 10 through 14 (mineral industry) including active or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area because the performance bond issued to the facility by the appropriate SMCRA authority has been released, or except for areas of non-coal mining operations which have been released from applicable State or Federal reclamation requirements after December 17, 1990) and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations; (inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim);

4. Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under subtitle C of RCRA;

5. Landfills, land application sites, and open dumps that receive or have received any industrial wastes (waste that is received from any of the facilities described under this subsection) including those that are subject to regulation under subtitle D of RCRA;

6. Facilities involved in the recycling of materials, including metal scrap yards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification 5015 and 5093;

7. Steam electric power generating facilities, including coal handling sites;

8. Transportation facilities classified as Standard Industrial Classifications 40, 41, 42 (except 4221-25), 43, 44, 45, and 5171 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under R317-8-3.9(6)(c) 1 through 7 or R317-8-3.9(6)(c) 9 through 11 are associated with industrial activity;

9. Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more, or required to have an approved pretreatment program. Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with requirements for disposal of sewage sludge.

10. Construction activity including clearing, grading and excavation, except operations that result in the disturbance of less than five acres of total land area. Construction activity also includes the disturbance of less than five acres of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more;

11. Facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, 4221-25.

(e) Storm water discharge associated with small construction activity means the discharge of storm water from:

1. Construction activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility. The Executive Secretary may waive the otherwise applicable requirements in a general permit for a storm water discharge from construction activities that disturb less than five acres where:

a. The value of the rainfall erosivity factor ("R" in the Revised Universal Soil Loss Equation) is less than five during the period of construction activity. The rainfall erosivity factor is determined in accordance with Chapter 2 of Agriculture Handbook Number 703, Predicting Soil Erosion by Water: A Guide to Conservation Planning With the Revised Universal Soil Loss Equation (RUSLE), page 21-64, dated January 1997. Copies may be obtained from EPA's Water Resource Center, Mail Code RC4100, 401 M St. S.W., Washington, DC 20460. A copy is also available for inspection at the U.S. EPA Water Docket, 401 M Street S.W., Washington, DC. 20460, or the Office of Federal Register, 800 N. Capitol Street N.W. Suite 700, Washington, DC. An Operator must certify to the Executive Secretary that the construction activity will take place during a period when the value of the rainfall erosivity factor is less than five; or

b. Storm water controls are not needed based on a "total maximum daily load" (TMDL) approved by EPA that addresses the pollutant(s) of concern or, for non-impaired waters that do not require TMDLs, an equivalent analysis that determines allocations for small construction sites for the pollutant(s) of concern or that determines that such allocations are not needed to protect water quality based on consideration of existing in-stream concentrations, expected growth in pollutant contributions from all sources, and a margin of safety. For the purpose of this paragraph, the pollutant(s) of concern include sediment or a parameter that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity. The operator must certify to the Executive Secretary that the construction activity will take place, and storm water discharges will occur, within the drainage area addressed by the TMDL or equivalent analysis.

2. Any other construction activity designated by the Executive Secretary based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to waters of the State.

(7) Conditional exclusion for "no exposure" of industrial activities and materials to storm water. Discharges composed entirely of storm water are not storm water discharges associated with industrial activity if there is "no exposure" of industrial materials and activities to rain, snow, snow melt and/or runoff, and the discharger satisfies the conditions in paragraphs (7)(a) through (7)(d) of this section. "No exposure" means that all industrial materials and activities are protected by a storm resistant shelter to prevent exposure to rain, snow, snow melt, and/or runoff. Industrial materials or activities include, but are not limited to, material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products. Material handling activities include the

storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product or waste product.

(a) Qualification. To qualify for this exclusion, the operator of the discharge must:

1. Provide a storm resistant shelter to protect industrial materials and activities from exposure to rain, snow, snow melt, and runoff:

2. Complete and sign (according to R317-8-3.3) a certification that there are no discharges of storm water contaminated by exposure to industrial materials and activities from the entire facility, except as provided in paragraph (7)(b) of this section:

3. Submit the signed certification to the Executive Secretary once every five years;

4. Allow the Executive Secretary or authorized representative to inspect the facility to determine compliance with the "no exposure" conditions;

5. Allow the Executive Secretary or authorized representative to make any "no exposure" inspection reports available to the public upon request; and

6. For facilities that discharge through an MS4, upon request, submit a copy of the certification of "no exposure" to the MS4 operator, as well as allow inspection and public reporting by the MS4 operator.

(b) Industrial materials and activities not requiring storm resistant shelter. To qualify for this exclusion, storm resistant shelter is not required for:

1. Drums, barrels, tanks, and similar containers that are tightly sealed, provided those containers are not deteriorated and do not leak ("Sealed" means banded or otherwise secured and without operational taps or valves);

2. Adequately maintained vehicles used in material handling; and

3. Final products, other than products that would be mobilized in storm water discharge (e.g., rock salt).

(c) Limitations

1. Storm water discharges from construction activities identified in paragraphs R317-8-3.9(6)(d)10. and R317-8-3.9(6)(e) are not eligible for this conditional exclusion.

2. This conditional exclusion from the requirement for an UPDES permit is available on a facility-wide basis only, not for individual outfalls. If a facility has some discharges of storm water that would otherwise be "no exposure" discharges, individual permit requirements should be adjusted accordingly.

3. If circumstances change and industrial materials or activities become exposed to rain, snow, snow melt, and/or runoff, the conditions for this exclusion no longer apply. In such cases, the discharge become subject to enforcement for un-permitted discharge. Any conditionally exempt discharger who anticipates changes in circumstances should apply for and obtain permit authorization prior to the change of circumstances.

4. Notwithstanding the provisions of this paragraph, the Executive Secretary retains the authority to require permit authorization (and deny this exclusion) upon making a determination that the discharge causes, has a reasonable potential to cause, or contributes to an instream excursion above an applicable water quality standard, including designated uses.

(d) Certification. The no exposure certification must require the submission of the following information, at a minimum, to aid the Executive Secretary in determining if the facility qualifies for the no exposure exclusion:

1. The legal name, address and phone number of the discharger (see R317-8-3.1(3)).

2. The facility name and address, the county name and the latitude and longitude where the facility is located;

3. The certification must indicate that none of the following materials or activities are, or will be in the foreseeable future, exposed to precipitation:

a. Using, storing, or cleaning industrial machinery or equipment, and areas where residuals from using, storing or cleaning industrial machinery or equipment remain and are exposed to storm water;

b. Materials or residuals on the ground or in storm water inlets from spills/leaks;

c. Materials or products from past industrial activity;

d. Materials handling equipment (except adequately maintained vehicles);

e. Materials or products during loading/unloading or transporting activities;

f. Materials or products stored outdoors (except final products intended for outside use, e.g., new cars, where exposure to storm water does not result in the discharge to pollutants);

g. Materials contained in open, deteriorated or leaking storage drums, barrels, tanks, and similar containers;

h. Materials or products handled/stored on roads or railways owned or maintained by the discharger;

i. Waste material (except waste in covered, non-leaking containers, e.g., dumpsters);

j. Application or disposal of process wastewater (unless otherwise permitted); and

k. Particulate matter or visible deposits or residuals from roof stacks/vents not otherwise regulated, i.e., under an air quality control permit, and evident in the storm water outflow.

4. All "no exposure" certifications must include the following certification statement, and be signed in accordance with the signatory requirements of R317-8-3.3 "I certify under penalty of law that I have read and understand the eligibility requirements for claiming a condition of "no exposure" and obtaining an exclusion from UPDES storm water permitting; and that there are no discharges of storm water contaminated by exposure to industrial activities or materials from the industrial facility identified in this document (except as allowed under paragraph (7)(b) of this section). I understand that I am obligated to submit a no exposure certification form once every five years to the Executive Secretary and, if requested, to the operator of the local MS4 into which this facility discharges (where applicable). I understand that I must allow the Executive Secretary or authorized representative or MS4 operator where the discharge is into the local MS4, to perform inspections to confirm the condition of no exposure and make such inspection reports publicly available upon request. I understand that I must obtain coverage under a UPDES permit prior to any point source discharge of storm water from the facility. I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based upon my inquiry of the person or persons who manage the system, or those persons directly involved in gathering the information, the information submitted is to the best of my knowledge and belief true, accurate and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(8) The Executive Secretary may designate small MS4's other than those described in 40 CFR 122.32(a)(1) (see also R317-8-1.10(10[~~11~~])) to be covered under the UPDES storm water permit program, and require a UPDES storm water permit. Designations of this kind will be based on whether a storm water discharge results in or has the potential to result in exceedances of water quality standards,

including impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts; and shall apply to any small MS4 located outside of an urbanized area serving a population density of at least 1,000 people per square mile and a population of at least 10,000.

(a) Criteria used in designation may include;

1. discharge(s) to sensitive waters,

2. areas with high growth or growth potential,

3. areas with a high population density,

4. areas that are contiguous to an urbanized area,

5. small MS4's that cause a significant contribution of pollutants to waters of the State,

6. small MS4's that do not have effective programs to protect water quality by other programs, or

7. other appropriate criteria.

(b) Permits for designated MS4's under this paragraph shall be under the same requirements as small MS4's designated under 40 CFR 122.32(a)(1) (see also R317-8-1.10(10[~~11~~])).

. . . . . .

R317-8-4. Permit Conditions.

4.2 ESTABLISHING PERMIT CONDITIONS. For the purposes of this section, permit conditions include any statutory or regulatory requirement which takes effect prior to the final administrative disposition of a permit. An applicable requirement may be any requirement which takes effect prior to the modification or revocation or reissuance of a permit, to the extent allowed in R317-8-5.6. New or reissued permits, and to the extent allowed under R317-8-5.6, modified or revoked and reissued permits shall incorporate each of the applicable requirements referenced in this section. In addition to the conditions established under R317-8-4.1 each UPDES permit will include conditions on a case by case basis to provide for and ensure compliance with all applicable Utah statutory and regulatory requirements and the following, as applicable:

(1) Technology-based effluent limitations and standards, based on effluent limitations and standards promulgated under Section 19-5-104 of the Utah Water Quality Act or new source performance standards promulgated under Section 19-5-104 of the Utah Water Quality Act, on case-by-case effluent limitations, or a combination of the two in accordance with R317-8-7.1.

(2) Toxic Effluent Standards and Other Effluent Limitations. If any applicable toxic effluent standard or prohibition, including any schedule of compliance specified in such effluent standard or prohibition, is promulgated under Section 307(a) of CWA for a toxic pollutant and that standard or prohibition is more stringent than any limitation on the pollutant in the permit, the Executive Secretary shall institute proceedings under these regulations to modify or revoke and reissue the permit to conform to the toxic effluent standard or prohibition.

(3) Reopener Clause. For any discharger within a primary industry category, as listed in R317-8-3.11, requirements will be incorporated as follows:

(a) On or before June 30, 1981:

1. If applicable standards or limitations have not yet been promulgated, the permit shall include a condition stating that, if an applicable standard or limitation is promulgated and that effluent standard or limitation is more stringent than any effluent limitation in the permit or controls a pollutant not limited in the permit, the permit shall be promptly modified or revoked and reissued to conform to that effluent standard or limitation.

2. If applicable standards or limitations have been promulgated or approved, the permit shall include those standards or limitations.

(b) On or after the statutory deadline set forth in Section 301(b)(2) (A), (C), and (E) of CWA, any permit issued shall include effluent limitations to meet the requirements of Section 301(b)(2) (A), (C), (D), (E), (F), whether or not applicable effluent limitations guidelines have been promulgated or approved. These permits need not incorporate the clause required by R317-8-4.2(3)(a)1.

(c) The Executive Secretary shall promptly modify or revoke and reissue any permit containing the clause required under R317-8-4.2(3)(a)1 to incorporate an applicable effluent standard or limitation which is promulgated or approved after the permit is issued if that effluent standard or limitation is more stringent than any effluent limitation in the permit, or controls a pollutant not limited in the permit.

(d) For any permit issued to a treatment works treating domestic sewage (including sludge-only facilities), the Executive Secretary shall include a reopener clause to incorporate any applicable standard for sewage sludge use or disposal adopted by the State. The Executive Secretary may promptly modify or revoke and reissue any permit containing the reopener clause required by this paragraph if the standard for sewage sludge use or disposal is more stringent than any requirements for sludge use or disposal in the permit, or controls a pollutant or practice not limited in the permit.

(4) Water quality standards and state requirements shall be included as applicable. Any requirements in addition to or more stringent than EPA's effluent limitation guidelines or standards will be included, when necessary to:

(a) Achieve water quality standards established under the Utah Water Quality Act, as amended and regulations promulgated pursuant thereto, including State narrative criteria for water quality.

1. Permit limitations must control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the Executive Secretary determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any State water quality standard, including State narrative criteria for water quality.

2. When determining whether a discharge causes, has the reasonable potential to cause, or contributes to an in-stream excursion above a narrative or numeric criteria within a State water quality standard, the Executive Secretary shall use procedures which account for existing controls on point and nonpoint sources of pollution, the variability of the pollutant or pollutant parameter in the effluent, the sensitivity of the species to toxicity testing (when evaluating whole effluent toxicity), and where appropriate, the dilution of the effluent in the receiving water.

3. When the Executive Secretary determines, using the procedures in R317-8-4.2(4)(2), that a discharge causes, has the reasonable potential to cause, or contributes to an in-stream excursion above the allowable ambient concentration of a State numeric criteria within a State water quality standard for an individual pollutant, the permit must contain effluent limits for that pollutant.

4. When the Executive Secretary determines, using the procedures in R317-8-4.2(4)(2), that a discharge causes, has the reasonable potential to cause, or contributes to an in-stream excursion above the numeric criterion for whole effluent toxicity, the permit will contain effluent limits for whole effluent toxicity.

5. Except as provided in R317-8-4.2, when the Executive Secretary determines, using the procedures in R317-8-4.2(4)(2), toxicity testing data, or other information, that a discharge causes, has the reasonable potential to cause, or contributes to an in-stream excursion above a narrative criterion within an applicable State water

quality standard, the permit will contain effluent limits for whole effluent toxicity. Limits on whole effluent toxicity are not necessary where the Executive Secretary determines in the fact sheet or statement of basis of the UPDES permit, using the procedures in R317-8-4.2(4)(2), that chemical specific limits for effluent are sufficient to attain and maintain applicable numeric and narrative State water quality standards.

6. Where the State has not established a water quality criterion for a specific chemical pollutant that is present in an effluent at a concentration that causes, has the reasonable potential to cause, or contributes to an excursion above a narrative criterion within an applicable State water quality standard the Executive Secretary will establish effluent limits using one or more of the following options:

a. Establish effluent limits using a calculated numeric water quality criterion for the pollutant which the Executive Secretary determines will attain and maintain applicable narrative water quality criteria and will fully protect the designated use. Such a criterion may be derived using a proposed State criterion, or an explicit State policy or regulation interpreting its narrative water quality criteria supplemented with other relevant information which may include: EPA's Water Quality Standards Handbook, October 1983, risk assessment data, exposure data, information about the pollutant from the Food and Drug Administration, and current EPA criteria documents:

b. Establish effluent limits on a case-by-case basis, using EPA's water quality criteria, published under section 307(a) of the CWA, supplemented where necessary by other relevant information; or

c. Establish effluent limitations on an indicator parameter for the pollutant of concern, provided:

(i) The permit identifies which pollutants are intended to be controlled by the use of the effluent limitations;

(ii) The fact sheet as required by .4 sets forth the basis for the limit, including a finding that compliance with the effluent limit on the indicator parameter will result in controls on the pollutant of concern which are sufficient to attain and maintain applicable water quality standards;

(iii) The permit requires all effluent and ambient monitoring necessary to show that during the term of the permit the limit on the indicator parameter continues to attain and maintain applicable water quality standards; and

(iv) The permit contains a reopener clause allowing the Executive Secretary to modify or revoke and reissue the permit if the limits on the indicator parameter no longer attain and maintain applicable water quality standards.

7. When developing water quality-based effluent limits under this paragraph the Executive Secretary shall ensure that:

a. The level of water quality to be achieved by limits on point sources established under this paragraph is derived from, and complies with all applicable water quality standards; and

b. Effluent limits developed to protect a narrative water quality criterion, a numeric water quality criterion, or both, are consistent with the assumptions and requirements of any available wasteload allocation for the discharge prepared by the State and approved by EPA pursuant to 40 CFR 130.7.

(b) Attain or maintain a specified water quality through water quality related effluent limits established under the Utah Water Quality Act;

(c) Conform to applicable water quality requirements when the discharge affects a state other than Utah;

(d) Incorporate any more stringent limitations, treatment standards, or schedule of compliance requirements established under federal or state law or regulations.

(e) Ensure consistency with the requirements of any Utah Water Quality Management Plan approved by EPA.

(f) Incorporate alternative effluent limitations or standards where warranted by "fundamentally different factors," under R317-8-7.3.

(5) Technology-based Controls for Toxic Pollutants. Limitations established under R317-8-4.2 (1), (2), or (4) to control pollutants meeting the criteria listed in R317-8-4.2(5)(a) will be included in the permit, if applicable. Limitations will be established in accordance with R317-8-4.2(5)(6). An explanation of the development of these limitations will be included in the fact sheet under R317-8-6.4.

(a) Limitations will control all toxic pollutants which:

1. The Executive Secretary determines, based on information reported in a permit application under R317-8-3.5(7) and (10), or in a notification under R317-8-4.1(15)(a) of this regulation or on other information, are or may be discharged at a level greater than the level which can be achieved by the technology-based treatment requirements appropriate to the permittee under R317-8-7.1(3)(a),(b) and (c).

2. The discharger does or may use or manufacture as an intermediate or final product or byproduct.

(b) The requirement that the limitations control the pollutants meeting the criteria of paragraph (a) of this subsection will be satisfied by:

1. Limitations on those pollutants; or

2. Limitations on other pollutants which, in the judgment of the Executive Secretary, will provide treatment of the pollutants under paragraph (a) of this subsection to the levels required by R317-8-7.1(3)(a), (b) and (c).

(6) Notification Level. A "notification level" which exceeds the notification level of R317-8-4.1(15) upon a petition from the permittee or on the Executive Secretary's initiative will be incorporated as a permit condition, if applicable. This new notification level may not exceed the level which can be achieved by the technology-based treatment requirements appropriate to the permittee under R317-8-7.1(3).

(7) Twenty-Four (24) Hour Reporting. Pollutants for which the permittee will report violations of maximum daily discharge limitations under R317-8-4.1(12)(f) shall be listed in the permit. This list will include any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous substance.

(8) Monitoring Requirements. The permit will incorporate, as applicable in addition to R317-8-4.1(12) the following monitoring requirements:

(a) To assure compliance with permit limitations, requirements to monitor;

1. The mass, or other measurement specified in the permit, for each pollutant limited in the permit;

2. The volume of effluent discharged from each outfall;

3. Other measurements as appropriate, including pollutants in internal waste streams under R317-8-4.3(8); pollutants in intake water for net limitations under R317-8-4.3(7); frequency and rate of discharge for noncontinuous discharges under R317-8-4.3(5); pollutants subject to notification requirements under R317-8-4.1(15)(a); and pollutants in sewage sludge or other monitoring as specified in State rules for sludge use or disposal or as determined to be necessary pursuant to R317-8-2.1.

4. According to test procedures approved under 40 CFR Part 136 for the analyses of pollutants having approved methods under the federal regulation, and according to a test procedure specified in the permit for pollutants with no approved methods.

(b) Except as provided in [~~paragrahs~~]paragraphs (8)(d) and (8)(e) of this section, requirements to report monitoring results shall be established on a case-by-case basis with a frequency dependent on the nature and effect of the sewage sludge use or disposal practice; minimally this shall be a specified in R317-8-1.10(8[~~9~~]) (where applicable), but in no case less than once a year.

(c) Requirements to report monitoring results for storm water discharges associated with industrial activity which are subject to an effluent limitation guideline shall be established on a case-by-case basis with a frequency dependent on the nature and effect of the discharge, but in no case less than once a year.

(d) Requirements to report monitoring results for storm water discharges associated with industrial activity (other than those addressed in paragraph (c)above) shall be established on a case-by-case basis with a frequency dependent on the nature and effect of the discharge. At a minimum, a permit for such a discharge must require;

1. The discharger to conduct an annual inspection of the facility site to identify areas contributing to a storm water discharge associated with industrial activity and evaluate whether measures to reduce pollutant loadings identified in a storm water pollution prevention plan are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed;

2. The discharger to maintain for a period of three years a record summarizing the results of the inspection and a certification that the facility is in compliance with the plan and the permit, and identifying any incidents of non-compliance;

3. Such report and certification be signed in accordance with R317-8-3.4; and

4. Permits for storm water discharges associated with industrial activity from inactivite mining operations may, where annual inspections are impracticable, require certification once every three years by a Registered Professional Engineer that the facility is in compliance with the permit, or alternative requirements.

(e) Permits which do not require the submittal of monitoring result reports at least annually shall require that the permittee report all instances of noncompliance not reported under R317-8-4.1(12)(a),(d),(e), and (f) at least annually.

(9) Pretreatment Program for POTWs. If applicable to the facility the permit will incorporate as a permit condition, requirements for POTWs to:

(a) Identify, in terms of character and volume of pollutants, any significant indirect dischargers into the POTW subject to pretreatment standards under the UPDES regulations.

(b) Submit a local program when required by and in accordance with R317-8-8.10 to assure compliance with pretreatment standards to the extent applicable in the UPDES regulations. The local program will be incorporated into the permit as described in R317-8-8.10. The program shall require all indirect dischargers to the POTW to comply with the applicable reporting requirements.

(c) For POTWs which are "sludge-only facilities", a requirement to develop a pretreatment program under R317-8-8 when the Executive Secretary determines that a pretreatment program is necessary to assure compliance with State rules governing sludge use or disposal.

(10) Best management practices shall be included as a permit condition, as applicable, to control or abate the discharge of pollutants when:

(a) Authorized under the Utah Water Quality Act as amended and the UPDES rule for the control of toxic pollutants and hazardous substances from ancillary activities;

(b) Numeric effluent limitations are infeasible, or

(c) The practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the Utah Water Quality Act, as amended.

(11) Reissued Permits.

(a) Except as provided in R317-8-4.2(11)(b), when a permit is renewed or reissued, interim limitations, standards or conditions must be at least as stringent as the final limitations, standards, or conditions in the previous permit unless the circumstances on which the previous permit was based have materially and substantially changed since the time the permit was issued and would constitute cause for permit modification or revocation and reissuance under R317-8-5.6.

(b) In the case of effluent limitations established on the basis of Section 19-5-104 of the Utah Water Quality Act, a permit may not be renewed, reissued, or modified on the basis of effluent guidelines promulgated by EPA under section 304(b) of the CWA subsequent to the original issuance of such permit, to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit.

(c) Exceptions--A permit with respect to which R317-8-4.2(11)(b) applies may be renewed, reissued or modified to contain a less stringent effluent limitation applicable to a pollutant, if--

1. Material and substantial alterations or additions to the permitted facility occurred after permit issuance which justify the application of a less stringent effluent limitation; and

2. a. Information is available which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) which would have justified the application of a less stringent effluent limitation at the time of permit issuance; or

b. The Executive Secretary determines that technical mistakes or mistaken interpretations of law were made in issuing the permit;

3. A less stringent effluent limitation is necessary because of events over which the permittee has no control and for which there is no reasonably available remedy;

4. The permittee has received a permit modification under R317-8-5.6; or

5. The permittee has installed the treatment facilities required to meet the effluent limitations in the previous permit and has properly operated and maintained the facilities but has nevertheless been unable to achieve the previous effluent limitations, in which case the limitations in the reviewed, reissued, or modified permit may reflect the level of pollutant control actually achieved (but shall not be less stringent than required by effluent guidelines in effect at the time of permit renewal, reissuance, or modification).

(d). Limitations. In no event may a permit with respect to which R317-8-4.2(11)(b) applies be renewed, reissued or modified to contain an effluent limitation which is less stringent than required by effluent guidelines in effect at the time the permit is renewed, reissued, or modified. In no event may such a permit to discharge into waters be renewed, issued, or modified to contain a less stringent effluent limitation if the implementation of such limitation would result in a violation of the water quality standard applicable to such waters.

(12) Privately Owned Treatment Works. For a privately owned treatment works, any conditions expressly applicable to any user, as a limited co-permittee, that may be necessary in the permit issued to the treatment works to ensure compliance with applicable requirements under this regulation will be imposed as applicable. Alternatively, the

Executive Secretary may issue separate permits to the treatment works and to its users, or may require a separate permit application from any user. The Executive Secretary's decision to issue a permit with no conditions applicable to any user, to impose conditions on one or more users, to issue separate permits or to require separate applications, and the basis for that decision will be stated in the fact sheet for the draft permit for the treatment works.

(13) Grants. Any conditions imposed in grants or loans made by the Executive Secretary to POTWs which are reasonably necessary for the achievement of federally issued effluent limitations will be required as applicable.

(14) Sewage Sludge. Requirements governing the disposal of sewage sludge from publicly owned treatment works or any other treatment works treating domestic sewage for any use for which rules have been established, in accordance with any applicable regulations.

(15) Coast Guard. When a permit is issued to a facility that may operate at certain times as a means of transportation over water, the permit will be conditioned to require that the discharge comply with any applicable federal regulation promulgated by the Secretary of the department in which the Coast Guard is operating, and such condition will establish specifications for safe transportation, handling, carriage, and storage of pollutants, if applicable.

(16) Navigation. Any conditions that the Secretary of the Army considers necessary to ensure that navigation and anchorage will not be substantially impaired, in accordance with R317-8-6.9 will be included.

(17) State standards for sewage sludge use or disposal. When there are no applicable standards for sewage sludge use or disposal, the permit may include requirements developed on a case-by-case basis to protect public health and the environment from any adverse effects which may occur from toxic pollutants in sewage sludge. If any applicable standard for sewage sludge use or disposal is promulgated under Section 19-5-104 of the Utah Water Quality Act, and that standard is more stringent than any limitation on the pollutant or practice in the permit, the Executive Secretary may initiate proceedings under these rules to modify or revoke and reissue the permit to conform to the standard for sewage sludge use or disposal.

(18) Qualifying State or local programs.

(a) For storm water discharges associated with small construction activity identified in R317-8-3.9(6)(e), the Executive Secretary may include permit conditions that incorporate qualifying State or local erosion and sediment control program requirements by reference. Where a qualifying State or local program does not include one or more of the elements in this paragraph then the Executive Secretary must include those elements as conditions in the permit. A qualifying State or local erosion and sediment control program is one that includes:

1. Requirements for construction site operators to implement appropriate erosion and sediment control best management practices;

2. Requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality;

3. Requirements for construction site operators to develop and implement a storm water pollution prevention plan. (A storm water pollution prevention plan includes site descriptions of appropriate control measures, copies of approved State, local requirements, maintenance procedures, inspections procedures, and identification of non-storm water discharges); and

4. Requirements to submit a site plan for review that incorporates consideration of potential water quality impacts.

(b) For storm water discharges from construction activity identified in R317-8-3.9(6)(d)10., the Executive Secretary may include permit conditions that incorporate qualifying State or local erosion and sediment control program requirements by reference. A qualifying State or local erosion and sediment control program is one that includes the elements listed in paragraph (18)(a) of this section and any additional requirements necessary to achieve the applicable technology-based standards of "best available technology" and "best conventional technology" based on the best professional judgment[~~judgement~~] of the permit writer.

R317-8-7. Criteria and Standards.

. . . . . .

7.7 CRITERIA FOR EXTENDING COMPLIANCE DATES FOR FACILITIES INSTALLING INNOVATIVE TECHNOLOGY

(1) Purpose and Scope. This Section establishes the criteria and procedures to be used in determining whether an industrial discharger will be granted a compliance extension for the installation of an innovative technology.

(2) Authority. The Executive Secretary, in consultation with the Administrator, may grant a compliance extension for BAT limitations to a discharger which installs an innovative technology. The innovative technology must produce either a significantly greater effluent reduction than that achieved by the best available technology economically achievable (BAT) or the same level of treatment as BAT at a significantly lower cost. The Executive Secretary is authorized to grant compliance extensions to a date no later than 2 years after the date for compliance with the effluent limitations which would otherwise be applicable.

(3) Definitions.

(a) The term "innovative technology" means a production process, a pollution control technique, or a combination of the two which satisfies one of the criteria in R317-8-7.8(4) and which has not been commercially demonstrated in the industry of which the requesting discharger is a part.

(b) The term "potential for industry-wide application" means that an innovative technology can be applied in two or more facilities which are in one or more industrial categories.

(c) The term "significantly greater effluent reduction than BAT" means that the effluent reduction over BAT produced by an innovative technology is significant when compared to the effluent reduction over best practicable control technology currently available (BPT) produced by BAT.

(d) The term "significantly lower cost" means that an innovative technology must produce a significant cost advantage when compared to the technology used to achieve BAT limitations in terms of annual capital costs and annual operation and maintenance expenses over the useful life of the technology.

(4) Request for Compliance Extension. The Executive Secretary shall grant a compliance extension to a date no later than 2 years after the date for compliance with the effluent limitations which would otherwise be applicable to a discharger that demonstrates:

(a) That the installation and operation of its proposed innovative technology at its facility will result in a significantly greater effluent reduction than BAT and has the potential for industry-wide application; or

(b) That the installation and operation of its proposed innovative technology at its facility will result in the same effluent reduction as BAT at a significantly lower cost and has the potential for industry-wide application.

(5) Permit conditions. The Executive Secretary may include any of the following conditions in the permit of a discharger to which a compliance extension beyond the otherwise applicable date is granted:

(a) A requirement that the discharger report annually on the installation, operation and maintenance costs of the innovative technology;

(b) Alternative BAT limitations that the discharger must meet as soon as possible and not later than 2 years after the date for compliance with the effluent limitation which would otherwise be applicable if the innovative technology limitations that are more stringent than BAT are not achievable.

(6) Signatories to Request for Compliance Extension.

(a) All requests must be signed in accordance with the provisions of R317-8-3.4.

(b) Any person signing a request under paragraph (a) of this section shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

(c) A professional engineer shall certify that the estimates by the applicant of the costs for the BAT control equipment and for the innovative technology are made in accordance with good engineering practice and represent, in his judgment[~~judgement~~], the best information available. The Executive Secretary may waive the requirements for certification under this subsection if, in his opinion, the cost of such certification is unreasonable when compared to the annual sales of the applicant.

(7) Supplementary Information and Record keeping.

(a) In addition to the information submitted in support of the request, the applicant shall provide the Executive Director, at his or her request, such other information as the Executive Director may reasonably require to assess the performance and cost of the innovative technology.

(b) Applicants shall keep records of all data used to complete the request for a compliance extension for the life of the permit containing the compliance extension.

(8) Procedures.

(a) The procedure for requesting a section 301(k) compliance extension is contained in R317-8-2.8. In addition, notwithstanding R317-8-2.3(3), the Executive Secretary may accept applications for such extensions after the close of the public comment period on the permit if the applicant can show that information necessary to the development of the innovation was not available at the time the permit was written and that the innovative technology can be installed and operated in time to comply no later than 2 years after the date for compliance with the effluent limitation which would otherwise be applicable.

R317-8-8. Pretreatment.

8.1 APPLICABILITY

(1) This section applies to the following:

(a) Pollutants from non-domestic sources covered by [~~pretreatment standards~~]Pretreatment Standards which are indirectly discharged, transported by truck or rail, or otherwise introduced into POTWs;

(b) POTWs which receive wastewater from sources subject to [~~national pretreatment standards~~]National Pretreatment Standards; and

(c) Any new or existing source subject to [~~national pretreatment standards~~]National Pretreatment Standards.

(2) National [~~pretreatment standards~~]Pretreatment Standards do not apply to sources which discharge to a sewer which is not connected to a POTW.

8.2 DEFINITIONS. The following definitions pertain to indirect dischargers and POTWs subject to pretreatment standards and the UPDES program.

(1) "Approval Authority" means the Executive Secretary.

(2)[~~(1)~~] "Approved POTW pretreatment program or Program or POTW Pretreatment Program" means a program administered by a POTW that meets the criteria established in R317-8-8.8 and 8.9 and which has been approved by the Executive Secretary in accordance with R317-8-8.10.

(3) "Best Management Practices or BMPs" means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to implement the prohibitions listed in R317-8-8.5(1) and (3). BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal or drainage from raw materials storage.

(4) "Control Authority" means the POTW if the POTW's submission for its pretreatment program has been approved by the Executive Secretary in accordance with the requirements in R317-8-8.10 or the Executive Secretary if the submission has not been approved.

[~~(2)~~](5) "Indirect discharge" or "discharge" means the introduction of pollutants into a POTW from any non-domestic source regulated by the UPDES program.

[~~(3)~~](6) "Industrial [~~user~~]User" or "[~~user~~]User" means a source of indirect discharge.

[~~(4)~~](7) "Interference" means a discharge which, alone or in conjunction with a discharge or discharges from other sources both:

(a) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

(b) Therefore is a cause of a violation of any requirement of the POTW's UPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder.

[~~(5)~~](8) "National [~~pretreatment standard~~]Pretreatment Standard, Pretreatment Standard or Standard" means any regulation containing pollutant discharge limits promulgated by EPA in accordance with section 307 (b) and (c) of the CWA, which applies to [~~industrial users~~]Industrial Users. This includes prohibitive discharge limits established pursuant to R317-8-8.5.

[~~(6)~~](9) "New Source" means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after publication of proposed Pretreatment Standards under section 307(c) of the [~~Federal Clean Water Act~~](CWA) which will be applicable to such source, if such standards are thereafter promulgated in accordance with that section. See R317-8-8.3 for provisions applicable to this definition.

[~~(7)~~](10) "Pass through" means a discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of violation of any requirement of the POTW's UPDES permit (including an increase in the magnitude or duration of violation).

[~~(8)~~](11) "POTW treatment plant" means that portion of the POTW which is designed to provide treatment, including recycling and reclamation of municipal sewage and industrial waste.

[~~(9)~~](12) "Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by 40 CFR 403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loading that might interfere with or otherwise be incompatible with the POTW. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 CFR 403.6(e).

[~~(10)~~](13) "Pretreatment requirements" means any substantive or procedural requirements related to pretreatment, other than a National Pretreatment Standard, imposed on an [~~industrial user~~]Industrial User.

[~~(11)~~](14) The term "Publicly Owned Treatment Works" or "POTW" means a treatment works which is owned by State or municipality within the State. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW Treatment Plant. The term also means the municipality which has jurisdiction over the Indirect Discharges to and the discharges from such a treatment works.

~~[(12) The term "POTW Treatment Plant" means that portion of the POTW which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.~~

~~(13)~~](15) "Significant Industrial User"

(a) Except as provided in R317-8-8.2([~~11~~]16)[~~(a)2~~](b) and (c), the term Significant Industrial User means:

1. All [~~industrial users~~]Industrial Users subject to Categorical Pretreatment [~~standards~~]Standards under 40 CFR 403.6 and 40 CFR Parts 405 through 471; and

2. Any other [~~industrial user~~]Industrial User that discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or designated as such by the Control Authority [~~as defined in R317-8-8.11(1)~~] on the basis that the [~~industrial user~~]Industrial User has a reasonable potential for adversely affecting the POTW's operation or for violating any [~~pretreatment standard~~]Pretreatment Standard or requirement.

(b) The Control Authority may determine that an Industrial User subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:

1. The Industrial User, prior to the Control Authority's finding, has consistently complied with all applicable Categorical Pretreatment Standards and Requirements;

2. The Industrial User annually submits the certification statement required in R317-8-8.11(14) together with any additional information necessary to support the certification statement; and

3. The Industrial User never discharges any untreated concentrated wastewater.

(c) Upon a finding that an Industrial User meeting the criteria in R317-8-8.2(15)(a)2. of this section has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standards or requirement, the Control Authority may at any time, on its own initiative or in response to a petition received from an Industrial User or POTW, and in accordance with R317-8-8.8(6)(b)12. , determine that such Industrial User is not a Significant Industrial User.

~~[(b) Upon a finding that an industrial user meeting the criteria in R317-8-8.1(10)(a)2 has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Control Authority (as defined in R317-8-8.11(1)) may at any time, on its own initiative or in response to a petition received from an industrial user or POTW, determine that such industrial user is not a significant industrial user.~~

~~(14)~~](16) "Submission" means

(a) a request by a POTW for approval of a pretreatment program to the Executive Secretary or

(b) a request by a POTW for authority to revise the discharge limits in [~~categorical pretreatment standards~~]Categorical Pretreatment Standards to reflect POTW pollutant removals.

8.3 PROVISIONS APPLICABLE TO DEFINITIONS. The following provisions are applicable to the definition of "New Source" provided that:

(1) The building, structure, facility or installation is constructed at a site at which no other source is located, or

(2) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source, or

(3) The production or wastewater generating process of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(4) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of R317-8-8.3(2) or (3) but otherwise alters, replaces, or adds to existing process or production equipment.

(5) construction of a new source as defined has commenced if the owner or operator has:

(a) Begun, or caused to begin as part of a continuous on-site construction program:

1. Any placement, assembly, or installation of facilities or equipment: or

2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment: or

3. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation.

8.4 LOCAL LAW. Nothing in this rule is intended to affect any pretreatment requirements, including any standards or prohibitions

established by local law as long as the local requirements are not less stringent than any set forth in national pretreatment standards, or any other requirements or prohibitions established by the Executive Secretary.

8.5 NATIONAL PRETREATMENT STANDARDS: Prohibited Discharges

(1) General Prohibitions. Pollutants introduced into POTWs by a non-domestic source shall not pass through the POTW or interfere with the operation or performance of the works. These general prohibitions and the specific prohibitions in R317-8-8.5(3) apply to all non-domestic sources introducing pollutants into a POTW whether or not the source is subject to other National Pretreatment Standards or any national, State or local pretreatment requirements.

(2) Affirmative Defenses. A [~~user~~]User shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions established in R317-8-8.5(1) and the specific prohibitions in R317-8-8.5(3)(c),(d),(e), and (g) where the [~~user~~]User can demonstrate that:

(a) It did not know or have reason to know that its discharge, alone or in conjunction with a discharge or discharges from other sources, would cause pass through or interference; and

(b)1.[~~i.~~] A local limit designed to prevent pass through and/or interference, as the case may be, was developed in accordance with R317-8-8.5(4) for each pollutant in the [~~user's~~]User's discharge that caused pass through or interference, and the [~~user~~]User was in compliance with each such local limit directly prior to and during the pass through or interference; or

2.[~~ii.~~] If a local limit designed to prevent pass through and/or interference, as the case may be, has not been developed in accordance with R317-8-8.5(4) for the pollutant(s) that caused the pass through or interference, the [~~user's~~]User's discharge directly prior to and during the pass through or interference did not change substantially in nature or constituents from the [~~user's~~]User's prior discharge activity when the POTW was regularly in compliance with the POTW's UPDES permit requirements and, in the case of interference, applicable requirements for sewage sludge use or disposal.

(3) Specific Prohibitions. In addition, the following pollutants shall not be introduced into a POTW:

(a) Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in R315-2-1.

(b) Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0, unless the works is specifically designed to accommodate such discharges;

(c) Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in interference;

(d) Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW:

(e) Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds 40 degrees C (104 degrees F) unless the Executive Secretary, upon request of the POTW, approves alternate temperature limits.

(f) Petroleum oil, nonbiodegradable[~~nonbiodegrable~~] cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;

(g) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems; and

(h) Any trucked or hauled pollutants, except at discharge points designated by the POTW.

(4) When specific limits must be developed by POTW.

(a) POTWs developing POTW pretreatment programs shall develop and enforce specific limits to implement the prohibitions listed in R317-8-8.5(1) and R317-8-8.5(3). Each POTW with an approved pretreatment program shall continue to develop these limits as necessary and effectively enforce such limits;

(b) All other POTWs shall, in cases where pollutants contributed by [~~user(s)~~]User(s) result in interference or pass-through, and such violation is likely to recur, develop and enforce specific effluent limits for [~~industrial user(s)~~]Industrial User(s), and all other users, as appropriate, which, together with appropriate changes in the POTW treatment plant's facilities or operation, are necessary to ensure renewed and continued compliance with the POTW's UPDES permit or sludge use or disposal practices;

(c) Specific effluent limits shall not be developed and enforced without individual notice to persons or groups who have requested such notice and an opportunity to respond.

(5) Local Limits. Where specific prohibitions or limits on pollutants or pollutant parameters are developed by a POTW in accordance with R317-8-8.5(4), such limits shall be deemed pretreatment standards for purposes of 19-5-108 of the Utah Water Quality Act.

(6) State enforcement actions. If, within 30 days after notice of an interference or pass through violation has been sent by the Executive Secretary to the POTW, and to persons or groups who have requested such notice, the POTW fails to commence appropriate enforcement action to correct the violation, the Executive Secretary may take appropriate enforcement action.

(7) POTWs may develop Best Management Practices (BMPs) to implement R317-8-8.5(4)(a) and (b). Such BMPs shall be considered local limits and Pretreatment Standards for the purposes of this part and section 307(d) of the CWA

8.6 NATIONAL PRETREATMENT STANDARDS: Categorical Standards

40 CFR 403.6 is incorporated by reference as indicated in R317-8-1.10(4)

(1) In addition to the general prohibitions in R317-8-[~~8.4~~]8.5(1), all indirect dischargers shall comply with national pretreatment standards in 40 CFR Chapter I, Subchapter N. Compliance shall be required within the time specified in the appropriate subpart of Subchapter N.

(2) Industrial [~~users~~]Users may request the Executive Secretary to provide written certification on whether an [~~industrial user~~]Industrial User falls within a particular subcategory. The Executive Secretary will act upon that request in accordance with the procedures in 40 CFR 403.6.

(3) Limitations for [~~industrial users~~]Industrial Users will be imposed in accordance with 40 CFR 403.6 (c) - (e).

8.7 REMOVAL CREDITS. POTWs may revise pollutant discharge limits specified in [~~categorical pretreatment standards~~]Categorical Pretreatment Standards to reflect removal of pollutants by the POTW. Revisions must be made in accordance with the provisions of 40 CFR 403.7.

8.8 POTW PRETREATMENT PROGRAMS: Development by POTW

(1) POTW required to develop a pretreatment program. Any POTW, or combination of POTWs operated by the same authority, with a total design flow greater than 5 million gallons per day (mgd) and receiving from [~~industrial users~~]Industrial Users pollutants which

pass through or interfere with the operation of the POTW or are otherwise subject to pretreatment standards shall be required to establish a POTW pretreatment program unless the Executive Secretary exercises the option to assume local responsibility as provided for in R317-8-8.8(6)(b)13.[~~(12)~~]. The Executive Secretary may require that a POTW with a design flow of 5 mgd or less develop a POTW pretreatment program if it is found that the nature or volume of the industrial influent, treatment process upsets, violations of POTW effluent limitations, contamination of municipal sludge, or other circumstances so warrant in order to prevent interference or pass through.

(2) Deadline for Program Approval. POTWs identified as being required to develop a POTW pretreatment program under R317-8-8.8(1) shall develop and submit such a program for approval as soon as possible, but in no case later than one year after written notification from the Executive Secretary of such identification. The POTW pretreatment program shall meet the criteria set forth in R317-8-8.8(6) and shall be administered by the POTW to ensure compliance by [~~industrial users~~]Industrial Users with applicable pretreatment standards and requirements.

(3) Incorporation of Approved Programs in Permits. A POTW may develop an approvable POTW pretreatment program any time before the time limit set forth in R317-8-8.8(2). The POTW's UPDES permit will be modified under R317-8-5.6(3)(g) to incorporate the approved program conditions as enforceable conditions of the permit.

(4) Incorporation of Compliance Schedules in Permits. If the POTW does not have an approved pretreatment program at the time the POTWs existing permit is reissued or modified, the reissued or modified permit will contain the shortest reasonable compliance schedule, not to exceed three years, for the approval of the legal authority, procedures and funding required by paragraph (6) of this subsection.

(5) Cause for Reissuance or Modification of Permits. The Executive Secretary may modify or revoke and reissue a POTW's permit in order to:

(a) Put the POTW on a compliance schedule for the development of a POTW pretreatment program where the addition of pollutants into a POTW by an [~~industrial user~~]Industrial User or combination of [~~industrial users~~]Industrial Users presents a substantial hazard to the functioning of the treatment works, quality of the receiving waters, human health, or the environment;

(b) Coordinate the issuance of a CWA Section 201 construction grant with the incorporation into a permit of a compliance schedule for POTW pretreatment program;

(c) Incorporate an approved POTW pretreatment program in the POTW permit;

(d) Incorporate a compliance schedule for the development of a POTW pretreatment program in the POTW permit.

(e) Incorporate a modification of the permit approved under R317-8-5.6; or

(f) Incorporate the removal credits established under R317-8-8.7.

(6) Pretreatment Program Requirements: Development and Implementation by POTW. A POTW pretreatment program must be based on the following legal authority and include the following procedures. These authorities and procedures shall at all times be fully and effectively exercised and implemented.

(a) Legal authority. The POTW shall operate pursuant to legal authority enforceable in Federal, State or local courts which authorizes or enables the POTW to apply and to enforce the requirements of this section. The authority may be contained in a statute, ordinance, or series of contracts or joint powers agreements which the POTW is authorized to enact, enter into or implement, and which are authorized by State law. At a minimum, this legal authority shall enable the POTW to:

1. Deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by [~~industrial users~~]Industrial Users where such contributions do not meet applicable pretreatment standards and requirements or where such contributions would cause the POTW to violate its UPDES permit;

2. Require compliance with applicable pretreatment standards and requirements by [~~industrial users~~]Industrial Users;

3. Control, through permit, order or similar means, the contribution to the POTW by each [~~industrial user~~]Industrial User to ensure compliance with applicable pretreatment standards and requirements. In the case of [~~industrial users~~]Industrial Users identified as significant under R317-8-8.2[~~(10)~~](15), this control shall be achieved through permits or equivalent individual control mechanisms issued to each such [~~user~~]User. Such control mechanisms must be enforceable and contain, at a minimum, the following conditions:

a. At the discretion of the POTW:

i. This control may include use of general control mechanisms if the following conditions are met. All of the facilities to be covered must:

A. Involve the same or substantially similar types of operations;

B. Discharge the same types of wastes;

C. Require the same effluent limitations;

D. Require the same or similar monitoring; and

E. In the opinion of the POTW, are more appropriately controlled under a general control mechanism than under individual control mechanisms.

ii. To be covered by the general control mechanism, the Significant Industrial User must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general control mechanism, any requests in accordance with R317-8-8.11(4)(b) for a monitoring waiver for a pollutant neither present nor expected to be present in the discharge, and any other information the POTW deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the general control mechanism until after the POTW has provided written notice to the Significant Industrial User that such a waiver request has been granted in accordance with R317-8-8.11(4)(b). The POTW must retain a copy of the general control mechanism, documentation to support the POTW's determination that a specific Significant Industrial User meets the criteria in R317-8-8.8(6)(a)3.a.i.A. through E., and a copy of the User's written request for coverage for 3 years after the expiration of the general control mechanism. A POTW may not control a Significant Industrial User through a general control mechanism where the facility is subject to production-based Categorical Pretreatment Standards or Categorical Pretreatment Standards expressed as mass of pollutant discharged per day or for Industrial Users whose limits are based on the combined wastestream formula or Net/Gross calculations (40 CFR 403.6(e) and 40 CFR 403.15).

b. Both individual and general control mechanisms must be enforceable and contain, at a minimum, the following conditions:

i.[~~a.~~] Statement of duration (in no case more than five years);

ii.[~~b.~~] Statement of non-transferability without, at a minimum, prior notification to the POTW and provision of a copy of the existing control mechanism to the new owner or operator;

iii.[~~c.~~] Effluent limits, including Best Management Practices, based on applicable general pretreatment standards, [~~categorical~~

~~pretreatment standards~~]Categorical Pretreatment Standards, local limits and State and local law;

iv.[~~d.~~] Self-monitoring, sampling, reporting, notification and record keeping requirements, including identification of the pollutants to be monitored (including the process for seeking a waiver for a pollutant neither present nor expected to be present in the discharge in accordance with R317-8-8.11(4)(b), or a specific waived pollutant in the case of an individual control mechanism), sampling location, sampling frequency, and sample type, based on the applicable general pretreatment standards, [~~categorical pretreatment standards~~]Categorical Pretreatment Standards, local limits, and State and local law;

v.[~~e.~~] Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines[~~.~~]; and

vi. Requirements to control Slug Discharges, if determined by the POTW to be necessary.

4. Require the development of a compliance schedule by each [~~industrial user~~]Industrial User for the installation of technology required to meet applicable pretreatment standards and requirements; including but not limited to the reports required in R317-8-8.11 of this section;

5. Require the submission of all notices and self-monitoring reports from [~~industrial users~~]Industrial Users as are necessary to assess and assure compliance by [~~industrial users~~]Industrial Users with pretreatment standards and requirements;

6. Carry out all inspection, surveillance and monitoring procedures necessary to determine, independent of information supplied by [~~industrial users~~]Industrial Users, compliance or noncompliance with applicable pretreatment standards and requirements by [~~industrial users~~]Industrial Users. Representatives of the POTW shall be authorized to enter any premises of any [~~industrial user~~]Industrial User in which a discharge source or treatment system is located or in which records are required to be kept under R317-8-8.11 of this section to assure compliance with pretreatment standards. Such authority shall be at least as extensive as the authority provided under Section 19-5-106(4) of the Utah Water Quality Act.

7. Obtain remedies for noncompliance by [~~industrial users~~]any Industrial User with any pretreatment standard and requirement. A POTW shall be able to seek injunctive relief for noncompliance and shall have authority to seek or assess civil or criminal penalties in at least the amount of $1,000 a day for each violation of pretreatment standards and requirements by [~~industrial users~~]Industrial Users. POTWs whose approved pretreatment programs require modification to conform to the requirements of this paragraph shall submit a request for approval of a program modification in accordance with Section R317-8-8.[~~15~~]16 by November 16, 1989.

8. Pretreatment requirements enforced through the remedies set forth in R317-8-8.8(6)(a)[~~(7)~~]7. shall include, but not be limited to, the duty to allow or carry out inspection entry or monitoring activities; any rules, regulations or orders issued by the POTW; any requirements set forth in individual control mechanisms issued by the POTW; or any reporting requirements imposed by the POTW or R317-8-8. The POTW shall have authority and procedures (after informal notice to the discharger) immediately and effectively to halt or prevent any discharge of pollutants to the POTW which reasonably appears to present an imminent danger to the health or welfare of persons. The POTW shall also have authority and procedures (which shall include notice to the affected [~~industrial user~~]Industrial User and opportunity to respond) to halt or prevent any discharge to the POTW which presents or may present a danger to the environment or which threatens to interfere with the operation of the POTW. The Executive Secretary shall have authority to seek judicial relief for noncompliance by [~~industrial users~~]Industrial Users when the POTW has acted to seek such relief but has sought a penalty which the Executive Secretary finds to be insufficient. The procedures for notice to dischargers where the POTW is seeking ex parte temporary judicial injunctive relief will be governed by applicable State or Federal law and not by this provision, and will comply with the confidentiality requirements set forth in R317-8-3.3.

(b) Procedures. The POTW shall develop and implement procedures to ensure compliance with the requirements of a pretreatment program. At a minimum, these procedures shall enable the POTW to:

1. Identify and locate all possible [~~industrial users~~]Industrial Users which might be subject to the POTW pretreatment program. Any compilation, index or inventory of [~~industrial users~~]Industrial Users made under this paragraph shall be made available to the Executive Secretary upon request;

2. Identify the character and volume of pollutants contributed to the POTW by the [~~industrial user~~]Industrial User identified under [~~subparagraph (1) above~~]R317-8-8.8(6)(b)1. This information shall be made available to the Executive Secretary upon request;

3. Notify [~~industrial users~~]Industrial Users identified under R317-8-8.8(6)(b)1. of applicable pretreatment standards and any other applicable requirements. Within 30 days of approval of a list of significant industrial users, notify each [~~significant industrial user~~]Significant Industrial User of its status as such and of all requirements applicable to it as a result of such status.

4. Receive and analyze self-monitoring reports and other notices submitted by [~~industrial users~~]Industrial Users in accordance with the requirements of R317-8-8.11.

5. Randomly sample and analyze the effluent from [~~industrial users~~]Industrial Users and conduct surveillance and inspection activities in order to identify, independent of information supplied by [~~industrial users~~]Industrial Users, occasional and continuing noncompliance with pretreatment standards. Inspect and sample the effluent from each [~~significant industrial user~~]Significant Industrial User at least once a year except as otherwise specified below:[~~. Evaluate, at least once every two years, whether each such significant industrial user needs a plan to control slug discharges. For purposes of this subsection, a slug discharge is any discharge of a non-routine episodic nature, including but not limited to an accidental spill or a non-customary batch discharge. The results of such activities shall be available to the Executive Secretary upon request. If the POTW decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:~~]

a. Where the POTW has authorized the Industrial User subject to a Categorical Pretreatment Standard to forego sampling of a pollutant regulated by a Categorical Pretreatment Standard in accordance with R317-8-8.11(4)(c), the POTW must sample for the waived pollutant(s) at least once during the term of the Categorical Industrial User's control mechanism. In the event that the POTW subsequently determines that a waived pollutant is present or is expected to be present in the Industrial User's wastewater based on changes that occur in the User's operations, the POTW must immediately begin at least annual effluent monitoring of the User's Discharge and inspection.

b. Where the POTW has determined that an Industrial User meets the criteria for classification as a Non-Significant Categorical Industrial User, the POTW must evaluate, at least once per year, whether an Industrial User continues to meet the criteria in R317-8-8.2(15)(b),

c. In the case of Industrial Users subject to reduced reporting requirements under R317-8-8.11(4)(c), the POTW must randomly sample and analyze the effluent from Industrial Users and conduct inspections at least once every two years. If the Industrial User no longer meets the conditions for reduced reporting in R317-8-8.11(4)(c), the POTW must immediately begin sampling and inspecting the Industrial User at least once a year.

6. Evaluate, at least once every two years, whether each such Significant Industrial User needs a plan to control slug discharges. For purposes of this subsection, a slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or Permit conditions. The results of such activities shall be available to the Executive Secretary upon request. Significant Industrial Users are required to notify the POTW immediately of any changes at its facility affecting potential for a slug discharge. Significant Industrial Users must be evaluated within one year of being designated a Significant Industrial User. If the POTW decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

a. Description of discharge practices, including non-routine batch discharges;

b. Description of stored chemicals;

c. Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under R317-8-8.5 with procedures for follow-up written notification within five days;

d. If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response. The results of these activities shall be made available to the Executive Secretary upon request;

7.[~~6.~~] Investigate instances of noncompliance with pretreatment standards and requirements, as indicated in the reports and notices required by R317-8-8.11, or indicated by analysis, inspection, and surveillance activities. Sample taking and analysis and the collection of other information shall be performed with sufficient care to produce evidence admissible in enforcement proceedings or in judicial actions;

8.[~~7.~~] Comply with all applicable public participation requirements of State law and rules. These procedures shall include provision for at least annually providing public notification, in the largest daily newspaper published in the municipality in which the POTW is located, of [~~industrial users~~]Industrial Users which, at anytime during the previous 12 months, were in significant noncompliance with applicable pretreatment requirements. For the purposes of this provision, an [~~industrial user~~]Industrial User is in significant noncompliance if its violation meets one or more of the following criteria:

a. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all of the measurements taken during a six month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement including instantaneous limits,[~~the daily maximum limit or the average limit~~] for the same pollutant parameter;

b. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous[~~daily maximum limit or the average~~] limit multiplied by the applicable TRC. TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH[-];

c. Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the Control Authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);

d. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under R317-8-8.8(6)(a)8. to halt or prevent such a discharge:

e. Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance:

f. Failure to provide within 45[~~30~~] days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

g. Failure to accurately report noncompliance; and

h. Any other violation or group of violations, which may include a violation of Best Management Practices, which the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.

9.[~~8.~~] Funding. The POTW shall have sufficient resources and qualified personnel to carry out all required authorities and procedures. In some limited circumstances, funding and personnel may be delayed by the Executive Secretary when the POTW has adequate legal authority and procedures to carry out the pretreatment program requirements and a limited aspect of the program does not need to be implemented immediately.

10.[~~9.~~] Local Limits. The POTW shall develop local limits as required in section R317-8-8.5(4)(a) or demonstrate that they are not necessary.

11.[~~10.~~] Enforcement Response Plan. The POTW shall develop and implement an enforcement response plan. This plan shall contain detailed procedures indicating how the POTW will investigate and respond to instances of industrial user noncompliance. The plan shall, at a minimum;

a. Describe how the POTW will investigate instances of noncompliance;

b. Describe the types of escalating enforcement responses the POTW will take in response to all anticipated types of industrial user violations and the time periods within which responses will take place;

c. Identify (by title) the official(s) responsible for each type of response;

d. Adequately reflect the POTW's primary responsibility to enforce all applicable pretreatment requirements and standards, as detailed in R317-8-8.8[~~7~~](6)(a) and (b).

12.[~~11.~~] List of Industrial Users. The POTW shall prepare a list of its [~~industrial users~~]Industrial Users meeting the criteria of R317-8-8.2(15[~~10~~])(a). The list shall identify the criteria in R317-8-8.2(15[~~10~~])(a)[~~(1)~~] applicable to each [~~industrial user~~]Industrial User and, for [~~industrial users~~]Industrial Users meeting the criteria in R317-8-8.2(15[~~10~~])(a)[~~(2)~~], shall also indicate whether the POTW has made a determination pursuant to R317-8-8.2(15[~~10~~])(b) that such [~~industrial user~~]Industrial User should not be considered a [~~significant industrial user~~]Significant Industrial User. This list and any subsequent modifications thereto, shall be submitted to the Executive Secretary as a

nonsubstantial program modification. Discretionary designations or de-designations by the Control Authority shall be deemed to be approved by the Executive Secretary 90 days after submission of the list or modifications thereto, unless the Executive Secretary determines that a modification is in fact a substantial modification.

13.[~~12.~~] State Program in Lieu of POTW Program. Notwithstanding the provision of R317-8-8.8(1), the State may assume responsibility for implementing the POTW pretreatment program requirements set forth in R317-8-8.8(6) in lieu of requiring the POTW to develop a pretreatment program. However, this does not preclude POTW's from independently developing pretreatment programs.

(7) A POTW that chooses to receive electronic documents must satisfy the requirements of 40 CFR Part 3 - (Electronic reporting).

8.9 POTW PRETREATMENT PROGRAMS AND/OR AUTHORIZATION TO REVISE PRETREATMENT STANDARDS: SUBMISSION FOR APPROVAL

(1) Who Approves the Program. A POTW requesting approval of a POTW pretreatment program shall develop a program description which includes the information set forth in R317-8-8.9(2)(a),(b),(c) and (d). This description shall be submitted to the Executive Secretary, who will make a determination on the request for program approval in accordance with the procedure described in R317-8-8.10.

(2) Contents of POTW Program Submission.

(a) The program submission shall contain a statement from the city attorney or a city official acting in comparable capacity or the attorney for those POTWs which have independent legal counsel, that the POTW has authority adequate to carry out the programs described in R317-8-8.8. This statement shall:

1. Identify the provision of the legal authority under R317-8-8.8(6)(a) which provides the basis for each procedure under R317-8-8.8(6)(b);

2. Identify the manner in which the POTW will implement the program requirements set forth in R317-8-8.8 including the means by which pretreatment standards will be applied to individual [~~industrial users~~]Industrial Users (e.g., by order, permit, ordinance, etc.); and

3. Identify how the POTW intends to ensure compliance with pretreatment standards and requirements, and to enforce them in the event of noncompliance by [~~industrial users~~]Industrial Users.

(b) The program submission shall contain a copy of any statutes, ordinances, regulations, agreements, or other authorities relied upon by the POTW for its administration of the program. This submission shall include a statement reflecting the endorsement or approval of the local boards or bodies responsible for supervising and/or funding the POTW pretreatment program if approved.

(c) The program submission shall contain a brief description, including organization charts, of the POTW organization which will administer the pretreatment program. If more than one agency is responsible for administration of the program the responsible agencies should be identified, their respective responsibilities delineated and their procedures for coordination set forth.

(d) The program submission shall contain a description of the funding levels and full and part time manpower available to implement the program.

(3) Conditional POTW Program Approval. The POTW may request conditional approval of the pretreatment program pending the acquisition of funding and personnel for certain elements of the program. The request for conditional approval shall meet the requirements of R317-8-8.9(2) of this subsection except that the requirements of this section may be relaxed if the submission demonstrates that:

(a) A limited aspect of the program does not need to be implemented immediately;

(b) The POTW had adequate legal authority and procedures to carry out those aspects of the program which will not be implemented immediately; and

(c) Funding and personnel for the program aspects to be implemented at a later date will be available when needed. The POTW shall describe in the submission the mechanism by which this funding will be acquired. Upon receipt of a request for conditional approval, the Executive Secretary will establish a fixed date for the acquisition of the needed funding and personnel. If funding is not acquired by this date the conditional approval of the POTW pretreatment program and any removal allowances granted to the POTW may be modified or withdrawn.

(4) Content of Removal Credit Submission. The request for authority to revise [~~categorical pretreatment standards~~]Categorical Pretreatment Standards shall contain the information required in 40 CFR 403.7(d).

(5) Approval Authority Action. A POTW requesting POTW pretreatment program approval shall submit to the Executive Secretary three copies of the submission described in R317-8-8.9(2), and if appropriate R317-8-8.9(4). Within 60 days after receiving a submission, the Executive Secretary shall make a preliminary determination of whether the submission meets the requirements of this section. Upon a preliminary determination that the submission meets the requirements of this section, the Executive Secretary will:

(a) Notify the POTW that the submission has been received and is under review; and

(b) Commence the public notice and evaluation activities set forth in R317-8-8.10.

(6) Notification Where Submission is Defective. If, after review of the submission as provided for in paragraph (5) above, the Executive Secretary determines that the submission does not comply with the requirements of R317-8-8.9(2), (3) and, if appropriate, (4), the Executive Secretary will provide notice in writing to the applying POTW and each person who has requested individual notice. This notification will identify any defects in the submission and advise the POTW and each person who has requested individual notice of the means by which the POTW can comply with the applicable requirements of R317-8-8.9(2), (3) and, if appropriate, (4).

(7) Consistency With Water Quality Management Plans.

(a) In order to be approved, the POTW pretreatment program shall be consistent with any approved water quality management plan, when the plan includes management agency designations and addresses pretreatment in a manner consistent with R317-8-8. In order to assure such consistency, the Executive Secretary will solicit the review and comment of the appropriate water quality planning agency during the public comment period provided for in R317-8-8.10(2)(a)2.[~~(2)~~] prior to approval or disapproval of the program.

(b) Where no plan has been approved or when a plan has been approved but lacks management agency designations and/or does not address pretreatment in a manner consistent with this section, the Executive Secretary will solicit the review and comment of the appropriate 208 planning agency.

8.10 APPROVAL PROCEDURES FOR POTW PRETREATMENT PROGRAMS AND POTW GRANTING OF REMOVAL CREDITS. The following procedure will be adopted in approving or denying requests for approval of POTW pretreatment programs and applications for removal credit authorization.

(1) Deadline for Review of Submission. The Executive Secretary will have 90 days from the date of public notice of a submission complying with the requirements of R317-8-8.9(2), and where removal credit authorization is sought with the requirements of 40 CFR 403.7(e)[~~R317-8-8.7~~] and R317-8-8.9(4)[~~8.8.9(4)~~] to review the submission. The Executive Secretary shall review the submission to determine compliance with the requirements of R317-8-8.8(2) and (6), and where removal credit is sought, with R317-8-8.7[~~8.6~~]. The Executive Secretary may have up to an additional 90 days to complete the evaluation of the submission if the public comment period provided for in R317-8-8.10(2)(a)2. is extended beyond thirty (30) days or if a public hearing is held as provided for in R317-8-8.10(2)(b[~~a~~]). In no event, however, will the time for evaluation of the submission exceed a total of 180 days from the date of public notice of a submission meeting the requirements of R317-8-8.9(2) and, in the case of a removal credit application 403.7(e) and R317-8-8.9(2).

(2) Public Notice and Opportunity for Public Hearing. Upon receipt of a submission the Executive Secretary will commence his review. Within 20 days after making a determination that a submission meets the requirements of R317-8-8.9(2), and when a removal credit authorization is sought under 40 CFR 403.7(d) and R317-8-8.7 the Executive Secretary will:

(a) Issue a public notice of request for approval of the submission:

1. This public notice will be circulated in a manner designed to inform interested and potentially interested persons of the submission. Procedures for the circulation of public notice will include: mailing notices of the request for approval of the submission to designated CWA section 208 planning agencies, federal and state fish, shellfish, and wildlife resource agencies (unless such agencies have asked not to be sent the notices); and to any other person or group who has requested individual notice, including those on appropriate mailing lists; and publication of a notice of request for approval of the submission in the largest daily newspaper within the jurisdiction served by the POTW.

2. The public notice will provide a period of not less than 30 days following the date of the public notice during which time interested persons may submit their written views on the submission;

3. All written comments submitted during the 30-day comment period will be retained by the Executive Secretary and considered in the decision on whether or not to approve the submission. The period for comment may be extended at the discretion of the Executive Secretary.

(b) The Executive Secretary will also provide an opportunity for the applicant, any affected State, any interested state or federal agency, person or group of persons to request a public hearing with respect to the submission.

1. This request for public hearing shall be filed within the thirty (30) day or extended comment period described in R317-8-8.10(2)(a)2. of this subsection and will indicate the interest of the person filing such a request and the reasons why a hearing is warranted.

2. The Executive Secretary will hold a public hearing if the POTW so requests. In addition, a hearing will be held if there is a significant public interest in issues relating to whether or not the submission should be approved. Instances of doubt will be resolved in favor of holding the hearing.

3. Public notice of a public hearing to consider a submission and sufficient to inform interested parties of the nature of the hearing and right to participate will be published in the same newspaper as the notice of the original request. In addition, notice of the hearing will be sent to those persons requesting individual notice.

(3) Executive Secretary Decision. At the end of the thirty (30) day or extended comment period and within the ninety (90) day or extended period provided for in R317-8-8.10(1) of this section, the Executive Secretary will approve or deny the submission based upon the evaluation in R317-8-8.10(1) and taking into consideration comments submitted during the comment period and the record of the public hearing, the Executive Secretary will so notify the POTW and each person who has requested individual notice. If the Approval Authority makes a determination to deny the request, the Approval Authority shall so notify the POTW and each person who has requested individual notice. This notification will include suggested modification and the Executive Secretary may allow the requestor additional time to bring the submission into compliance with applicable requirements.

(4) EPA Objection to Executive Secretary's Decision. No POTW pretreatment program or authorization to grant removal allowances will be approved by the Executive Secretary if following the thirty (30)-day or extended evaluation period provided for in R317-8-8.10(2)(a)2.[~~(2)~~] and any public hearing held pursuant to this section, the Regional Administrator sets forth in writing objections to the approval of such submission and the reasons for such objections. A copy of the Regional Administrator's objections will be provided to the applicant and to each person who has requested individual notice. The Regional Administrator shall provide an opportunity for written comments and many convene a public hearing on his or her objections. Unless retracted, the Regional Administrator's objections shall constitute a final ruling to deny approval of a POTW pretreatment program or authorization to grant removal allowances 90 days after the date the objections are issued.

(5) Notice of Decision. The Executive Secretary will notify those persons who submitted comments and participated in the public hearing, if held, of the approval or disapproval of the submission. In addition, the Executive Secretary will cause to be published a notice of approval or disapproval in the same newspapers as the original notice of request was published. The Executive Secretary will identify any authorization to modify [~~categorical pretreatment standards~~]Categorical Pretreatment Standards which the POTW may make for removal of pollutants subject to the pretreatment standards.

(6) Public Access to Submission. The Executive Secretary will ensure that the submission and any comments on the submission are available to the public for inspection and copying.

8.11 REPORTING REQUIREMENTS FOR POTWS AND INDUSTRIAL USERS

[~~(1) Definition. "Control Authority" means the POTW if the POTW's submission for its pretreatment program has been approved or the Executive Secretary if the submission has not been approved.~~

~~(2)~~](1) Reporting Requirement for Industrial Users Upon Effective Date of Categorical Pretreatment Standards Baseline Report. Within 180 days after the effective date of a [~~categorical pretreatment standard~~]Categorical Pretreatment Standards or 180 days after the final administrative decision made upon a category determination submission under R317-8-8.6, whichever is later, existing [~~industrial users~~]Industrial Users subject to such [~~categorical pretreatment standards~~]Categorical Pretreatment Standards and currently discharging to or scheduled to discharge to a POTW shall be required to submit to the Control Authority a report which contains the information listed in paragraphs (a) through (g) of this Section. Where reports containing this information have already been submitted to the Executive Secretary, the [~~industrial user~~]Industrial User will not be required to submit this information again. At least 90 days prior to commencement of discharge, new sources and sources that become Industrial Users subsequent to promulgation of an applicable [~~categorical standard~~]Categorical Standards, shall be required to submit to the Control Authority a report which contains the information listed in

R317-8-8.11(1)(a)through (e)[~~(2)(a), (b), (c), (d) and R317-8-8.11(3)~~]. New sources shall also be required to include in this report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New Sources shall give estimates of the information requested in R317-8-8.11(1)[~~(2)~~](d) and (e).

(a) Identifying Information. The [~~user~~]User shall submit the name and address of the facility, including the name of the operator and owners.

(b) Permits. The [~~user~~]User shall submit a list of any environmental control permits held by or for the facility.

(c) Description of Operations. The [~~user~~]User shall submit a brief description of the nature, average rate of production and Standard Industrial Classification of the operation carried out by the [~~industrial user~~]Industrial User. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated process.

(d) Flow measurement. The [~~user~~]User shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following: regulated process streams and other streams as necessary to allow use of the combined wastestream formula (see Section 40 CFR 403.6(e)). The Control Authority may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.

(e) Measurement of pollutants.

1. The [~~user~~]User shall identify the pretreatment standards applicable to each regulated process.

2. The [~~user~~]User shall submit the results of sampling and analysis identifying the nature and concentration, or mass, of regulated pollutants in the discharge from each regulated process when required by the standard or the Control Authority. Both daily maximum and average concentration or mass, where required shall be reported. The sample shall be representative of daily operations. In cases where the Standard requires compliance with a Best Management Practice or pollution prevention alternative, the User shall submit documentation as required by the Control Authority or the applicable standards to determine compliance with the Standard;

[~~3. A minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques where feasible. The Control authority may waive flow-proportional composite sampling for any Industrial Users that demonstrate that flow-proportional sampling is infeasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four grab samples where the User demonstrates that this will provide a representative sample of the effluent being discharged.~~

] 3.[~~4.~~] The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of R317-8-8.11.

4.[~~5.~~] Samples shall be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the [~~user~~]User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in order to evaluate compliance with the pretreatment standards. When an alternate concentration or mass limit has been calculated in accordance with the combined wastestream formula this adjusted limit along with supporting data shall be submitted to the Control Authority.

5.[~~6.~~] Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR 136 and amendments thereto. When 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, or when the Administrator determines that the 40 CFR 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by the Administrator.

6.[~~7.~~] The Control Authority may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

7.[~~8.~~] The baseline report shall indicate the time, date and place of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.

(f) Certification. The [~~user~~]User shall submit a statement, reviewed by an authorized representative of the [~~industrial user~~]Industrial User and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance and/or additional pretreatment is required for the [~~industrial user~~]Industrial User to meet the pretreatment standards and requirements.

(g) Compliance Schedule. If additional pretreatment and/or operation and maintenance are required to meet the pretreatment standards, the [~~user~~]Industrial User shall submit the shortest schedule by which the [~~industrial user~~]Industrial User will provide such additional pretreatment and/or operation and maintenance. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.

1. When the [~~industrial user's~~]Industrial User's [~~categorical pretreatment standard~~]Categorical Pretreatment Standards has been modified by a removal allowance under R317-8-8.7, the combined wastestream formula under R317-8-8.6,or by a fundamentally different factors variance under R317-8-8.15 at the time the [~~user~~]User submits the report required by R317-8-8.11(1[~~2~~]), the information required by R317-8-8.11(1[~~2~~])(f) and (g) shall pertain to the modified limits.

2. If the [~~categorical pretreatment standard~~]Categorical Pretreatment Standards is modified by a removal allowance under R317-8-8.7, the combined wastestream formula under R317-8-8.6, or by a fundamentally different factors variance under 40 CFR 403.13[~~R317-8-8.15~~] after the [~~user~~]User submits the report required by R317-8-8.11(1[~~2~~])[~~of this subsection~~], any necessary amendments to the information requested by R317-8-8.11(1[~~2~~])(f) and (g) shall be submitted by the [~~user~~]User to the Control Authority within 60 days after the modified limit is approved.

(2[~~3~~]) Compliance Schedule for Meeting Categorical Pretreatment Standards. The following conditions shall apply to the schedule required by R317-8-8.11(1[~~2~~])(g):

(a) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the [~~industrial user~~]Industrial User to meet the applicable [~~categorical pretreatment standards~~]Categorical Pretreatment Standards e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.);

(b) No increment referred to in paragraph (a) of above shall exceed 9 months;

(c) Not later than 14 days following each date in the schedule and the final date for compliance, the [~~industrial user~~]Industrial User shall submit a progress report to the Control Authority including, at a minimum, whether or not it complied with the increment of progress to be met on that date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the [~~industrial user~~]Industrial User to return the construction to the schedule established. In no event shall more than 9 months elapse between such progress reports to the Control Authority;

(3[~~4~~]) Report on Compliance with Categorical Pretreatment Standard Deadline. Within 90 days following the date for final compliance with applicable [~~categorical pretreatment standards~~]Categorical Pretreatment Standards or in the case of a new source following commencement of the introduction of wastewater into the POTW, any [~~industrial user~~]Industrial User subject to pretreatment standards and requirements shall submit to the Control Authority a report containing the information described in R317-8-8.11(1[~~2~~])(d),[~~-~~] e),[~~-~~] and (f). For [~~industrial users~~]Industrial Users subject to equivalent mass or concentration limits established by the Control Authority in accordance with the procedures in R317-8-8.6 this report shall contain a reasonable measure of the [~~user's~~]User's long term production rate. For all other [~~industrial users~~]Industrial Users subject to [~~categorical pretreatment standards~~]Categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the [~~user's~~]User's actual production during the appropriate sampling period.

(4[~~5~~]) Periodic Reports on Continued Compliance.

(a) Any [~~industrial user~~]Industrial User subject to a [~~categorical pretreatment standard~~]Categorical Pretreatment Standards (except a Non-Significant Categorical User as defined in R317-8-8.2(15)(b) after the compliance date of such pretreatment standard or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the Control Authority during the months of June and December, unless required more frequently in the pretreatment standard or by the Executive Secretary, a report indicating the nature and concentration of pollutants in the effluent which are limited by such [~~categorical pretreatment standards~~]Categorical Pretreatment Standards. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the discharge reported in R317-8-8.11(1[~~2~~])(d) of this section except that the Control Authority may require more detailed reporting of flows. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (or pollution prevention alternative), the User shall submit documentation required by the Control Authority or the Pretreatment Standard necessary to determine the compliance status of the User. At the discretion of the Control Authority and in consideration of such factors as local high or low flow rates, holidays, [~~and~~]budget cycles, etc., the Control Authority may agree to alter the months during which the above reports are to be submitted.

(b) The Control Authority may authorize the Industrial User subject to a Categorical Pretreatment Standard to forego sampling of a pollutant regulated by a Categorical Pretreatment Standard if the Industrial User has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the Industrial User. This authorization is subject to the following conditions:

1. The Control Authority may authorize a waiver where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable Categorical Standard and other wise includes no process wastewater.

2. The monitoring waiver is valid only for the duration of the effective period of the Permit or other equivalent individual control mechanism, but in no case longer than 5 years. The User must submit a new request for the waiver before the waiver can be granted for each subsequent control mechanism.

3. In making a demonstration that a pollutant is not present, the Industrial User must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.

The request for a monitoring waiver must be signed in accordance with paragraph (11) of this section and include the certification statement in 40 CFR 403.6(a)(2)ii. Non-detectable sample results may only be used as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

4. Any grant of the monitoring waiver by the Control Authority must be included as a condition in the User's Control mechanism. The reasons supporting the waiver and any information submitted by the User in its request for the waiver must be maintained by the Control Authority for 3 years after expiration of the waiver.

5. Upon approval of the monitoring waiver and revision of the User's control mechanism by the Control Authority, the Industrial User must certify on each report with the statement below, that there has been no increase in the pollutant in its wastestream due to activities of the Industrial User:

"Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR ..... (specify applicable National Pretreatment Standard part(s)), I certify that, to the best of my knowledge and belief, there has been no increase in the level of .....(list pollutant(s)) in the wastewaters due to the activities at the facility since filing of the last periodic report under R317-8-8.11(4)(a)."

6. In the event that a waived pollutant is found to be present or is expected to be present based on changes that occur in the User's operations, the User must immediately: Comply with the monitoring requirements of paragraph (4)(a) of this section or other more frequent monitoring requirements imposed by the Control Authority; and notify the Control Authority.

7. This provision does not supersede certification processes and requirements established in Categorical Pretreatment Standards, except as otherwise specified in the Categorical Pretreatment Standard.

(c) The Control Authority may reduce the requirement in paragraph (4)(a) of this section to a requirement to report no less frequently than once a year, unless required more frequently in the Pretreatment Standard or by the Approval Authority, where the Industrial User meets all of the following conditions:

1. The Industrial User's total categorical wastewater flow does not exceed any of the following:

a. 0.01 percent of the design dry weather hydraulic capacity of the POTW, or 5,000 gallons per day, whichever is smaller, as measured by a continuous effluent flow monitoring device unless the Industrial User discharges in batches;

b. 0.01 percent of the design dry weather organic treatment capacity of the POTW; and

c. 0.01 percent of the maximum allowable headworks loading for any pollutant regulated by the applicable Categorical Pretreatment Standard for which approved local limits were developed by a POTW in accordance with R317-8-8.5(4) and paragraph (3) of this section;

2. The Industrial User has not been in significant noncompliance, as defined in R317-8-8.8(6)(b)8. for any time in the past two years;

3. The Industrial User does not have daily flow rates, production levels, or pollutant levels that vary so significantly that decreasing the reporting requirement for this Industrial User would result in data that are not representative of conditions occurring during the reporting period pursuant to paragraph (6)(c) of this section;

4. The Industrial User must notify the Control Authority immediately of any changes at its facility causing it to no longer meet conditions of paragraph (4)(c)1. or 2. of this section. Upon notification, the Industrial User must immediately begin complying with the minimum reporting in paragraph (4)(a) of this section; and

5. The Control Authority must retain documentation to support the Control Authority's determination that a specific Industrial User qualifies for reduced reporting requirements under paragraph (4)(c) of this section for a period of 3 years after the expiration of the term of the control mechanism.

[~~(b) When the Control Authority has imposed mass limitations on industrial users as provided by R317-8-8.6, the report required by paragraph (a) of this subsection shall indicate the mass of pollutants regulated by pretreatment standards in the discharge from the industrial user.~~

] (d[~~e~~]) For [~~industrial users~~]Industrial Users subject to equivalent mass or concentration limits established by the Control [~~authority~~]Authority in accordance with the procedures in R317-8-8.6 the report required by R317-8-8.11(4[~~5~~])(a) shall contain a reasonable measure of the [~~user's~~]User's long term production rate. For all other [~~industrial users~~]Industrial Users subject to [~~categorical pretreatment standards~~]Categorical Pretreatment Standards expressed only in terms of allowable pollutant discharge per unit of production (or other measure of operation), the report required by R317-8-11(4[~~5~~])(a) shall include the [~~user's~~]User's actual average production rate for the reporting period.

(5[~~6~~]) Notice of Potential Problems Including Slug Loading. All categorical and non-categorical [~~industrial users~~]Industrial Users shall notify the POTW immediately of all discharges that could cause problems to the POTW, including any slug loadings, as defined in R317-8-8.5.

(6[~~7~~]) Monitoring and Analysis to Demonstrate Continued Compliance.

(a) Except in the case of Non-Significant Categorical User, the [~~The~~] reports required in R317-8-8.11(1), (3), (4) and (8)[~~(2), 8.10(4) and (5)~~] shall contain the results of sampling and analysis of the discharge, including the flow, the nature and concentration, or production and mass where requested by the Control Authority, of pollutants contained therein which are limited by the applicable pretreatment standards. This sampling and analysis may be performed by the Control Authority in lieu of the [~~industrial user~~]Industrial User. Where the POTW performs the required sampling and analysis in lieu of the [~~industrial user~~]Industrial User, the [~~user~~]User will not be required to submit the compliance certification. In addition, where the POTW itself collects all the information required for the report, including flow data, the [~~industrial user~~]Industrial User will not be required to submit the report.

(b) If sampling performed by an [~~industrial user~~]Industrial User indicates a violation, the [~~user~~]User shall notify the Control Authority within 24 hours of becoming aware of the violation. The [~~user~~]User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Control Authority within 30 days after becoming aware of the violation[~~,~~]. Where the Control Authority has performed the sampling and analysis in lieu of the Industrial User , the Control Authority must perform the repeat sampling and analysis unless it notifies the User of the violation and requires the User to perform the repeat analysis. Resampling [~~except the industrial user~~]is not required [~~to resample~~] if;

1. The Control Authority performs sampling at the [~~industrial user~~]Industrial User at a frequency of at least once per month, or

2. The Control Authority performs sampling at the [~~user~~]User between the time when the [~~user performs its~~] initial sampling was conducted and the time when the [~~user~~]User or the Control Authority receives the results of this sampling.

(c) The reports required in this section shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data is representative of conditions occurring during the reporting period. The Control Authority shall require that frequency of monitoring necessary to assess and assure compliance by [~~industrial users~~]Industrial Users with applicable Pretreatment Standards and Requirements. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time proportional composite sampling or grab sampling is authorized by the Control Authority. Where time-proportional composite sampling or grab sampling is authorized by the Control Authority, the samples must be representative of the Discharge and the decision to allow the alternative sampling must be documented in the Industrial User file for that facility or facilities. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: For cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Control Authority, as appropriate.

(d) For sampling required in support of baseline monitoring and 90-day compliance reports, a minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics compounds for facilities which historical sampling data do not exist; for facilities for which historical sampling data are available, the Control Authority may authorize a lower minimum. For the reports required by paragraphs (4) and (8) of this section, the Control Authority shall require the number of grab samples necessary to assess and assure compliance by Industrial Users with Applicable Pretreatment Standards and Requirements.

(e[~~d~~]) All analyses shall be performed in accordance with procedures contained in 40 CFR 136 or with any other test procedures approved by the Administrator. Sampling shall be performed in accordance with the techniques approved by the Administrator. Where 40 CFR 136 does not include sampling or analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods or any other sampling and analytical procedures, including procedures suggested by the POTW or other parties and approved by the Administrator.

(f[~~e~~]) If an [~~industrial user~~]Industrial User subject to the reporting requirement in R317-8-8.11(4[~~5~~]) or (8) monitors any pollutant more frequently than required by the Control Authority, using the procedures prescribed in, R317-8-8.11(6)(e)[~~(7)(d)~~], the results of this monitoring shall be included in the report.

(7[~~8~~]) Compliance Schedule for POTWs. The following conditions and reporting requirements shall apply to the compliance schedule for development of an approvable POTW pretreatment program.

(a) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the development and implementation of a POTW pretreatment program.

(b) No increment referred to in paragraph (a) above shall exceed nine months.

(c) Not later than 14 days following each date in the schedule and the final date for compliance, the POTW shall submit a progress report to the Executive Secretary including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps taken by the POTW to return to the schedule established. In no event shall more than nine months elapse between such progress reports to the Executive Secretary.

(8[~~9~~]) Reporting requirements for [~~industrial user~~]Industrial User not subject to [~~categorical pretreatment standards~~]Categorical Pretreatment Standards. The Control Authority shall require appropriate reporting from those [~~industrial users~~]Industrial Users with discharges that are not subject to [~~categorical pretreatment standards~~]Categorical Pretreatment Standards. Significant Noncategorical Industrial Users shall submit to the Control Authority at least once every six months (on dates specified by the Control Authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the Control Authority. In cases where a local limit requires compliance with a Best Management Practice or pollution prevention alternative, the User must submit documentation required by the Control Authority to determine the compliance status of the User. These reports shall be based on sampling and analysis performed in the period covered by the report and performed in accordance with the techniques described in 40 CFR 136 and amendments thereto. Where 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, or where the Executive Secretary determines that the 40 CFR 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other persons, approved by the Administrator. This sampling and analysis may be performed by the Control Authority in lieu of the significant noncategorical [~~industrial user~~]Industrial User. Where the POTW itself collects all the information required for the report, the noncategorical significant [~~industrial user~~]Industrial User will not be required to submit the report.

(9[~~10~~]) Annual POTW reports. POTWs with approved pretreatment programs shall provide the Executive Secretary with a report that briefly describes the POTW's program activities, including activities of all participating agencies, if more than one jurisdiction is involved in the local program. The report required by this section shall be submitted no later than one year after approval of the POTW's pretreatment program and at least annually thereafter, and shall include, at a minimum, the following:

(a) An updated list of the POTW's [~~industrial users~~]Industrial Users, including their names and addresses, or a list of deletions and additions keyed to a previously submitted list. The POTW shall provide a brief explanation of each deletion. This list shall identify which [~~industrial users~~]Industrial Users are subject to [~~categorical pretreatment standards~~]Categorical Pretreatment Standards and specify which standards are applicable to each [~~industrial user~~]Industrial User. The list shall indicate which [~~industrial users~~]Industrial Users are subject to local standards that are more stringent than the [~~categorical pretreatment standards~~]Categorical Pretreatment Standards. The POTW shall also list the [~~industrial users~~]Industrial Users that are subject only to local requirements. The list must also identify Industrial Users subject to Categorical Pretreatment Standards that are subject to reduced reporting requirements under paragraph (4)(c), and identify which Industrial Users are Non-Significant Categorical Industrial Users.

(b) A summary of the status of [~~industrial user~~]Industrial User compliance over the reporting period;

(c) A summary of compliance and enforcement activities (including inspections) conducted by the POTW during the reporting period; [~~and~~]

(d) A summary of changes to the POTW's pretreatment program that have not been previously reported to the Approval Authority; and

(e[~~d~~]) Any other relevant information requested by the Executive Secretary.

(10[~~11~~]) Notification of changed discharge. All [~~industrial users~~]Industrial Users shall promptly notify the POTW in advance of any substantial change in the volume or character of pollutants in their discharge including the listed or characteristic hazardous wastes for which the [~~industrial user~~]Industrial User has submitted initial notification under R317-8-8.11(14)(d)[~~R317-8-8.10~~].

(11[~~12~~]) Signatory Requirements for Industrial User Reports. The reports required by R317-8-8.11(1[~~2~~]), (3[4]) and (4[~~5~~]) shall include the certification statement as set forth in 40 CFR and 403.6(a)(2)(ii)[~~(2)(B).~~] and shall be signed as follows;

(a) By a responsible corporate officer if the [~~industrial user~~]Industrial User submitting the reports is a corporation. A responsible corporate officer means:[~~(i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.~~]

1. A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or

2. The manager of one or more manufacturing, production, or operation facilities provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) By a general partner or proprietor if the [~~industrial user~~]Industrial User submitting the reports is a partnership or sole proprietorship respectively.

(c) By a duly authorized representative of the individual designated in paragraph (a) or (b) above, if;

1. The authorization is made in writing by the individual described in paragraph (a) or (b) above.

2. The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the Industrial Discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and

3. The written authorization is submitted to the Control Authority.

(d) If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements must be submitted to the Control Authority prior to or together with any reports to be signed by an authorized representative.

(12[~~13~~]) Signatory Requirements for POTW Reports. Reports submitted to the Executive Secretary by the POTW in accordance with R317-8-8.11(7) and (9)[~~(8), (9) and (10)~~] shall be signed by a principal executive officer, ranking elected official or other duly authorized employee[~~, if such employee is responsible for overall operation of the POTW~~]. The duly authorized employee must be an individual or position having responsibility for the overall operation of the facility or the Pretreatment Program. This authorization must be made in writing by the principal executive officer or ranking elected official, and submitted to the Approval Authority prior to or together with the report being submitted.

(13[~~14~~]) Provisions Governing Fraud and False Statements. The reports and other documents required to be submitted or maintained by R317-8-8.11(1[~~2~~]), (3[~~4~~]), (4[~~5~~]), (7[~~8~~]), (8[~~9~~]), (11[~~12~~]) and (12[~~13~~]) shall be subject to the Utah Water Quality Act as amended and all other State and Federal laws pertaining to fraud and false statements.

(14[~~15~~]) Record-Keeping Requirements.

(a) Any [~~industrial user~~]Industrial User and POTW subject to the reporting requirements established in this subsection shall maintain records of all information resulting from any monitoring activities required by this section, including documentation associated with Best Management Practices. Such records shall include for all samples:

1. The date, exact place, method, and time of sampling and the names of the person or persons taking the samples;

2. The dates and times analyses were performed;

3. Who performed the analyses;

4. The analytical techniques or methods used; and

5. The results of the analyses.

(b) Any [~~industrial user~~]Industrial User or POTW subject to these reporting requirements established in this section (including documentation associated with Best Management Practices shall be required to retain for a minimum of 3 years any records of monitoring activities and results, whether or not such monitoring activities are required by this section, and shall make such records available for inspection and copying by the Executive Secretary, and by the POTW in the case of an [~~industrial user~~]Industrial User. This period of retention shall be extended during the course of any unresolved litigation regarding the [~~industrial user~~]Industrial User or POTW or when requested by the Executive Secretary.

(c) A POTW to which reports are submitted by an [~~industrial user~~]Industrial User pursuant to R317-8-8.11[~~(2)(4), and (5)~~] shall retain such reports for a minimum of 3 years and shall make such reports available for inspection and copying by the Executive Secretary. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the [~~industrial user~~]Industrial User or the operation of the POTW pretreatment program or when requested by the Executive Secretary.

(d) Notification to POTW by Industrial User.

1. The [~~industrial user~~]Industrial User shall notify the Executive Secretary, the POTW, and State hazardous waste authorities in writing of any discharge into the POTW of a substance, which if otherwise disposed of, would be a hazardous waste under R315-2[~~-1~~]. Such notification must include the name of the hazardous waste as set forth in R315-2[~~-1~~], the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the [~~industrial user~~]Industrial User discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the [~~industrial user~~]Industrial User: An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve months. All notifications must take place within 180 days of the effective date of this rule. Industrial [~~users~~]Users who commence discharging after the effective date of this rule shall provide the notification no later than 180 days after the discharge of the listed or characteristic hazardous waste. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under R317-8-8.11(10[~~11~~]). The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of R317-8-8.11(1[~~2~~]), (3[~~4~~]), and (4[~~5~~]).

2. Dischargers are exempt from the requirements of R317-8-8.11(14[~~15~~])(d) during a calendar month in which they discharge no more than fifteen kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in R315-2[~~-1~~]. Discharge of more than fifteen kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 R315-2[~~-1~~], requires a one-time notification. Subsequent months during which the [~~industrial user~~]Industrial User discharges more than such quantities of any hazardous waste do not require additional notification.

3. In the case of any new regulations adopted by EPA or the Utah Solid and Hazardous Waste Board identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the [~~industrial user~~]Industrial User must notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

4. In the case of notification made under R317-8-8.11(14)(d)[~~.16(d)1~~], the [~~industrial user~~]Industrial User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(15) Annual certification by Non-Significant Categorical Industrial Users. A facility determined to be a Non-Significant Categorical Industrial User pursuant to R317-8-8.2(15)(b) must annually submit the following certification statement, signed in accordance with the signatory requirements in paragraph (11) of this section. This certification must accompany any alternative report required by the Control Authority:

"Based on my inquiry of the person or persons directly responsible for managing compliance with the Categorical Pretreatment Standards under 40 CFR (state section), I certify that, to the best of my knowledge

and belief that during the period from (include start of reporting date) to (include end of reporting date):

The facility described as (include facility name) met the definition of a Non-Significant Categorical Industrial User as described in R317-8-8.2(15)(b), the facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period." This compliance certification is based upon the following information: (include information required by the control mechanism)

(15) The Control Authority that chooses to receive electronic documents must satisfy the requirements of 40 CFR Part 3 - (Electronic reporting).

8.12 CONFIDENTIALITY OF INFORMATION. Any information submitted to the Executive Secretary pursuant to these regulations may be claimed as confidential by the person making the submission. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions, or, in the case of other submissions, by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, the Executive Secretary may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in the 40 CFR Part 2. Information and data provided to the Executive Secretary pursuant to this part which is effluent data shall be available to the public without restriction. All other information which is submitted to the State or POTW shall be available to the public at least to the standards of 40 CFR 2.302.

8.13 NET/GROSS CALCULATION. Categorical [~~pretreatment standards~~]Pretreatment Standards may be adjusted to reflect the presence of pollutants in an [~~industrial user's~~]Industrial User's intake water in accordance with this section.

(1) Application. Any [~~industrial user~~]Industrial User wishing to obtain credit for intake pollutants must make application to the Control Authority. Upon request of the [~~industrial user~~]Industrial User, the applicable standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the requirements of R317-8-8.13(2) [~~and (3)~~]are met.

(2) Criteria

(a) Either:

1. The applicable Categorical Pretreatment Standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis, or

[~~a.~~]2. The [~~industrial user~~]Industrial User must demonstrate that the control system it proposes or uses to meet applicable [~~categorical pretreatment standards~~]Categorical Pretreatment Standards would, if properly installed and operated, meet the standards in the absence of pollutants in the intake water.

(b)[~~b.~~] Credit for generic pollutants such as biochemical oxygen demand (BOD), total suspended solids (TSS) and oil and grease should not be granted unless the [~~industrial user~~]Industrial User demonstrates that the constituents of the generic measure in the [~~user's~~]User's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.

(c)[~~c.~~] Credit shall be granted only to the extent necessary to meet the applicable [~~categorical pretreatment standard(s)~~]Categorical Pretreatment Standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with standard(s) adjusted under this section.

(d)[~~d.~~] Credit shall be granted only if the [~~user~~]User demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The Control Authority may waive this requirement if it finds that no environmental degradation will result.

[~~(3) The applicable categorical pretreatment standards contained in 40 CFR Subchapter N specifically provide that they shall be applied on a net basis.~~

] 8.14 UPSET PROVISION

(1) Definition. "Upset" as used in this subsection means an exceptional incident in which there is unintentional and temporary noncompliance with [~~categorical pretreatment standards~~]Categorical Pretreatment Standards because of factors beyond the reasonable control of the [~~industrial user~~]Industrial User. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(2) Effect of an Upset. An upset constitutes an affirmative defense to an action brought for noncompliance with [~~categorical pretreatment standards~~]Categorical Pretreatment Standards if the requirements of R317-8-8.14(3) are met.

(3) Conditions Necessary for a Demonstration of Upset. An [~~industrial user~~]Industrial User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(a) An upset occurred and the [~~industrial user~~]Industrial User can identify the cause(s) of the upset;

(b) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;

(c) The [~~industrial user~~]Industrial User has submitted the following information to the POTW and Control Authority within 24 hours of becoming aware of the upset or if this information is provided orally, a written submission within five days:

1. A description of the indirect discharge and cause of noncompliance;

2. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;

3. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

(4)[~~4.~~] Burden of Proof. In any enforcement proceeding the [~~industrial user~~]Industrial User seeking to establish the occurrence of an upset shall have the burden of proof.

(5)[~~5.~~] Reviewability of Agency Consideration of Claims of Upset. In the usual exercise of prosecutorial discretion, State enforcement personnel will review any claims that noncompliance was caused by an upset. No determinations made in the course of the review constitutes final agency action subject to judicial review. Industrial [~~users~~]Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with [~~categorical pretreatment standards~~]Categorical Pretreatment Standards.

(6)[~~6.~~] User responsibility in case of upset. The [~~industrial user~~]Industrial User shall control production or discharges to the extent necessary to maintain compliance with [~~categorical pretreatment standards~~]Categorical Pretreatment Standards upon reduction, loss or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

8.15 BYPASS PROVISION

(1) Definitions.

(a) "Bypass" means the intentional diversion of wastestreams from any portion of an [~~industrial user's~~]Industrial User's treatment facility.

(b) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(2) Bypass not violating applicable pretreatment standards or requirements. An [~~industrial user~~]Industrial User may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of R317-8-8.15(3) and (4).

(3) Notice.

(a) If an [~~industrial user~~]Industrial User knows in advance of the need for a bypass, it shall submit prior notice to the Control Authority, if possible at least ten days before the date of the bypass.

(b) An [~~industrial user~~]Industrial User shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the Control Authority within 24 hours from the time the [~~industrial user~~]Industrial User becomes aware of the bypass. A written submission shall also be provided within 5 days of the time the [~~industrial user~~]Industrial User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times and if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Control Authority may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(4) Prohibition of bypass.

(a) Bypass is prohibited and the Control Authority may take enforcement action against an [~~industrial user~~]Industrial User for a bypass, unless:

1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated waters, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

3. The [~~industrial user~~]Industrial User submitted notices as required under R317-8-8.15(3).

(b) The Control Authority may approve an anticipated bypass, after considering its adverse effects, if the Control Authority determines that it will meet the three conditions listed in R317-8-8.15(4)(a).

8.16 MODIFICATION OF POTW PRETREATMENT PROGRAMS

(1) General. Either the Executive Secretary or a POTW with an approved POTW Pretreatment Program may initiate program modification at any time to reflect changing conditions at the POTW. Program modification is necessary whenever there is a significant change in the operation of a POTW pretreatment program that differs from the information in the POTW's submission, as approved under Section R317-8-8.10.

(2) Procedures. POTW pretreatment program modifications shall be accomplished as follows:

(a) For substantial modifications, as defined in R317-8-8.16(3):

1. The POTW shall submit to the Executive Secretary a statement of the basis for the desired modification, a modified program description or such other documents the Executive Secretary determines to be necessary under the circumstances.

2. The Executive Secretary shall approve or disapprove the modification based on its regulatory requirements of R317-8-8.8(6) and using the procedures in R317-10(2) through (6), except as provided in paragraphs (2)4. of this section. The modification shall become effective upon approval by the Executive Secretary.

3. The modification shall be incorporated into the POTW's UPDES permit after approval. The permit will be modified to incorporate the approved modification in accordance with R317-8-5.6(3)(g).

4. [~~The modification shall become effective upon approval by the Executive Secretary. Notice of approval shall be published in the same newspaper as the notice of the original request for approval of the modification.~~]The Approval Authority need not publish a notice of decision provided: The notice of request for approval states that the request will be approved if no comments are received by a date specified in the notice; no substantive comments are received; and the request is approved without change.

(b) The POTW shall notify the Executive Secretary of any other (i.e. non-substantial) modifications to its pretreatment program at least 45[~~30~~] days prior to when they are to be implemented by the POTW, in a statement similar to that provided for in R317-8-8.16(2)(a)1. Such non-substantial program modifications shall be deemed to be approved by the Executive Secretary, unless the Executive Secretary determines that a modification submitted is in fact a substantial modification, 90 days after the submission of the POTW's statement. Following such "approval" by the Executive Secretary such modifications shall be incorporated in the POTW's permit in accordance with R317-8-5.6(2)(g). If the Executive Secretary determines that a modification reported by a POTW is in fact a substantial modification, the Executive Secretary shall notify the POTW and initiate the procedures in R317-8-8.16(2)(a).

(3) Substantial modifications.

(a) The following are substantial modifications for purposes of this section:

1. Changes to the POTW's legal authorities;

2. Changes to local limits, which result in less stringent local limits;

3. Changes to the POTW's control mechanism;

4. Changes to the POTW's method for implementing [~~categorical~~]Categorical Pretreatment Standards (e.g., incorporation by reference, separate promulgation, etc.):

5. A decrease in the frequency of self-monitoring or reporting required of [~~industrial users~~]Industrial Users;

6. A decrease in the frequency of [~~industrial user~~]Industrial User inspections or sampling by the POTW;

7. Changes to the POTW's confidentiality procedures;

8. Significant reductions in the POTW's Pretreatment Program resources (including personnel commitments, equipment, and funding levels); and

9. Changes in the POTW's sludge disposal and management practices.

(b) The Executive Secretary may designate other specific modifications in addition, to those listed in R317-8-8.16(3)(a), as substantial modifications.

(c) A modification that is not included in R317-8-8.16(3)(a) is nonetheless a substantial modification for purposes of this section if the modification:

1. Would have a significant impact on the operation of the POTW's Pretreatment Program;

2. Would result in an increase in pollutant loadings at the POTW; or

3. Would result in less stringent requirements being imposed on [~~industrial users~~]Industrial Users of the POTW.

8.17 VARIANCES FROM CATEGORICAL PRETREATMENT STANDARDS FOR FUNDAMENTALLY DIFFERENT FACTORS (FDF). A variance may be granted, using the procedures of 40 CFR 403.13, to an [~~industrial user~~]Industrial User if data specific to the [~~user~~]User indicates it presents factors fundamentally different from those considered by EPA in developing the limit at issue.

40 CFR 403.13 is incorporated into this rule by reference as indicated in R317-8-1.10(6)

KEY: water pollution, discharge permits
Date of Enactment or Last Substantive Amendment: [~~April 20, 2005~~]2008
Notice of Continuation: October 4, 2007
Authorizing, and Implemented or Interpreted Law: 19-5; 19-5-104; 40 CFR 503

♦ ♦

Human Services, Recovery Services
R527-255
Substantial Change in Circumstances

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31562
FILED: 06/13/2008, 15:38

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change is to add the department and office authority for creating, amending, and enforcing administrative rules. The reference to the Utah Code was also changed due to the recodification of Title 78 from H.B. 78. (DAR NOTE: H.B. 78 (2008) is found at Chapter 3, Laws of Utah 2008, and was effective 02/07/2008.)

SUMMARY OF THE RULE OR CHANGE: The change is to add an authority and purpose section to the existing rule. Section 62A-11-107 authorizes the Office of Recovery Services (ORS) to adopt, amend, and enforce rules as necessary. A purpose section was added to provide specific information as to why the rule was created in regards to a substantial change in circumstances when requesting a review and adjustment. In addition, citations within this rule were updated due to the recodification of Title 78.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 62A-11-107, 62A-11-320.5, 62A-11-320.6, 78B-12-217, and 78B-12-218

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The propose changes to the rule are for clarification purposes only and do not affect the current procedures. There is no anticipated change in cost or savings due to this amendment.

❖ LOCAL GOVERNMENTS: There is no anticipated change in cost or savings due to this amendment since administrative rules of the Office of Recovery Services/Child Support Services (ORS/CSS) do not apply to local government.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There will be no financial impact for small businesses due to the amendment of this rule since the basic requirements of the current rule will not change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no change in compliance costs due to this amendment since the procedures are not changing with the amendment of the current rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses are not addressed in the rule or in the proposed changes, and it is not anticipated that the changes will create any fiscal impact on them. Lisa-Michele 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:
Shancie Lawton at the above address, by phone at 801-536-8191, by FAX at 801-536-8833, or by Internet E-mail at shancielawton@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 07/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

AUTHORIZED BY: Mark Brasher, Director

R527. Human Services, Recovery Services.
R527-255. Substantial Change in Circumstances.
R527-255-1. Authority and Purpose.

1. The Office of Recovery Services is authorized to adopt, amend, and enforce rules as necessary by Section 62A-11-107.

2. The purpose of this rule is to provide information about when a parent can request a review of the child support amount when a support order is less than three years old, and to identify what must be included for a request for review to be complete. The rule also defines when a change in circumstance is considered temporary or permanent.

R527-255-2. Request for Review based on Substantial Change in Circumstances.

1. A parent may request a less than three year review of a support order based on an alleged substantial change in circumstances. For the request to be complete, the parent must provide documentation of the alleged change at his/her own expense.

R527-255-3. Duration of the Change in Circumstances.

[~~2.~~]1. If the change in circumstances is projected to be temporary, defined as less than 12 months in duration, the office shall not initiate proceedings to adjust the award.

[~~3.~~]2. If the change in circumstances is projected to be long term or permanent, defined as 12 months or more in duration, the office shall initiate proceedings to adjust the award pursuant to Sections [~~78-45-7.2 through 78-45-7.21~~]78B-12-217 and 78B-12-218.

KEY: child support
Date of Enactment or Last Substantive Amendment: [~~March 14, 2005~~]2008
Notice of Continuation: September 4, 2007
Authorizing, and Implemented or Interpreted Law: 62A-11-107; [~~78-45-7.2 through 78-45-7.21~~]78B-12-217 and 78B-12-218; 62A-11-320.5; 62A-11-320.6

♦ ♦

Insurance, Administration
R590-164
Uniform Health Billing Rule

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31551
FILED: 06/11/2008, 15:59

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being changed as a result of comments received from the Utah Health Information Network (UHIN), the association that develops the health billing standards for health payors and providers.

SUMMARY OF THE RULE OR CHANGE: There are two changes being made to this rule. In Subsection of the R590-164-4(2)(a), a sentence is being added about Form HCFA-1500 stating that this form will not be used after 06/01/2008. In Subsections R590-164-6(8), (9), (17), (27), and (28), a version number is being added or changed at the end of the name of each HIPAA+ electronic data interchange standard.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-22-614.5

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The changes in this rule are for clarification purposes only and are being used by health care providers and payors already. No filings will need to be made to the department by insurers so the the department's workload and revenues will not be impacted.

❖ LOCAL GOVERNMENTS: This rule deals with electronic processes between provider and payors (insurance companies dealing with health insurance claims). The changes to the rule reflect changes already adopted and being used by health care providers and payors.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The small business groups that the changes in this rule will affect will be health care providers, mainly clinics and doctor offices. They have already agreed upon and are using the updated electronic forms indicated in this version of the rule, and as a result should not be fiscally impacted by this rule when it is put into effect.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Those affected by this rule will be insurance companies and health care providers like doctor offices, hospitals, etc. The insurers and providers have representation on UHIN where these electronic standards are developed changed and adopted. They should already be using the most current versions of the standards this rule is adopting.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to this rule will have no fiscal impact on health care providers and payors. D. Kent Michie, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
INSURANCE
ADMINISTRATION
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.
R590-164. Uniform Health Billing Rule.
R590-164-4. Definitions.

As used in this rule:

A. Uniform Claim Forms are defined as:

(1)(a) "UB-92 HCFA-1450" means the health insurance claim form maintained by HCFA for use by institutional care providers. Currently this form is known as the UB92. This form will not be used after 01/01/2008.

(b) "UB-04" means the health insurance claim form maintained by NUBC for use by institutional care providers.

(2)(a) "Form HCFA-1500 (12-90)" means the health insurance claim form maintained by HCFA for use by health care providers. This form will not be used after 06/01/2008.

(b) "Form CMS 1500 (08-05)" means the health insurance claim form maintained by NUCC for use by health care providers. This form will not be used after 06/01/2008.

(3) "American Dental Association, 1999 Version 2000" means the uniform dental claim form approved by the American Dental Association for use by dentists.

(4) "NCPDP" means the National Council for Prescription Drug Program's Claim Form or its electronic counterpart.

B. Uniform Claim Codes are defined as:

(1) "ASA Codes" means the codes contained in the ASA Relative Value Guide developed and maintained by the American Society of Anesthesiologists to describe anesthesia services and related modifiers.

(2) "CDT Codes" means the current dental terminology prescribed by the American Dental Association.

(3) "CPT Codes" means the current physicians procedural terminology, published by the American Medical Association.

(4) "HCPCS" means HCFA's Common Procedure Coding System, a coding system that describes products, supplies, procedures and health professional services and includes, the American Medical Association's (AMA's) Physician Current Procedural Terminology, codes, alphanumeric codes, and related modifiers. This includes:

(a) "HCPCS Level 1 Codes" which are the AMA's CPT codes and modifiers for professional services and procedures.

(b) "HCPCS Level 2 Codes" which are national alphanumeric codes and modifiers for health care products and supplies, as well as some codes for professional services not included in the AMA's CPT codes.

(5) "ICDCM Codes" means the diagnosis and procedure codes in the International Classification of Diseases, clinical modifications published by the U.S. Department of Health and Human Services.

(6) "NDC" means the National Drug Codes of the Food and Drug Administration.

(7) "UB04 Rate Codes" means the code structure and instructions established for use by the National Uniform Billing Committee.

C. "Electronic Data Interchange Standard" means the:

(1) ASC X12N standard format developed by the Accredited Standards Committee X12N Insurance Subcommittee of the American National Standards Institute and the ASC X12N implementation guides as modified by the Utah Health Information Network (UHIN) Standards Committee;

(2) other standards developed by the UHIN Standards Committee at the request of the commissioner; and

(3) as adopted by the commissioner by rule.

D. "Payer" means an insurer or third party administrator that pays for, or reimburses for the costs of health care expense.

E. "Provider" means any person, partnership, association, corporation or other facility or institution that renders or causes to be rendered health care or professional services, and officers, employees or agents of any of the above acting in the course and scope of their employment.

F. "HCFA" means the Health Care Financing Administration of the U.S. Department of Health and Human Services. HCFA is no longer an active division of the Department of Health and Human Services.

G. "UHIN Standards Committee" means the Standards Committee of the Utah Health Information Network.

H. "CMS" means the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services. CMS replaced HCFA.

I. "HIPAA" means the federal Health Insurance Portability and Accountability Act.

J. "NUBC" means the National Uniform Billing Committee.

K. "NUCC" means the National Uniform Claim Committee.

R590-164-6. Electronic Data Interchange Transactions.

A. The commissioner shall use the UHIN Standards Committee to develop electronic data interchange standards for use by payers and providers transacting health insurance business electronically. In developing standards for the commissioner, the UHIN Standards Committee shall consult with national standard setting entities including but not limited to Centers for Medicare and Medicaid Services (CMS), the National Uniform Claim Form Committee, ASC X12, NCPDP, and the National Uniform Billing Committee.

B. Standards developed and adopted by the UHIN Standards Committee shall not be required for use by payers and providers, until adopted by the commissioner by rule.

C. Payers shall accept the applicable electronic data if transmitted in accordance with the adopted electronic data interchange standard. Payers may reject electronic data if not transmitted in accordance with the adopted electronic data interchange standard.

D. The following HIPAA+ electronic data interchange standards developed and adopted by the UHIN Standards Committee and adopted by the commissioner are hereby incorporated by reference with this rule and are available for public inspection at the department during normal business hours or at www.insurance.utah.gov/rules/index.htm.

(1) #1 - "Anesthesia v2.0." Purpose: to standardize the transmission of anesthesia data for health care services. This standard does not alter any contractual agreement between providers and payers. Effective date: 07-12-2003.

(2) #2A - "UB92 Form Locator Elements v2.0." Purpose: to clearly describe the use of each form locator in the UB-92 (HCFA 1450) claim billing form and its crosswalk to the HIPAA 837 004010X096A1 Institutional implementation guide. This standard creates a uniform billing method for institutional claims. Effective date: 07-12-2003.

(3) #2B - "HCFA 1500 Box Elements v2.0." Purpose: to clearly describe the standard use of each box (for print images) and its crosswalk to the HIPAA 837 004010X098A1 Professional implementation guide. This standard creates a uniform billing method for professional claims. Effective date: 07/12/03.

(4) #2D - "Dental Form Locator Elements v2.0." Purpose: to clearly describe the standard use of each Form Locator (for print images) and its crosswalk to the HIPAA 837 004010X097A1 Dental implementation guide. This standard creates a uniform billing method for dental claims. Effective date: 12/12/03.

(5) #3 - "837 Health Care Claim Standard v2.1." Purpose: to detail the standard transactions for the transmission of health care claims and encounters and associated transactions in the state of Utah. Effective date: 01/17/03.

(6) #4 - "Provider Remittance Advice v2.0." Purpose: to detail the standard transactions for the transmission of health care remittance advices in the state of Utah. Effective date: 01/17/03.

(7) #8 - "Patient Identification Number v2.0." Purpose: to describe the standard for the patient identification number in Utah. Effective date: 09/11/98.

(8) #9[~~a~~] - "Professional Common Edits v2.o". Purpose: to detail common edits used in all professional claims. Effective date: 10/17/97.

(9) #10 - "Facilities Common Edits v2.o". Purpose: to detail common edits used in all facility claims. Effective date: 9/10/99.

(10) #11 - "Medicaid Enrollment Standard v2.0." Purpose: to describe the standard for the transmission of a Medicaid enrollment transaction in the state of Utah. Effective date: 04/12/03.

(11) #12 - "HCFA Box 17 / 17A". Purpose: to establish a standard approach to reporting referring provider name and identifier number on the HCFA 1500 claim form. This Standard also provides the cross walk to the ASC X12 837 Professional Claim version 4010A. Effective date: 09/04/04.

(12) #18 - "Acknowledgements v2.3." Purpose: to detail the standard transaction for the reporting of transmission receipt and transaction and/or functional group X12 standard syntactical errors. This standard adopts the use of the ASC X12 997 transaction. Effective date: 07/08/06.

(13) #20 - "Front-End Acknowledgement Standard v2.2." Purpose: to delineate a standardized front-end encounter acknowledgement transaction. This transaction will be used only to report on the status of a claim/encounter at the level of the payers "front end" claim/encounter edits, i.e., before the payer is legally required to keep a history of the claim/encounter. Effective date: 12/02/05.

(14) #26 - "Telehealth v2.1." Purpose: to provide a uniform standard of billing for a health care claim/encounter delivered via telehealth. Two types of telehealth technology have been identified to deliver health care. Effective date: 9/13/03.

(15) #27 - "Metabolic and Dietary Foods v2.1." Purpose: to provide a uniform standard for billing of metabolic dietary products for those providers and payers that use the UB92 and the HCFA 1500 or the electronic equivalent. Effective date: 09/11/04.

(16) #28 - "Home Health v2.1." Purpose: to provide a uniform standard of billing for a home health care claim/encounter. Effective date: 06/12/04.

(17) #30 - "Pain Management v2.o". Purpose: to provide a uniform method of submitting a pain management claim/encounter, pre-authorization, and notification. Effective date: 10/19/02.

(18) # 31 - "Eligibility Inquiry and Response Standard v2.3." Purpose: to detail the Standard transactions for the transmission of health care eligibility inquiries and responses in the state of Utah. Effective date: 06/02/07.

(19) #32 - "Benefits Enrollment and Maintenance Standard v2.1." Purpose: to mandate the use of the ASC X12 834 HIPAA addenda transaction for health care benefits enrollment and maintenance transactions. Effective date: 12/06/04.

(20) #34 - "Psychiatric Day Treatment Standard v2.0." Purpose: to provide a uniform standard for submitting a psychiatric day treatment claim/encounter, pre-authorization, and notification. Effective date: 10/09/02.

(21) #35 - "Prior Authorization/Referral Standard v2.0." Purpose: to (1) lay out general recommendations to payers and providers about handling the UHIN Internet based prior authorization/referral (termed the 278) system, (2) set out the minimum data set that providers will submit in the 278 request, and (3) set out the minimum data set that payers will return on the 278 response. Effective date: 10/08/02.

(22) #36 - "Claim Status Inquiry v2.2." Purpose: to detail the Standard transactions for the transmission of health care claim status inquiries and response in the state of Utah. Effective date: 07/08/06.

(23) #37 - "Individual Name v2.0." Purpose: to provide guidance for entering names into any Utah provider, payer or sponsor systems for patients, enrollees, as well as all other people associated with these records. Effective Date: 07/12/03.

(24) #46 - "Required 'Unknown' Values v2.0." Purpose: to provide guidance for the use of common data values that can be used within the HIPAA transactions when a required data element is not known by the provider, payer or sponsor for patients, enrollees, as well as all other people associated with these transactions. These data values should only be used when the data is truly not available or known. These values are not to be used to replace known data. Effective Date: 06/12/04.

(25) #50 - "Coordination of Benefits v2.0." Purpose: to streamline the coordination of benefits process between payers and providers. The over all goal of this standard is to define the data to be exchanged for Coordination of Benefits (COB) and increase effective communications. Effective Date: 07/08/06.

(26) #51 - "National Provider Identifier v2.1." Purpose: to describe the agreed upon requirements surrounding the National Provider Identifier and it's usage for providers and payers in the State of Utah during the transition period of May 23, 2005 through May 22, 2007. Effective Date: 09/01/2007.

(27) #56 - "CMS 1500 Paper Claim Form [~~2.0~~]v2.2." Purpose: to clearly describe the use of each form locator in the CMS 1500 claim billing form and its crosswalk to the HIPAA 837 004010X096A1 Institutional implementation guide. This standard applies to professional providers. Effective Date: 09/01/2007.

(28) #57 - "UB04 Paper Claim Form v2.0." The purpose of this standard is to describe the use of each form locator in the UB04 (CMS1450) claim billing form and its crosswalk to the HIPAA 004010X096A1 Institutional implementation guide. This standard applies to institutional providers. Effective Date: 04/07/2007.

KEY: insurance law
Date of Enactment or Last Substantive Amendment: [~~May 8,~~]2008
Notice of Continuation: March 31, 2005
Authorizing, and Implemented or Interpreted Law: 31A-22-614.5

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Labor Commission, Industrial Accidents

R612-11

Prohibition of Direct Payments by Insured Employer

NOTICE OF PROPOSED RULE

(New Rule)
DAR FILE NO.: 31565
FILED: 06/16/2008, 09:27

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to designate as "informal proceeding" the initial process by which the Industrial Accidents Division will assess penalties against employers who improperly pay workers' compensation claims directly, rather than submitting those claims to their workers compensation insurance carrier.

SUMMARY OF THE RULE OR CHANGE: The rule designates as an informal adjudicative proceeding the initial process to assess penalties against employers who pay workers' compensation claims directly. The rule designates subsequent proceedings as formal adjudicative proceedings.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 34A-1-104 and 34A-2-201.3, and Subsection 63G-4-202(1)

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: The administrative costs of implementing this rule can be absorbed within the existing budget of the Labor Commission. The Commission does not anticipate any additional costs or savings to the state budget.
❖ LOCAL GOVERNMENTS: Local governments do not have any administrative responsibilities or substantive obligations relative to this rule and will not experience any savings or costs.
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There will be no cost for small businesses or other persons since this rule only defines processes within the Labor Commission. However, by designating initial proceedings as "informal", small businesses and persons other than businesses should experience fewer legal and other expenses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Commission does not anticipate any compliance cost(s) for affected persons or entities. By designating initial proceedings as "informal", affected persons and entities should experience fewer legal and other expenses.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will allow the Labor Commission to effectively pursue violations of claims reporting requirements. This will, in turn, ensure a level playing field for all companies. Sherrie Hayashi, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
LABOR COMMISSION
INDUSTRIAL ACCIDENTS
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:
Larry Bunkall at the above address, by phone at 801-530-6988, by FAX at 801-530-6844, or by Internet E-mail at lbunkall@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 07/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

AUTHORIZED BY: Sherrie Hayashi, Commissioner

R612. Labor Commission, Industrial Accidents.
R612-11. Prohibition of Direct Payments by Insured Employer.
R612-11-1. Authority.
This rule is enacted under the authority of U.C.A. Sections 34A-1-104, 34A-2-201.3, and 63G-4-202(1) and is applicable to proceedings under section 34A-2-201.3 to assess a penalty for direct payment of workers' compensation benefits by an insured employer.

R612-11-2. Designation as Informal Proceedings.
Initial proceedings to assess such penalty are hereby designated as informal adjudicatory proceedings, while all subsequent proceedings with respect to assessment of such penalty are hereby designated as formal proceedings.

KEY: workers' compensation, administrative procedures, reporting, settlements
Date of Enactment or Last Substantive Amendment: 2008
Authorizing, and Implemented or Interpreted Law: 34A-2-101 et seq.; 34A-3-101 et seq.; 34A-1-104; 78-29-102; 78-29-104

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Labor Commission, Industrial Accidents
R612-12
Reporting Requirements for Workers' Compensation Coverage Waivers

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 31564
FILED: 06/16/2008, 09:27

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to implement S.B. 159 by defining the frequency and content of the reports regarding independent contractor exclusion certificates that insurance carriers will provide to the Labor Commission. (DAR NOTE: S.B. 159 (2008) is found at Chapter 263, Laws of Utah 2008, and was effective 05/05/2008.)

SUMMARY OF THE RULE OR CHANGE: The rule will require insurance carrier reports on independent contractors be submitted to the Labor Commission by the 5th of each month, or the first business day thereafter.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 34A-1-104 and 31A-22-1011, and Title 63G, Chapter 3

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: The administrative costs of implementing this rule will be de minimus and can be absorbed within the existing budget of the Labor Commission.

❖ LOCAL GOVERNMENTS: Local governments do not have any administrative responsibilities relative to this rule and will not experience any savings or costs.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There will be no cost or savings for small businesses or other persons since this rule only defines the content and timing of the insurance carrier reports.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance cost(s) for the affected persons or entities are minimal. Insurance carriers are already compiling the necessary information regarding independent contractors. This rule merely defines the timing for the transmitting of the reports to the Labor Commission. This should involve less than an hour's time each month between sending and receiving the report.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Insurance carrier reports regarding independent contractors exclusion certificates will assist our investigators in performing investigations into possible noncompliance with workers' compensation insurance coverage requirements. The reports received under this rule will reduce the need for Commission investigations of bona fide employer/independent contractor relationships. Sherrie Hayashi, Commissioner

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

LABOR COMMISSION
INDUSTRIAL ACCIDENTS
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:
Larry Bunkall at the above address, by phone at 801-530-6988, by FAX at 801-530-6844, or by Internet E-mail at lbunkall@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 07/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

AUTHORIZED BY: Sherrie Hayashi, Commissioner

R612. Labor Commission, Industrial Accidents.
R612-12. Reporting Requirements for Workers' Compensation Coverage Waivers.
R612-12-1. Authority.
This rule is enacted under the authority of U.C.A. Sections 34A-1-104, 31A-22-1011, and 63G-3.

R612-12-2. Designation as Informal Proceedings.
Insurance carriers issuing a waiver pursuant to Section 34A-22-1001 shall file with the Labor Commission a report, as required by this section, once monthly but in any event no later than the 5th of each month or the first business day thereafter.

KEY: workers' compensation, administrative procedures, reporting, settlements
Date of Enactment or Last Substantive Amendment: 2008
Authorizing, and Implemented or Interpreted Law: 34A-2-101 et seq.; 34A-3-101 et seq.; 34A-1-104; 78-29-102; 78-29-104

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Public Safety, Driver License
R708-2
Commercial Driver Training Schools

NOTICE OF PROPOSED RULE
(Repeal and Reenact)
DAR FILE NO.: 31545
FILED: 06/10/2008, 09:11

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 363 and H.B. 20 changed several requirements for commercial driver training schools that required the division to make changes in the rule. Since there were so many changes, the division decided to rewrite and simplify the rule. (DAR NOTE: H.B. 363 (2006) is found at Chapter 201, Laws of Utah 2006, and was effective 08/01/2006. H.B. 20 (2006) is found at Chapter 266, Laws of Utah 2006, and was effective 05/01/2006.)

SUMMARY OF THE RULE OR CHANGE: H.B. 363 and H.B. 20 in the 2006 General Legislative Session required the Driver License Division to make several changes in Rule R708-2. The changes in the rule required making definitions; created a school operator license for a person authorized to manage a driver training school; created a commercial testing only school license; provided that school operator and instructor license expires one year from issuance; provided that beginning 08/01/2006 the division shall issue a learner permit to a person who is at least 15 years of age; provided that the fee for a learner permit is $15; provided other qualifications when a person with a learner permit may operate a vehicle; repealed temporary learner permits, instruction permits and practice permits; authorized school districts to do certain things with pupils who are 15 years old; required commercial driving training schools to verify a student has been issued a learner permit prior to conducting behind the wheel and observation training; outlined requirements for using driving simulators by commercial driver training schools; allowed the division to inspect and renew school licenses throughout the year; reduced the required school bond from $10,000 to $5,000; clarified when a school license expires; made technical changes; and generally clarified the rule. There are no substantive provisions that existed in the old rule that do not appear in the new rule.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-3-505

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no cost to the state because the changes in the rule will not increase the cost to regulate commercial driver training schools and their instructors.

❖ LOCAL GOVERNMENTS: There is no impact on local government because they are not involved in regulating commercial driver training schools.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There will be an additional cost for schools that are required to resubmit a finger print record. There will also be a savings for schools, because instead of having to pay $10,000 for a surety bond, they will only have to pay $5,000 for a bond. There is no additional cost to individuals because the changes in the rule only affect the schools and their instructors.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be an additional cost for schools that are required to resubmit a finger print record. There will also be a savings for schools, because instead of having to pay $10,000 for a surety bond, they will only have to pay $5,000 for a bond. There is no additional cost to individuals because the changes in the rule only affect the schools and their instructors.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no extra costs to the schools except for resubmitting a finger print record. There will be a savings to the schools because their bond was reduced from $10,000 to $5,000. Scott T. Duncan, Commissioner

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

PUBLIC SAFETY
DRIVER LICENSE
CALVIN L RAMPTON COMPLEX
4501 S 2700 W 3RD FL
SALT LAKE CITY UT 84119-5595, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Vinn Roos at the above address, by phone at 801-965-4456, by FAX at 801-964-4482, or by Internet E-mail at vroos@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

AUTHORIZED BY: Nannette Rolfe, Director

R708. Public Safety, Driver License.
R708-2. Commercial Driver Training Schools.
[~~R708-2-1. Purpose.~~

~~Sections 53-3-501 through 509, requires the Driver License Division to administer the Commercial Driver Training Schools Act by licensing and regulating commercial driver training schools and instructors of such schools. This rule assists the division in doing that.~~

~~R708-2-2. Authority.~~

~~This rule is authorized by Section 53-3-505.~~

~~R708-2-3. Definitions.~~

~~(1) "Behind-the-wheel instruction" means instruction a student receives while driving a commercial driver training vehicle.~~

~~(2) "Branch office" means an approved location where the business of the driver training school is conducted other than the principal place of business.~~

~~(3) "Business plan" means a plan that contains written acknowledgment of expectations, as outlined by this rule and a detailed explanation of how these expectations will be accomplished.~~

~~(4) "Classroom instruction" means that part of the driver training course which takes place in a classroom and which utilizes effective teaching methods such as lecture, discussion, and audio-visual aids.~~

~~(5) "Commercial driver training school" or "school" means a business enterprise conducted by an individual, association, partnership, or corporation for the education and training of persons, either practically or theoretically, or both, to drive motor vehicles, including motorcycles, and to prepare an applicant for an examination given by the state for a license or learner permit, and charging a consideration or tuition for those services.~~

~~(6) "Commercial driver training vehicle" means a motor vehicle equipped with a second functioning foot brake and inside mirrors which are positioned for use by the instructor for the purpose of observing rearward.~~

~~(7) "Commissioner" means the Commissioner of the Department of Public Safety.~~

~~(8) "Corporation" means a business incorporated under the laws of a state or other jurisdiction.~~

~~(9) "Department" means the Department of Public Safety.~~

~~(10) "Division" means the Driver License Division.~~

~~(11) "Driver training" means behind-the-wheel instruction, extended learning, observation time, and classroom instruction provided by a driver training school for the purpose of teaching students to safely operate motor vehicles.~~

~~(12) "Extended learning course" means a home-study course in driver education offered by a school and approved and operated under the direction of an institution of higher learning. The division must also approve the course.~~

~~(13) "Fraudulent practices" means any misrepresentation on the part of a licensee or any partner, officer, agent, or employee of a licensee tending to induce another to part with something of value or to surrender a legal right.~~

~~(14) "Higher education" means a university or college currently accredited by an appropriate accreditation agency recognized by the U.S. Dept. of Education and the Utah State Board of Regents.~~

~~(15) "Instructor" means any person, whether acting for himself as operator of a commercial driver training school or for any school for compensation, who teaches, conducts classes of, gives demonstrations to, or supervises practice of persons learning to drive motor vehicles, including motorcycles, or preparing to take an examination for a license or learner permit.~~

~~(16) "Instructor demonstration" means a demonstration of the operation of a motor vehicle performed by the instructor, which may be included as a part of the required six clock hours of observation time for a student for which credit is designated as hour for hour.~~

~~(17) "Observation time" means the time a student is riding in the commercial driver training vehicle to observe the driver instructor, other student drivers, and other road users.~~

(18) "Operator" means any person who is certified as an instructor, has met requirements for operator status as outlined in this rule, is authorized or certified to operate or manage a driver training school, and who may supervise the work of any other instructor.

(19) "Partnership" means an association of two or more persons who co-own and operate a commercial driver training school or testing only school.

(20) "Permanent record book" means a permanently bound book with pages consecutively numbered, setting forth the name, address, date of birth, enrollment date, and completion date of every person receiving lessons, lectures, tutoring, instruction of any kind or any other services relating to instruction in the operation of motor vehicles. A computerized file that is printed and permanently bound at the end of the calender year will be accepted as a permanent record book upon approval by the division.

(21) "Probation" means action taken by the department which includes a period of close supervision as determined by the division.

(22) "Reinstatement" means the process for an instructor, operator, commercial driver training school or testing only school to re-license following revocation.

(23) "Revocation" means the removal of certification of an instructor license, operator license, commercial driver training school or testing only school for a period of six months.

(24) "Student record book" means a book or other record showing the name, date of birth for each student, and also the date, type, time, and duration of all lessons, lectures, tutoring, instructions or other services relating to instruction in the operation of motor vehicles. It will also contain the names of the instructors giving such lessons or instructions and identification of the vehicle in which any behind-the-wheel instruction is given.

(25) "Testing only school" means a school that has been designated by the division as a commercial testing only school, employs instructors who are certified in accordance with R708-37, and engages only in testing students for the purpose of obtaining a driver license. A testing only school may conduct behind-the-wheel and/or observation instruction upon approval by the division. A testing only school may not engage in education or training of persons, either practically or theoretically, or both, to drive motor vehicles, except when counseling the driver following a test in reference to errors made during the administration of the test or when conducting behind-the-wheel or observation instruction as approved by the division. A tester may not test an individual who has completed any behind-the-wheel or observation instruction through the school with which the tester is employed.

R708-2-4. Licensing Requirement for a Commercial Driver Training School.

(1) Every corporation, partnership or person who owns a commercial driver training school shall obtain a school license from the division. School license applications may be obtained from the Driver License Division at 4501 South 2700 West, Salt Lake City, Utah. Applicants are also responsible for obtaining any business licenses required by the municipality or county in which they are located. School and business licenses must be conspicuously displayed in the licensee's principal place of business and branch offices. Each school shall be inspected by a division representative before it can be licensed.

(2) A license is valid for the calendar year and expires on December 31 of the year issued. The fee for an original license is $100. The annual fee for a renewal license is $100. The annual fee for each branch license is $30. Fees shall be payable to the Department of Public Safety. If a license is revoked, or refused issuance or reinstatement, no part of the fee will be refunded.

(3) Licenses are not transferable.

(4) If a license is lost or destroyed, a duplicate will be issued upon payment of a fee of $10. A notarized affidavit setting forth the date the license was lost or destroyed and the circumstances of such loss or destruction must be provided.

(5) Whenever any school or branch office is discontinued, the school or branch office license must be surrendered to the division within five days. In such cases, the licensee shall state in writing the reason for such surrender.

(6) Any branch office or classroom facility in a location other than the school's principal place of business shall be separately licensed. A branch office shall meet the same requirements as the school's principal place of business and shall be similarly equipped and perform substantially the same services. Application for a branch office license shall be made on an application form provided by the division. Branch offices shall be inspected by a division representative before they can be licensed.

(7) Each school must employ a licensed operator to operate the school and each branch office before it may become licensed. The current licensed operator must be identified on the application maintained by the division for each school or branch office. It is permissible for a single operator to operate multiple branch offices of the same school. If at any time the operator discontinues employment with the school, a new operator must be employed before continuation of operation of the school, including any branch offices for which the individual has been identified as the operator, may occur.

(a) It is not permissible for an individual to maintain employment with more than one commercial driver training school or testing only school at a time.

(8) Only one school may be operated from a branch office or a classroom facility. It is not permissible for two or more schools owned by separate individuals and owned under different school names to operate from the same facility or office space unless one school has been designated by the division as a testing only school. One commercial driver training school and one testing only school may be operated from the same school or branch office. A clear separation of the schools must be identified, and each school must comply with standards set forth in R708-2.

(9) Each school or classroom facility must be posted with signage that will identify the school by name as the school is listed on the school certification.

R708-2-5. Licensing Requirement for a Testing Only School.

(1) Every corporation, partnership or person who owns a testing only school shall obtain a school license from the division. School license applications may be obtained from the Driver License Division at 4501 South 2700 West, Salt Lake City, Utah. Applicants are also responsible for obtaining any business licenses required by the municipality or county in which they are located. School and business licenses must be conspicuously displayed in the licensee's principal place of business and branch offices. Each school shall be inspected by a division representative before it can be licensed.

(2) A license is valid for the calendar year and expires on December 31 of the year issued. The fee for an original license is $100. The annual fee for a renewal license is $100. The annual fee for each branch license is $30. Fees shall be payable to the Department of Public Safety. If a license is revoked, or refused issuance or reinstatement, no part of the fee will be refunded.

(3) Licenses are not transferable.

(4) If a license is lost or destroyed, a duplicate will be issued upon payment of a fee of $10. A notarized affidavit setting forth the date the license was lost or destroyed and the circumstances of such loss or destruction must be provided.

(5) Whenever any school or branch office is discontinued, the school or branch office license must be surrendered to the division within five days. In such cases, the licensee shall state in writing the reason for such surrender.

(6) Any branch office in a location other than the school's principal place of business shall be separately licensed. A branch office shall meet the same requirements as the school's principal place of business and shall be similarly equipped and perform substantially the same services. Application for a branch office license shall be made on an application form provided by the division. Branch offices shall be inspected by a division representative before they can be licensed.

(7) It is not permissible for an individual to maintain employment with more than one commercial driver training school or testing only school at a time.

(8) Only one school may be operated from a branch office. It is not permissible for two schools owned by separate individuals and owned under different school names to operate from the same facility or office space unless one school has been designated by the division as a testing only school. One commercial driver training school and one testing only school may be operated from the same school or branch office. A clear separation of the schools must be identified, and each school must comply with standards set forth in R708-2.

(9) Each school must be posted with signage that will identify the school by name as the school is listed on the school certification.

(10) It is not required that a testing only school maintain a classroom facility in the school or branch office location. It is required that the testing only school location or branch office have a designated area in which to maintain required files and records.

R708-2-6. Application for a Commercial Driver Training School License or a Testing Only School License.

(1) Application for an original or renewal commercial driver training school license or a testing only school license must be made on forms provided by the division, signed by the applicant, and notarized. In the case of a partnership, the application must be signed by all partners. In the case of a corporation, the application must be signed by an officer of the corporation. Applications must be submitted at least 30 days prior to licensing. An appointment should be made when the application is filed to have the school inspected by a division representative.

(2) Every application must be accompanied by the following supplementary documents:

(a) in the case of a corporation, a certified copy of a certificate of incorporation;

(b) samples of all forms and receipts to be used by the school;

(c) a schedule of fees for all services to be performed by the school;

(d) a fingerprint record for each applicant, partner or corporate officers. A Bureau of Criminal Identification check will be done by the division on all applicants, partners, and corporate officers. Fingerprints may be taken by any law enforcement agency. The division may require renewal applicants to submit new fingerprint records;

(e) a certificate of insurance for each vehicle used for driver training or testing purposes;

(f) a copy of all tests and criteria which the school requires in order for a student to satisfactorily complete the driver training course all of which are subject to approval of the division; including copies of translations; and

(g) evidence that a surety bond has been obtained by the school. The amount of the surety bond will be determined by the division with the use of a formula that incorporates the number of students that the school is capable of instructing over a period of three months based on its facility, equipment, personnel, and the tuition that would be collected from each student, with a minimum requirement of $10,000.00 coverage and a maximum requirement of $60,000.00 coverage. If, at any time, there is a change in the number of instructors, the number of vehicles, or the size of the classroom facility, the required surety bond amount will be reevaluated by the division and adjusted accordingly. Cancellation of the surety bond is grounds for revocation, probation, or refusal to issue or renew the school license. A school designated by the department as a testing only school will not be required to obtain a surety bond unless it has been authorized by the division to conduct behind the wheel training. A school may enter into an agreement with the division that will outline a method for determining the amount of the required surety bond in lieu of the formula specified in this section. Noncompliance with the terms of the agreement may result in the revocation of school, operator, and or instructor licenses issued by the division for use by the school or its employees. A school that does not charge tuition for driver education is not required to maintain a surety bond.

(3) The division may require that a credit check be performed for each applicant. Based on the results of the credit check, the division may deny certification.

R708-2-7. Application Requirements for a Commercial Driver Training School Instructor License.

(1) Every person who serves as an instructor in a commercial driver training school, including the owner, operator, partner or corporate officer of the licensee, substitute or part-time instructor, shall obtain an instructor's license from the division. Such license shall be valid only for the specific driver training school listed on the license.

(2) A license is valid for the calendar year and expires on December 31 of the year issued. The fee for an original license is $30. The annual fee for a renewal license is $20. Fees shall be payable to the Department of Public Safety. If a license is revoked or refused issuance, or refused renewed, no part of the fee will be refunded.

(3) Licenses are not transferable.

(4) If an instructor license is lost or destroyed, a duplicate will be issued upon payment of a fee of $6. A notarized affidavit setting forth the date the license was lost or destroyed and the circumstances of such loss or destruction must be provided.

R708-2-8. Application Requirements for a Commercial Driver Training School Operator License.

(1) Every person who serves as an operator of a commercial driver training school, including the owner, operator, partner or corporate officer of the licensee, substitute or part-time instructor, shall obtain an operator license from the division. Such license shall be valid only for the specific driver training school listed on the license.

(2) A school operator license is not valid unless accompanied by a valid instructor license.

(a) Requirements for licensure as a school operator include six college semester credit hours or eight college quarter credit hours in business related courses through an accredited college or university; or two years experience operating a business, or a combination thereof.

(b) Prior to licensure, a potential school operator must submit a business plan to the division for approval.

(c) Individuals who are functioning in the capacity of a commercial driver training school operator prior to January 1, 2003, will not be required to comply with section (a) of this section.

(3) An operator license is valid for the calendar year and expires on December 31 of the following year issued.

(4) Licenses are non-transferable.

(5) If an operator license is lost or destroyed, a duplicate will be issued upon request. A notarized affidavit setting forth the date the license was lost or destroyed and the circumstances of such loss or destruction must be provided.

R708-2-9. Additional Requirements for Commercial Driver Training School Instructors.

(1) In addition to obtaining a license, a commercial driver training school instructor must:

(a) have a valid Utah driver license;

(b) be at least twenty one years of age;

(c) have at least three years of driving experience in the United States, Canada, or a country with which the state of Utah has established a license reciprocity agreement;

(d) have a driving record free of conviction for a moving violation or chargeable accident resulting in suspension or revocation of the driver license for the two year period immediately prior to application and during employment and be checked to determine if there is an unsatisfactory driving record in any state;

(e) be in acceptable physical condition as required by Section 10 of this rule;

(f) complete specialized professional preparation in driver safety education consisting of not less than 21 quarter hours, or 14 semester hours of credit as approved by the division. Of the 21 quarter hours or 14 semester hours, one class must be in teaching methodology and another class must include basic driver training instruction or organization and administration of driver training instruction;

(g) pass a written test given by the division. The test may cover commercial driver training school rules, traffic laws, safe driving practices, motor vehicle operation, teaching methods and techniques, statutes pertaining to commercial driver training schools, business ethics, office procedures and record keeping, financial responsibility, no fault insurance, procedures involved in suspension or revocation of an individual's driving privilege, material contained in the "Utah Driver Handbook", and traffic safety education programs;

(h) pass a practical driving test;

(i) pass the same standard eye test that is given to applicants who apply for a Utah operator or commercial driver license; and

(j) submit a fingerprint record for a criminal history record check.

(2) Instructors shall be sponsored by a commercial driver training school which shall be responsible for controlling and supervising the actions of the instructors. No school may knowingly employ any person as an instructor or in any other capacity if such person has been convicted of a felony or any crime involving moral turpitude.

(3) The instructor's license must be in the possession of the instructor at all times while providing behind-the-wheel or classroom instruction.

R708-2-10. Application and Medical Requirements for a Commercial Driver Training School Instructor License.

(1) Application for an original or renewal instructor's license must be made on forms provided by the division, signed by the applicant in front of a division employee authorized to administer oaths. Applications must be submitted at least 30 days prior to licensing. The original and each yearly renewal application must be accompanied by a medical profile form provided by the division and completed by a health care professional as defined in Subsection 53-3-302(2).

(2) The medical profile form shall indicate any physical or mental impairments which may preclude service as a commercial driver training school instructor. The physical examinations must take place no more than three months prior to application.

(3) The commercial driver training school desiring to employ the applicant as an instructor must sign the application verifying that the applicant will be employed by the school.

(4) When deemed necessary by the division, an applicant seeking to renew an instructor's permit may be required to take a driving skills test.

R708-2-11. Re-certification.

All holders of school licenses, operator licenses, and instructor licenses may at the discretion of the division be required to re-certify every three years. Re-certification may be obtained by submitting proof of completion of classes, seminars, and workshops approved by the division.

R708-2-12. Classroom and Behind-The-Wheel Instruction.

(1) Classroom instruction for students shall meet or exceed 18 clock hours and shall be conducted in not less than nine separate class sessions on nine separate days of two hours per class. Classroom curriculum may not be repeated in any of the nine sessions provided to a student except in the form of a review of materials covered in a previous classroom session. The time frame allotted for review is not to exceed 10 minutes per classroom session. Not more than five of the classroom hours may be devoted to showing slides or films. Classroom instruction shall cover the following areas:

(a) attitudes and physical characteristics of drivers;

(b) driving laws with special emphasis on Utah law;

(c) driving in urban, suburban, and rural areas;

(d) driving on freeways;

(e) maintenance of the motor vehicle;

(f) affect of drugs and alcohol on driving;

(g) motorcycles, bicycles, trucks, and pedestrian's in traffic;

(h) driving skills;

(i) affect of the motor vehicle on modern life;

(j) Utah's motor vehicle laws regarding financial responsibility and no fault insurance, and a driver's responsibility when involved in an accident; and

(k) suspension or revocation of a driver license.

(2) Behind-the-wheel instruction shall include a minimum of six clock hours of instruction in a dual control vehicle with a licensed instructor. Each student will be limited to a maximum of two hours of behind-the-wheel instruction per day. An instructor may not conduct more than 10 hours of behind-the-wheel instruction within a period of 24 hours and must have at least eight consecutive hours of off duty time between each ten hour shift. The front seat of the vehicle shall be occupied by the instructor and no more than one student. Under no circumstances shall there be more than five individuals in the vehicle.

(a) Behind-the-wheel instruction shall include student practice in using vehicle controls to start, shift gears, make right and left turns, stop, backup, and park. This instruction shall begin under relatively simple conditions and progress until the student has acquired reasonable skill in operating the vehicle under varying traffic conditions.

(b) Students shall receive experience in driving on urban streets, open highways, or freeways. Behind-the-wheel instruction shall include the experience of driving under variable conditions which may be used

by the instructor at different times of the day and year. Special emphasis should be given to teaching students to show courtesy to other drivers and pedestrians.

(c) Students shall receive a minimum of six clock hours of observation time. This instruction may include instructor demonstrations, for which hour for hour credit will be given, and may not exceed two hours per day. Students observing from the rear seat, as well as the student driver, should benefit from time in the vehicle. The instructor's role is not merely to provide driving experience for the student behind the wheel, but to make the vehicle a practical classroom on wheels where all students may learn about the problems which face a driver and the appropriate solution to such problems.

(d) Behind the wheel instruction may not be conducted for a student unless the division has issued an instruction permit for the student and the instruction permit issued for the student is in the vehicle at the time the instruction is conducted, unless the student is in possession of a valid Utah driver license, a learner permit or temporary permit issued by the division, or a valid out of state or out of country driver license.

(3) All classroom and behind the wheel instruction will be conducted by an individual who is licensed as a commercial driver training school instructor as specified in this rule.

(a) It is a violation of this rule to conduct classroom or behind the wheel instruction or to allow another individual to conduct classroom or behind the wheel instruction without an instructors license unless a school has obtained prior approval from the division for classroom instruction to be provided by experts, such as a police officer, on a limited basis.

(4) Instructors shall screen students for visual acuity and physical or emotional conditions which may compromise public safety before allowing students to participate in behind the wheel instruction. Screening may not be performed over the telephone. An employee of the school who is not certified as an instructor may not perform medical or visual screening unless approved by the division in writing. Screening results shall be maintained on a form approved by the division.

(a) Students must have 20/40 visual acuity or better in one eye and a visual field of 90 degrees. Students with less than the required visual acuity and/or visual field shall be referred to a licensed medical practitioner for further consideration.

(b) Students must answer all questions on a health questionnaire approved by the Driver License Medical Advisory Board and sign a statement of affirmation of truth. Students indicating a physical or emotional condition on the questionnaire shall be referred to a licensed medical practitioner for further consideration. Health questionnaires shall be provided by the division.

(5) Commercial driver training schools shall provide each student a copy of the current Utah Driver Handbook. The handbook shall not be used as the sole text of the course, but as an essential aid when Utah traffic laws are studied. Handbooks may be obtained by the schools from the division.

R708-2-13. Monthly Reports.

(1) Each commercial driver training school shall submit a monthly report of the number of students completing both classroom and behind the wheel instruction.

(2) Monthly reports shall be submitted on forms supplied by the division and must be received by the division no later than the 15th day of each month.

(3) Failure to submit monthly reports within the prescribed time is grounds for revocation of the school's license.

(4) Monthly reports may be submitted electronically with division approval.

R708-2-14. Extended Learning Course.

(1) A commercial driver training school may offer an extended learning course of instruction as a substitute for the classroom instruction set forth in Section 10 of this rule provided such course is approved by an institution of higher learning and the division.

(2) An extended learning course must be operated under the direction of an institution of higher learning. The institution of higher learning shall notify the division in writing when it has approved a school's extended learning course. The institution of higher learning will monitor any extended learning course approved by them to ensure the course is run as originally planned. They will notify the division of any substantive changes in the course as well as their approval of such changes. An institution of higher learning can approve the extended learning course of more than one school.

(3) An extended learning course shall consist at a minimum of a text, a workbook, and a 50 question competency test which addresses the subjects described in Section 10 of this rule.

(a) All materials, including texts, workbooks, and tests, used in the course must be submitted by the school to the division for approval.

(b) The average study time required to complete the workbook exercises must meet or exceed 30 clock hours.

(c) An extended learning student must complete all workbook exercises.

(d) An extended learning student must pass the 50 question written competency test at 80% or better. Testing shall occur under the following conditions:

(i) the test shall be taken at the school or at a proctored testing facility approved by the division;

(ii) the identity of the student will be verified by the licensed instructor prior to testing;

(iii) the test shall be completed by the student without any outside help;

(iv) the school shall maintain at least three separate 50 question competency tests created from a test pool of at least 200 questions;

(v) the extended learning student will be given a minimum of three opportunities to pass the test. After each failure the school will provide the student with additional instruction to assist the student to pass the next test;

(vi) the original fees for the course must include the three opportunities to pass the test and any additional instruction that is required;

(vii) an extended learning student must pass the test in order to complete driver training; and

(viii) the school will maintain for three years records of all tests administered by the school. Test records shall include the results of all tests taken by every student.

R708-2-15. Instruction Permits.

(1) A commercial driver training school must obtain from the division an instruction permit for each student enrolled in the school for the purpose of meeting licensing requirements as set forth in Section 53-3-204 (1). An instruction permit provides proof that the student is enrolled in a driver training course and is licensed to receive behind the wheel instruction with a licensed instructor. Instruction permits shall be retained by the instructor and shall be available in the vehicle at all times while the student is driving. Information shall be included on the instruction permit in a manner specified by the division.

(a) It is the responsibility of the school to ensure that the instruction permit application contains the correct name and date of birth of the student, by means of a birth certificate or other official form of identification.

(b) Application for an instruction permit must be typed or printed in ink. Duplicate instruction permits may not be issued unless the student's name and date of birth are the same as those on the original application.

(c) Instruction permits shall not be issued for persons under the age of 15 years and six months.

(d) All unused instruction permits issued between January 1 and September 30 of each year shall be returned to the division prior to December 31 of that year. Unused permits issued during October, November, and December shall be submitted with the unused permits of the following year.

(2) Upon completion of the requirements of the driver training course, the commercial driver training school shall release to the student a form consisting of an instruction permit, a certificate of training which must be signed by the student, and a certificate of completion which must be signed by the instructor and the school owner.

(3) The student shall present the certificate of completion to the division when the student makes application for a driver license.

(4) Duplicate certificates of completion may be obtained for $5.

(5) Following notice of intent to take agency action, suspension of issuance of instruction permits to a school or instructor may occur whenever the division has reason to believe that a school or instructor is in non-compliance with this rule.

(6) After notice of intent to take agency action is sent to a school, and after allowing sufficient time for the school to have received the notice, the division will no longer issue instruction permits to the school.

(7) Suspension of issuance of instruction permits will remain in effect until such times as the school, operator or instructor is in compliance with requirements as stipulated in the notice of intent to take agency action and reinstatement of the school license, instructor license, and /or operator license has occurred. The subject of intended action may request a hearing regarding the agency's intent to take action. If a hearing is requested, suspension of issuance of instruction permits will remain in effect pending the outcome of the hearing.

(8) After a school has received notice from the division of intent for agency action to occur, it is a violation of this rule for the school to allow students to enroll in a driver training course at the school or to accept money from students for whom the school will be unable to obtain an instruction permit or for whom the school will be unable to provide a completion slip if the school license is revoked or refused renewal or reinstatement following a hearing as requested by the school.

(9) In the event that a school license is revoked or refused renewal, all incomplete instruction permits shall be returned to the division.

R708-2-16. Students Transferring from the Utah Public School System.

(1) Students transferring from the Utah public school system will not be given credit by the division for any previous partial driver education instruction unless authorized in writing by the State Office of Education.

(2) Students who have successfully completed the classroom portion of driver training in the public school system in the State of Utah or in another state, but who have not completed behind-the-wheel driving instruction and observation time, may receive credit for the classroom instruction if they provide an authorized letter or certificate from the school which provided the training. The letter or certificate must be prepared on the school's letterhead, signed by a school representative, and state the number of classroom hours completed.

R708-2-17. Commercial Driver Training Vehicles.

(1) Commercial driver training vehicles used for behind-the-wheel instruction shall be properly registered, maintained in safe mechanical condition, and equipped with the following:

(a) functioning dual control brakes;

(b) outside and inside mirrors for both the driver and the instructor for the purpose of observing rearward;

(c) a separate seat belt for each occupant;

(d) functioning heaters and defrosters; and

(e) a functioning fire extinguisher, first aid kit, safety flares and/or reflectors.

(2) Students shall receive instruction in either standard shift or automatic transmission vehicles. The school shall have the option of choosing the type of transmission.

(3) If instruction is given in snow or on icy road surfaces tire chains or snow tires shall be used in compliance with local police or highway patrol recommendations.

(4) Vehicles must be capable of passing a state safety inspection at all times during their instructional use. Failure to maintain a vehicle in safe operating condition is grounds for the revocation of the license of the school operating the vehicle.

(5) Vehicles unable to meet safety standards shall be replaced by the school.

(6) It is the responsibility of the school to notify the division of any vehicle added to or deleted from their fleet. No vehicle may be used for driver training until it passes inspection by the division.

(7) Each vehicle used by a school for driver training shall be properly identified to safeguard against accidents. A vehicle is properly identified when the words "STUDENT DRIVER" are displayed on the front and rear and on both the left and right sides of the vehicle. The letters shall be at least three inches in height.

(8) Advertising or other markings on the vehicle for identifying or advertising the school shall be approved by the division.

R708-2-18. Notification of Accident.

If any driver training vehicle is involved in an accident during the course of instruction, the school shall notify the division in writing within five working days of the date of the accident and submit to the division a copy of the investigating law enforcement officer's accident report as soon as it is available.

R708-2-19. Insurance.

(1) Each commercial driver training school or testing only school must file with the division evidence of the minimum required insurance with an insurance company authorized to do business in Utah. Schools shall maintain suitable insurance coverage on each vehicle used in the driver training program sufficient to protect the instructor, students, and the public. The minimum insurance coverage is that required by the Utah Insurance Code, in Title 31A, Chapter 22, Part 3.

(2) The insurance company supplying the policy shall furnish to the division a certificate of insurance and shall notify the division immediately upon cancellation of said insurance. Operation of a vehicle without the required minimum insurance coverage shall be grounds for revocation of the licensee's license.

~~R708-2-20. Contracts.~~

~~(1) A student shall not be given lessons, lectures, tutoring or any other service relating to instruction in driver training, unless a written contract approved by the division has been executed by the school and the student.~~

~~(a) The contract must be signed by both the student and a representative of the school who is employed by the school, is authorized to enter into a contract with the student on behalf of the school and who is listed as school representative on the school application. If the student is under 18 years of age, the contract must also be signed by a parent or legal guardian.~~

~~(2) A copy of the contract must be given to the student and the original retained by the school.~~

~~(3) A school shall not agree orally or in writing to give an unlimited number of lessons, to give instruction until the driver license is obtained, or to give free lessons, or a premium or discount if a driver license is not obtained.~~

~~(4) The term "no refund" or similar phrase is not permitted in contracts.~~

~~(5) It is required that the student shall be provided with a receipt each time that money is paid by the student to the school. It is also required that the school shall maintain a copy of all receipts.~~

~~R708-2-21. Records.~~

~~(1) Every commercial driver training school shall maintain the following records:~~

~~(a) A permanent record book, defined as: a permanently bound book, with pages consecutively numbered, setting forth the name, address, date of birth, enrollment date, course type, and completion date of every person receiving lessons, lectures, tutoring, instruction of any kind or any other services relating to instruction in the operation of motor vehicles. The permanent record book must be updated upon both enrollment and course completion of each student. The division must approve the format of the permanent record book.~~

~~(b) A student record book, defined as: a book or other record showing the name, date of birth, and course type for each student; and the date, type, exact time of day including a.m. and p.m. for the beginning and ending of all training administered in the operation of motor vehicles. It will also contain the names of the instructors giving such lessons or instructions and identification of the vehicle in which any behind-the-wheel and/or observation instruction is given. The student record book must be updated within 24 hours of the time that instruction is conducted for each student. The division must approve the format of the student record book.~~

~~(c) Computerized files may be substituted for the permanently bound book and student record book if the format to be used has been approved by the division. It is a violation of this rule to maintain computerized files that have not been approved by the division.~~

~~(d) Each school shall maintain accurate, up-to-date records. Failure to do so is a violation of this rule.~~

~~(2) The division shall review the records of all schools at least annually and may observe the instruction given both in the classroom and behind the wheel. The division shall have the right to review the operation of the schools whenever the division deems it necessary to insure compliance with this rule.~~

~~(3) The loss, mutilation or destruction of any records which a school is required to maintain, must be immediately reported by the school to the division by affidavit stating:~~

~~(a) The date such records were lost, mutilated or destroyed; and~~

~~(b) The circumstances involving such loss, mutilation or destruction.~~

~~(4) All records must be retained by the schools for three years, with the exception of the permanently bound book or computerized file there of, which is to be kept permanently, during which time they shall be subject to inspection by the division during reasonable business hours. In the event that the school closes permanently, the permanent record book will be submitted by the school to the division.~~

~~(5) When deemed necessary by the division, the school records will be removed from the school location for the purpose of conducting an audit.~~

~~(a) When records are removed from the school location, a receipt will be provided to the school operator which will include the name of the school, location of the school, date of removal of records from the school location, information that specifies all records removed from the school location, the signature of the school operator, and the signature of a division representative.~~

~~(b) Upon return of the school records, the receipt will be updated to reflect the date that the records were returned to the school, the signature of the school operator, and the signature of the division designate returning the records.~~

~~(c) Records will be held by the division for the minimum amount of time necessary so that an audit can occur without creating an unnecessary hardship or inconvenience to the school.~~

~~(d) All records, including computerized records, must be provided to the division when requested for the purpose of an audit or review of the school's records. Failure to provide all records as requested by the division is a violation of this rule. In the event that a hearing occurs subsequent to an audit, records not provided by the school at the time of the audit may not be considered as evidence during the hearing.~~

~~R708-2-22. Advertising and School Location.~~

~~(1) Commercial driver training schools and testing only schools may not imply or expressly guarantee that a driver license is guaranteed or assured. The display of a sign such as "Driver License Secured Here" is forbidden.~~

~~(2) A Commercial driver training school or testing only school may display on its premises a sign reading, "This School is Licensed by the State of Utah".~~

~~(3) No Commercial driver training school or testing only school may solicit business directly or indirectly or display or distribute any advertising material within 1500 feet of a building in which vehicle registrations or driver licenses are issued to the public.~~

~~(4) In municipalities having a population of 50,000 or more, no license will be issued for a commercial driver training school or testing only school if the school's place of business is located within 1500 feet of a facility in which vehicle registrations or driver licenses are issued to the public. If a school is established in a location prior to the origination of a facility located within 1500 feet of the school in which vehicle registrations or driver licenses are issued to the public, the school will be authorized to continue operation; however, the school's location may not be transferred to another corporation, partnership, or owner, under the same school name or a different school name.~~

~~(5) No commercial driver training school or testing only school may change its place of business or location without prior approval from the division.~~

~~(6) Each commercial driver training school shall provide classroom space, either in their own building or in any other building approved by the division. The classroom shall have seating for all students, access to sanitary facilities, and appropriate training aids, such as blackboards, charts, projectors, etc. Classroom facilities and~~

buildings shall comply with federal, state, and local building, fire, safety and health codes.

R708-2-23. Change of Address and Officers.

(1) The commercial driver training school or testing only school shall immediately notify the division in writing if there is a change in the residence or business address of any individual owner, partner, officer or employee of the school.

(2) The commercial driver training school or testing only school shall immediately notify the division in writing of any change in officers, directors or employees, and shall provide the same information that would be required on an original application by the corporation.

(3) Failure to notify the division of a change of address, or of a change in the officers, directors, employees or controlling stockholders of any corporation, or change in the members of a partnership, may be considered grounds for the revocation of the school license.

R708-2-24. Change in Ownership.

(1) In the event of any ownership change in the commercial driver training school or testing only school, the division must be notified immediately in writing by the new owner and a new application must be submitted. Such application shall be considered a renewal if one or more of the original licensees remain as part owner of the school. In the event the change in ownership is to any person or persons not named in the application for the last current license or renewal license of the school, such license shall be considered a new application.

(2) The division may permit continuance of the commercial driving training school or testing only school by the current licensee, pending processing of the application made by the person or persons to whom ownership of the school is to be transferred.

(3) Upon issuance of the new license, the prior license must be immediately surrendered to the division. Refund of any part of the license fee is not permitted.

R708-2-25. Grounds for Revocation, Probation or Refusal to Issue or Renew Instructor License, Operator License, or School License.

(1) Following a hearing, the division may revoke, place on probation, or refuse to renew a license for either an instructor, operator, commercial driver training school or a testing only school. The division may also refuse to issue a license for an instructor, operator, commercial driver training school or a testing only school. A license may be revoked, placed on probation or refused for renewal for any of the following reasons:

(a) failure to comply with any of the provisions of Title 53, Chapter 3, Part 5;

(b) failure to comply with any of the provisions of this rule;

(c) cancellation of surety bond as required in Section 6(2)(g) of this rule;

(d) providing false information in an application or form required by the division;

(e) commission of a violation of Section 7(1)(d) of this rule pertaining to moving violations or chargeable accident that results in a suspension or revocation of one's driver license;

(f) failure to permit the division or its representatives to inspect the school, classrooms, records, or vehicles used in the instruction of the school's students;

(g) conviction of any crime involving violence, dishonesty, deceit, indecency, degeneracy, drug or alcohol abuse, fraud, or moral turpitude;

(h) conviction of any fraudulent acts or practices by any partner, officer, agent or employee in relation to the business conducted under the license; or

(i) failure to appear for a hearing on any of the above charges; and

(j) violation of any of the provisions of this rule.

(2) Any proceeding to revoke, place on probation, or refuse to issue or renew an instructor license, operator license, commercial driver training school license or a testing only school license is hereby designated as an informal adjudicative proceeding under the Utah Administrative Procedures Act, Section 63-46b-4.

(3) Any licensee who has had a license revoked shall not be eligible to reapply for a license until six months have elapsed since the date of the revocation. The applicant will be required to complete an application for an original license and meet all applicable requirements for an original license as stated herein. In addition to the other fees provided for in section 4(2), the licensee shall be required to pay a $25.00 reinstatement fee for each license that was revoked to the division at the time of application for reinstatement.

(a) Upon receipt of a completed application for an instructor license, operator license, commercial driver training school license or a testing only school, and applicable documentation and fees, the division will conduct a review process as established by the division director in order to determine eligibility for reinstatement or re-licensure. Notice of a final decision will be made in writing by the division within twenty days of receipt of evidence that all applicable requirements have been met for reinstatement or re-licensure.

(b) In the event that a request for reinstatement is denied, the applicant will have an opportunity to request a hearing in writing within five days of receipt of the final decision made by the division.

(4) The following procedures will govern informal adjudicative proceedings:

(a) Action by the division to revoke, place on probation or refuse to issue or renew a license will be commenced by the division by the issuance of a notice of agency action. The notice of agency action will comply with the provisions of Section 63-46b-3.

(b) No response is required to the notice of agency action.

(c) An opportunity for a hearing will be granted on a revocation, probation or refusal to issue or renew a license if, within five days, the division receives in writing a request for a hearing.

(d) The licensee or applicant will receive written notice of the hearing at least ten days prior to the date of the hearing.

(e) No discovery, either compulsory or voluntary, will be permitted prior to the hearing except that all parties shall have access to information contained in the division's files, and to investigatory information and materials not restricted by law.

(f) The hearing shall be conducted by an individual, or panel, designated by the division.

(g) Within twenty days after the close of the hearing or after the failure of a party to appear for the hearing, the individual conducting the hearing shall issue a written decision which shall constitute final agency action. The written decision shall state the decision, the reason for the decision, notice of right to request reconsideration under Section 63G-4-302, notice of right of judicial review under Section 63G-4-402, and the time limits for filing an appeal to the appropriate district court.

(5) When a commercial driver training school license or a testing only school is under investigation by the division or when a commercial driver training school license or a testing only school license has been revoked, placed on probation or refused renewal, or reinstatement the school license may not be transferred to another party.

~~(6) If a commercial driver training school license is revoked, placed on probation or refused renewal, the existing incomplete instruction permits and or classroom, behind the wheel, and observation training hours may not be transferred to another school for completion.~~

~~(7) If a commercial driver training school license is revoked or refused renewal under the emergency provisions of UAPA, Section 63G-4-502, all remaining incomplete instruction permits will be confiscated from the school and the school will not be authorized to conduct business unless otherwise determined at a hearing.~~

~~(8) If an instructor license is revoked, placed on probation, or refused renewal under the emergency provisions of UAPA, Section 63G-4-502, and the school license is valid, the school may continue operation provided that there is an instructor employed by the school with a valid instructor license, and that to allow operation will not compromise public safety.~~

~~(9) If an operator license is revoked, placed on probation, or refused renewal under the emergency provisions of UAPA, Section 63G-4-502, and the school license is valid, the school may continue operation provided that there is an operator employed by the school with a valid operator license, and that to allow operation will not compromise public safety.~~

~~(10) An instructor license, operator license, commercial driver training school license or a testing only school may be placed on probation upon approval of the director of the division in the event that a violation of this section has occurred and it has been determined that the violation was not committed maliciously or with intent to defraud the department or the public. During a period of probation, provided that the terms of the probation agreement are adhered to by the subject, the instructor license, operator license, commercial driver training school license or a testing only school license shall remain intact and the instructor, operator, or school will be allowed to continue operation.~~]

R708-2-1. Authority.

This rule is authorized by Section 53-3-505.

R708-2-2. Purpose.

Sections 53-3-501 through 509 require the Driver License Division to administer the Commercial Driver Training Schools Act by licensing and regulating commercial driver training schools and instructors of these schools. Rule R708-2 assists the division in implementing these sections.

R708-2-3. Definitions.

(1) "Crime of moral turpitude" means an offense under the statutes of this state or any other jurisdiction, which under the rules of evidence may be used to impeach a witness or includes:

(a) theft;

(b) tax evasion;

(c) issuing bad checks;

(d) deceptive business practices;

(e) perjury;

(f) extortion;

(g) falsifying government records;

(h) receiving stolen property;

(i) sex offenses;

(j) driving under the influence and alcohol related reckless driving;

(k) assault; and

(l) domestic violence offenses.

R708-2-4. Testing Only School Limitations.

(1) A testing only school may conduct behind-the-wheel or observation instruction, or both, upon approval by the division.

(2) A testing only school may not engage in education or training of persons, either practically or theoretically, to drive motor vehicles except under one of the following circumstances:

(a) when counseling the driver following a test in reference to errors made during the administration of the test; or

(b) when conducting behind-the-wheel or observation instruction as approved by the division.

(3) A tester may not test an individual who has completed any behind the wheel or observation instruction through the testing only school with which the tester is employed.

R708-2-5. Licensing Requirement for a Commercial Driver Training School.

(1) Every corporation, partnership or person who owns a commercial driver training school shall obtain a license from the division. Commercial driver training school license applications may be obtained from the Driver License Division at 4501 South 2700 West, Salt Lake City, Utah. Applicants are also responsible for obtaining any business licenses required by the municipality or county in which they are located. Commercial driver training School and business licenses must be conspicuously displayed in the licensee's principal place of business and branch offices. Each commercial driver training school shall be inspected by a division representative before it can be licensed.

(2) A license expires one year from the date of issued. The fee for an original license is $100. The annual fee for a renewal license is $100. The annual fee for each branch license is $30. Fees shall be payable to the Department of Public Safety. When a license is revoked, refused issuance, or reinstatement, no part of the fee will be refunded.

(3) Licenses are not transferable.

(4) When a license is lost or destroyed, a duplicate shall be issued upon payment of a fee of $10. A notarized affidavit setting forth the date the license was lost or destroyed and the surrounding circumstances shall be submitted to the division.

(5) When any commercial driver training school or branch office is discontinued, the commercial driver training school or branch office license shall be surrendered to the division within five days. The licensee shall state in writing the reason for the surrender.

(6) Any branch office or classroom facility in a location other than the commercial driver training school's principal place of business shall be separately licensed. A branch office shall meet the same requirements as the commercial driver training school's principal place of business and shall be similarly equipped and perform substantially the same services. Application for a branch office license shall be made on an application form provided by the division. Branch offices shall be inspected by a division representative before they may be licensed.

(7) Before becoming licensed, each commercial driver training school shall employ a licensed operator to operate the commercial driver training school and each branch office. The current licensed operator shall be identified on the application maintained by the division for each commercial driver training school or branch office. A single operator may operate multiple branch offices of the same school. When the operator discontinues employment with the commercial driver training school, a new operator shall be employed before continuation of operations and the operations of any branch offices for which the individual has been identified as the operator.

(a) An individual may not be employed with more than one commercial driver training school or testing only school at a time.

(8) Unless one school has been designated by the division as a testing only school, two or more schools owned by separate individuals and owned under different school names may not operate from the same facility or office space. A clear separation of the schools shall be identified, and each school shall comply with standards set forth in Rule R708-2.

(9) Each school or classroom facility shall post signs to identify the school by name as the school is listed on the school certification.

R708-2-6. Licensing Requirement for a Testing Only School.

(1) Every corporation, partnership or person who owns a testing only school shall obtain a school license from the division. School license applications may be obtained from the Driver License Division at 4501 South 2700 West, Salt Lake City, Utah. Applicants are also responsible for obtaining any business licenses required by the municipality or county in which they are located. School and business licenses must be conspicuously displayed in the licensee's principal place of business and branch offices. Each school shall be inspected by a division representative before it may be licensed.

(2) A license expires one year from the date of issue. The fee for an original license is $100. The annual fee for a renewal license is $100. The annual fee for each branch license is $30. Fees shall be payable to the Department of Public Safety. If a license is revoked, refused issuance, or reinstatement, no part of the fee will be refunded.

(3) Licenses are not transferable.

(4) When a license is lost or destroyed, a duplicate shall be issued upon payment of a fee of $10. A notarized affidavit setting forth the date the license was lost or destroyed and the surrounding circumstances shall be submitted to the division.

(5) When any school or branch office is discontinued, the school or branch office shall surrender its license to the division within five days. The licensee shall state in writing the reason for surrender.

(6) Any branch office in a location other than the school's principal place of business shall be separately licensed. A branch office shall meet the same requirements as the school's principal place of business and shall be similarly equipped and perform substantially the same services. Application for a branch office license shall be made on an application form provided by the division. A division representative shall inspect branch offices before they may be licensed.

(7) An individual may not be employed with more than one commercial driver training school or testing only school at a time.

(8) Unless one school has been designated by the division as a testing only school, two schools owned by separate individuals and owned under different school names may not operate from the same facility or office space. A clear separation of the schools shall be identified, and each school shall comply with standards set forth in Rule R708-2.

(9) Each school or classroom facility shall post signs to identify the school by name as the school is listed on the school certification

(10) It is not required that a testing only school maintain a classroom facility in the school or branch office location. A testing only school location and branch office shall have a designated area in which to maintain required files and records.

R708-2-7. Application for a Commercial Driver Training School License or a Testing Only School License.

(1) Application for an original or renewal commercial driver training school license or a testing only school license shall be made on forms provided by the division, signed by the applicant, and notarized. In the case of a partnership, the application shall be signed by each partner.

(2) In the case of a corporation, the application shall be signed by an officer of the corporation. Applications must be submitted at least 60 days prior to licensing. An appointment shall be made when the application is filed to have the school inspected by a division representative.

(3) Every application shall be accompanied by the following supplementary documents:

(a) samples of each form, receipt, and curriculum to be used by the school;

(b) a schedule of fees for each services to be performed by the school;

(c) a fingerprint card for each applicant, partner or corporate officer. A Bureau of Criminal Identification check shall be done by the division on each applicant, partner, and corporate officer. Applicants are responsible for paying the cost associated with the criminal history check. Fingerprints may be taken by any law enforcement agency. The division may require renewal applicants to submit new fingerprint cards and pay the cost associated with the criminal history check;

(d) a certificate of insurance for each vehicle used for driver training or testing purposes;

(e) a copy of each test and criterion, with answers, that the school requires in order for a student to satisfactorily complete the driver training course which are subject to approval of the division; including copies of translations;

(f) evidence that a surety bond has been obtained by the school in compliance with Section R708-2-8; and

(g) a certified copy of a certificate of incorporation as required in a case of a corporation.

(4) The division may require that a credit check be performed for each applicant. Based on the results of the credit check, the division may deny certification.

R708-2-8. Surety Bond Requirements.

(1) The amount of the surety bond shall be determined by the division with the use of a formula that incorporates the number of students that the school is capable of instructing over a period of three months based on its facility, equipment, personnel, and the tuition that would be collected from each student, with a minimum requirement of $5,000 coverage and a maximum requirement of $60,000 coverage.

(2) When, at any time, there is a change in the number of instructors, the number of vehicles, or the size of the classroom facility, the division shall reevaluate the amount of the required surety bond and adjust it accordingly.

(3) Cancellation of the surety bond is grounds for revocation, probation, or refusal to issue or renew the school license. A school designated by the Department of Public Safety as a testing only school may not be required to obtain a surety bond unless it has been authorized by the division to conduct behind-the-wheel training.

(4) A school that does not charge tuition for driver education is not required to maintain a surety bond.

R708-2-9. Application Requirements for a Commercial Driver Training School Instructor License.

(1) Every person who serves as an instructor in a commercial driver training school, including the owner, operator, partner or corporate officer of the licensee, substitute or part-time instructor, shall obtain an instructor's license from the division. This license shall be valid only for the specific driver training school listed on the license.

(2) A license expires one year from issue date. The fee for an original license is $30. The annual fee for a renewal license is $20. Fees shall be payable to the Department of Public Safety. If a license is

revoked, refused issuance, or refused renewal, no part of the fee shall be refunded.

(3) Licenses are not transferable.

(4) When an instructor license is lost or destroyed, a duplicate shall be issued upon payment of a fee of $6. A notarized affidavit setting forth the date the license was lost or destroyed and the surrounding circumstances shall be submitted to the division.

R708-2-10. Application Requirements for a Commercial Driver Training School Operator License.

(1) Every person who serves as an operator of a commercial driver training school, including the owner, operator, partner or corporate officer of the licensee, substitute or part-time instructor, shall obtain an operator license from the division. This license shall be valid only for the specific driver training school listed on the license.

(2) A school operator license is not valid unless accompanied by a valid instructor license.

(a) Requirements for licensure as a school operator include:

(i) six college semester credit hours;

(ii) eight college quarter credit hours in business related courses through an accredited college or university;

(iii) two years experience operating a business; or

(iv) any combination thereof.

(b) An applicant for operator shall submit evidence by form of transcripts or resume as proof of this requirement.

(c) Each potential school operator shall submit to the division a business plan. The plan shall contain written acknowledgement of reading, understanding, and a willingness to comply with Rule R708-2. The plan shall also describe how the school will meet the requirements of R708-2. The division shall approve the business plan prior to licensure.

(d) Individuals functioning in the capacity of a commercial driver training school operator prior to January 1, 2003, shall not be required to comply with Subsection R708-2-10(2)(c).

(3) An expired license expires one year from the date issued.

(4) Licenses are non-transferable.

(5) When an operator license is lost or destroyed, a duplicate shall be issued upon request. A notarized affidavit setting forth the date the license was lost or destroyed and the surrounding circumstances shall be submitted to the division.

R708-2-11. Additional Requirements for Commercial Driver Training School Instructors.

(1) In addition to obtaining a license, a commercial driver training school instructor shall:

(a) have a valid Utah driver license;

(b) be at least twenty one years of age;

(c) have at least three years of driving experience in the United States, Canada, or a country with which the state of Utah has established a license reciprocity agreement;

(d) have a driving record free:

(i) of a conviction for a moving violation; or

(ii) of a chargeable accident resulting in suspension or revocation of the driver license during the two year period immediately prior to application and during employment;

(e) be checked to determine if there is an unsatisfactory driving record in any state;

(f) be in acceptable physical condition as required by Section 12;

(g) complete specialized professional preparation in driver safety education consisting of at least 21 quarter hours, or 14 semester hours of credit as approved by the division. Of the 21 quarter hours or 14 semester hours, one class shall be in teaching methodology and another class shall include basic driver training instruction or organization and administration of driver training instruction;

(h) pass a written test given by the division which may cover the following:

(i) commercial driver training school rules;

(ii) traffic laws;

(iii) safe driving practices;

(iv) motor vehicle operation;

(v) teaching methods and techniques;

(vi) statutes pertaining to commercial driver training schools;

(vii) business ethics;

(viii) office procedures and record keeping;

(ix) financial responsibility;

(x) no fault insurance;

(xi) procedures involved in suspension or revocation of an individual's driving privilege;

(xii) material contained in the "Utah Driver Handbook"; and

(xiii) traffic safety education programs;

(i) pass a practical driving test;

(j) pass the same standard eye test that is given to applicants who apply for a Utah operator or commercial driver license; and

(k) submit a fingerprint card for a criminal history check and pay the cost associated with the criminal history check.

(2) Commercial driver training schools shall be responsible for sponsoring, controlling, and supervising the actions of instructors.

(a) No school may knowingly employ any instructor if the instructor has been convicted of or there are reasonable grounds to believe that the instructor has committed a felony or a crime of moral turpitude.

(3) The instructor's license must be in the possession of the instructor at all times while providing behind-the-wheel or classroom instruction.

R708-2-12. Application and Medical Requirements for a Commercial Driver Training School Instructor License.

(1) Application for an original or renewal instructor's license shall be made on forms provided by the division, signed by the applicant and notarized. Applications shall be submitted at least 60 days prior to licensing.

(2) The original and each yearly renewal application shall be accompanied by a medical profile form provided by the division and completed by a health care professional as defined in Subsection 53-3-302(2).

(3) The medical profile form shall indicate any physical or mental impairments that may preclude service as a commercial driver training school instructor. The physical examinations shall take place no earlier than three months prior to application.

(4) The commercial driver training school desiring to employ the applicant as an instructor shall sign the application verifying that the applicant is employed by the school.

(5) When deemed necessary by the division, an applicant seeking to renew an instructor's license may be required to take a driving skills test.

(6) When deemed necessary by the division, an applicant seeking to renew an instructor license may be required to resubmit a fingerprint card for a criminal history check and pay the cost associated with the criminal history check.

R708-2-13. Additional Training Requirements.

All holders of school licenses, operator licenses, and instructor licenses may at the discretion of the division be required to attend training by the division regarding new statutes or rules.

R708-2-14. Classroom and Behind-The-Wheel Instruction.

(1) Classroom instruction for students shall meet or exceed 18 hours and shall be conducted in not less than nine separate class sessions on nine separate days of two hours per class. Each classroom session shall be numbered to be identified on the student record. Classroom curriculum may not be repeated in any of the nine sessions provided to a student except in the form of a review of materials covered in a previous classroom session.

(a) The time frame allotted for review is not to exceed 10 ten minutes per classroom session. Not more than five of the classroom hours may be devoted to showing slides or films. Instructors shall not use or do anything that may distract their attention away from the classroom instruction,. For example, use of phones or other electronic devices, reading, sleeping, or helping walk-in customers while conducting any classroom training.

(b) Classroom instruction shall cover the following areas:

(i) attitudes and physical characteristics of drivers;

(ii) driving laws with special emphasis on Utah law;

(iii) driving in urban, suburban, and rural areas;

(iv) driving on freeways;

(v) basic maintenance of the motor vehicle;

(vi) affect of drugs and alcohol on driving;

(vii) motorcycles, bicycles, trucks, and pedestrian's in traffic;

(viii) driving skills;

(ix) Utah's motor vehicle laws regarding financial responsibility and no fault insurance, and a driver's responsibility when involved in an accident; and

(x) suspension or revocation of a driver license.

(2) Behind-the-wheel includes instruction a student receives while driving a commercial driver training vehicle or while operating a driving simulator. Instruction shall include a minimum of six hours of instruction in a dual-control vehicle with a licensed instructor. Each student shall be limited to a maximum of two hours of behind-the-wheel instruction per day. An instructor may not conduct more than ten hours of behind-the-wheel instruction within a period of 24 hours and must have at least eight consecutive hours of off-duty time between each ten hour shift.

(a) The instructor and no more than one student shall occupy the front seat of the vehicle. Under no circumstances shall there be more than five individuals in the vehicle. Instructors shall not use or do anything that may distract their attention away from the student driver. Instructors may not use cellular phones or other electronic devices, read, sleep, or engage in other similar distracting behaviors while conducting behind-the-wheel training.

(b) behind-the-wheel instruction shall include student practice in using vehicle controls to start, shift gears, make right and left turns, stop, backup, and park. This instruction shall begin under relatively simple conditions and progress until the student has acquired reasonable skill in operating the vehicle under varying traffic conditions;

(c) students shall receive experience in driving on urban streets, open highways, or freeways. Behind-the-wheel instruction shall include the experience of driving under variable conditions which may be used by the instructor at different times of the day and year. Special emphasis should be given to teaching students to show courtesy to other drivers and pedestrians;

(d) students may receive behind-the-wheel training in a driving simulator. If the simulator is fully interactive the student will receive behind-the-wheel training in the ratio of two hours driving the simulator and receive one hour of behind-the-wheel driving. If the simulator is non-fully interactive the student will receive behind-the-wheel training in the ratio of four hours driving the simulators and receive one hour of behind-the-wheel driving. An instructor shall be present at all times during all simulator training. The division shall approve all simulators prior to training.

(e) each student will be limited to a maximum of either two hours of behind-the-wheel instruction or two hours of simulation instruction per day;

(f) students shall receive a minimum of six hours of observation time to observe the instructor, other student drivers and other road users. This instruction may include instructor demonstrations, for which hour for hour credit will be given, and may not exceed two hours per day. Students observing from the rear seat, as well as the student driver, should benefit from time in the vehicle. The instructor's role is not merely to provide driving experience for the student behind-the-wheel, but to make the vehicle a practical classroom on wheels where all students may learn about the problems which face a driver and the appropriate solution to such problems;

(g) behind-the-wheel instruction may not be conducted for a student unless the student has been issued a learner permit by the division or the student is in possession of a valid Utah driver license, a temporary permit issued by the division, or a valid out of state or out of country driver license; and

(h) while conducting behind-the-wheel instruction, students and instructors shall adhere to any driving restrictions listed on the learner permit.

(3) All classroom and behind-the-wheel instruction shall be conducted by an individual who is licensed as a commercial driver training school instructor as specified in Rule R708-2.

(a) Unless the division grants approval to a commercial driver training school to provide classroom instruction from an unlicensed expert, such as a police officer on a limited basis, the school may not conduct classroom or behind-the-wheel instruction or allow another individual to conduct classroom or behind-the-wheel instruction without an instructors license.

(4) Commercial driver training schools shall provide each student a copy of the current Utah Driver Handbook. The handbook may not be used as the sole text of the course, but as an essential aid when Utah traffic laws are studied. Handbooks may be obtained by the commercial driver training schools from the division.

R708-2-15. Extended Learning Course.

(1) A commercial driver training school may offer an extended learning course of instruction as a substitute for the classroom instruction set forth in Section R708-2-11 provided an institution of higher learning and the division approve the course.

(2) An institution of higher learning shall direct any operations of an extended learning course. The institution of higher learning shall notify the division in writing when it has approved a commercial driver training school's extended learning course. The institution of higher learning will monitor any approved extended learning course to ensure the course runs as originally planned.

(a) The institution of higher learning shall notify the division of any substantive changes in the course as well as any approval of changes. The institution of higher learning may approve the extended learning course of more than one commercial driver training school.

(3) An extended learning course shall consist, at a minimum, of:
(a) a text;
(b) a workbook; and
(c) a 50 question competency test that addresses the subjects described in Subsection R708-2-11.
(4) All materials, including texts, workbooks, and tests, used in the course shall be submitted by the commercial driver training school to the division for approval.
(5) The average study time required to complete the workbook exercises shall meet or exceed 30 hours.
(6) An extended learning student must complete all workbook exercises.
(7) An extended learning student shall pass the 50 question written competency test with a score of 80% or higher.
(8) Testing shall occur under the following conditions:
(a) the extended learning student shall take the test at the commercial driver training school or proctored testing facility approved by the division;
(b) the identity of the extended learning student shall be verified by the licensed instructor prior to testing;
(c) the extended learning student shall complete the test without any outside help;
(d) the commercial driver training school shall maintain, at least, three separate 50- question competency tests created from a test pool of at least 200 questions;
(e) the extended learning student shall be given a minimum of three opportunities to pass the test. After each failure, the commercial driver training school or approved proctored testing facility shall provide the student with additional instruction to assist the student to pass the next test;
(f) the original fees for the course shall include the three opportunities to pass the test and any additional instruction required;
(g) an extended learning student shall pass the test in order to complete driver training; and
(h) the commercial driver training school shall maintain for four years records of all tests administered. Test records shall include the results of all tests taken by every student.

R708-2-16. Completion Certificates.
(1) Upon completion of the requirements of the driver training course, the commercial driver training school shall release to the student a form consisting of a certificate of training and a certificate of completion that shall be signed by the instructor.
(2) The student shall present the certificate of completion to the division when the student makes application for a driver license.
(3) Duplicate certificates of completion may be obtained for $5.
(4) After the division has provided notice to a commercial driver training school of intent for agency action to occur, it is a violation of Rule R708-2 for the commercial driver training school to allow students to enroll in a driver training course to accept money from students.
(5) In the event the division revokes or refuses licensure renewal to the commercial driver training school, access to the division record keeping program will be denied immediately.

R708-2-17. Commercial Driver Training Vehicles.
(1) Commercial driver training vehicles used for behind-the-wheel instruction shall be properly registered, maintained in safe mechanical condition, and equipped with the following:
(a) functioning dual control brakes;
(b) outside and inside mirrors for the driver for the purpose of observing rearward;
(c) inside mirror for the instructor, for the purpose of observing rearward;
(d) a separate seat belt for each occupant;
(e) functioning heaters and defrosters; and
(f) a functioning fire extinguisher, first aid kit, safety flares and reflectors.
(2) Students shall receive instruction in either standard shift or automatic transmission vehicles. The commercial driver training school shall have the option of choosing the type of transmission.
(3) If instruction is given in snow or on icy road surfaces, tire chains or snow tires shall be used in compliance with local police or highway patrol recommendations.
(4) Vehicles shall be capable of passing a state safety inspection at all times during their instructional use. Failure to maintain a vehicle in safe operating condition is grounds for the revocation of the license of the commercial driver training school operating the vehicle. The division may require additional safety testing of the vehicle in addition to the state safety inspection. The commercial driver training school will be responsible for any additional costs that may be assessed.
(5) Vehicles unable to meet safety standards shall be replaced by the commercial driver training school.
(6) It is the responsibility of the commercial driver training school to notify the division of any vehicle added to or deleted from their fleet. No vehicle may be used for driver training until it passes inspection by the division.
(7) Each vehicle used by a commercial driver training school for driver training shall be properly identified to safeguard against accidents. A vehicle is properly identified when the words "STUDENT DRIVER" are displayed on the front and rear and on both the left and right sides of the vehicle. The letters shall be at least three inches in height.
(8) Advertising or other markings on the vehicle for identifying or advertising the commercial driver training school shall be approved by the division and should not distract from the words "STUDENT DRIVER".

R708-2-18. Notification of Accident.
If any driver training vehicle is involved in an accident during the course of instruction, the commercial driver training school shall notify the division in writing within five working days of the date of the accident and submit to the division a copy of the investigating law enforcement officer's accident report as soon as it is available.

R708-2-19. Insurance.
(1) Each commercial driver training school or testing only school must file with the division evidence of the minimum required insurance with an insurance company authorized to do business in Utah. Each commercial driver training school or testing only school shall maintain suitable insurance coverage on each vehicle used in the driver training program sufficient to protect the instructor, students, and the public. The minimum insurance coverage is that required by the Utah Insurance Code, in Title 31A, Chapter 22, Part 3.
(2) The insurance company supplying the policy shall furnish to the division a certificate of insurance and shall notify the division immediately upon cancellation of the insurance. Operation of a vehicle without the required minimum insurance coverage shall be grounds for revocation of the license.

R708-2-20. Contracts.

(1) A student shall not be given lessons, lectures, tutoring or any other service relating to instruction in driver training, unless a written contract approved by the division has been executed by the commercial driver training school and the student.

(a) Both the student and a representative of the commercial driver training school authorized to enter into a contract and listed on the application shall sign the contract. When the student is under 18 years of age, the contract shall also be signed by a parent or legal guardian prior to any instruction.

(2) A copy of the contract shall be given to the student and the original retained by the commercial driver training school.

(3) The commercial driver training school shall provide the student with a receipt upon payment. The commercial driver training school shall maintain a copy of all receipts.

R708-2-21. Records.

(1) Each commercial driver training school shall use the division's record keeping computer program to maintain the following:

(a) records for all students showing name, date of birth, type of training, date, exact time of day for the beginning and ending of all training administered;

(b) names of the instructors giving lessons or instruction; and

(c) identification of the vehicle license plate number or simulator in which any behind-the-wheel and observation instruction is given.

(2) Records shall be updated within 24 hours of instruction for each student.

(a) maintain original copies of the student contracts and receipts, current vehicle insurance information, and surety bond information;

(3) Each commercial driver training school:

(a) shall maintain accurate and current records;

(b) shall review the records of all schools at least annually; and

(c) may observe the instruction given both in the classroom and behind the wheel.

(4) The division shall review the operation of the commercial driver training school when the division deems necessary.

(5) The loss or destruction of any record that a commercial driver training school is required to maintain shall be immediately reported by affidavit stating:

(a) the date the record was lost or destroyed; and

(b) the circumstances involving the loss or destruction.

(6) The commercial driver training school shall retain all records for four years.

(7) When deemed necessary by the division, the commercial driver training school shall make the records available for the purpose of conducting an audit.

(a) When making the records available for audit purposes, the division shall provide a receipt to the commercial driver training school operator which will include:

(i) the name and location of the commercial driver training school;

(ii) the date of removal of records;

(iii) information that specifies all records removed;

(iv) the signature of the operator; and

(v) the signature of a division representative.

(8) Upon return of the records, the receipt shall be updated to reflect the date the records were returned, the signature of the operator, and the signature of the division representative returning the records.

(9) The division shall hold the records for the minimum amount of time necessary so an audit may occur without creating an unnecessary hardship or inconvenience.

(a) Each commercial driver training school shall provide all records to the division immediately upon request for the purpose of an audit or review. When a hearing occurs subsequent to an audit, records not provided by the commercial driver training school at the time of the audit may not be considered as evidence during the hearing.

R708-2-22. Advertising and School Location.

(1) Commercial driver training schools and testing only schools may not imply or expressly guarantee that a driver license is assured. The display of a sign such as "Driver License Secured Here" is prohibited.

(2) A commercial driver training school or testing only school may display on its premises a sign reading, "This School is Licensed by the State of Utah."

(3) No commercial driver training school or testing only school may solicit business directly or indirectly or display or distribute any advertising material within 1500 feet of a building in which vehicle registrations or driver licenses are issued to the public.

(4) In municipalities having a population of 50,000 or more, no license will be issued for a commercial driver training school or testing only school if the school's place of business is located within 1500 feet of a facility in which vehicle registrations or driver licenses are issued to the public. When either school is established in a location prior to the origination of a facility located within 1500 feet of the school in which vehicle registrations or driver licenses are issued to the public, the school may continue operation. However, the school's location may not be transferred to another corporation, partnership, or owner, under the same school name or a different school name.

(5) No commercial driver training school or testing only school may change its place of business or location without prior approval from the division.

(6) Each commercial driver training school shall provide classroom space, either in its own building or in any other building approved by the division. The classroom shall have seating for all students, access to sanitary facilities, and appropriate training aids, including blackboards, charts, and projectors. Classroom facilities and buildings shall comply with federal, state, and local building, fire, safety and health codes.

(7) No commercial driver training school or testing only school may use any Department of Public Safety, Driver License Division logos, letterhead, or license recreations as part of their advertising.

R708-2-23. Change of Address, Employees, and Officers.

(1) A commercial driver training school or testing only school shall immediately notify the division in writing when there is any change in residence or business address of owner operator, partner, officer, or employee of the school.

(2) The commercial driver training testing only school shall immediately notify the division in writing when there is any change in the owner or the operator and shall provide the same information that would be required on an original application by the corporation.

(3) Failure to notify the division of any change of address, of the owner or the operator is grounds for revocation of the school license.

(4) The commercial driver training school or testing only school shall immediately notify the division in writing of any

employee no longer employed by the school. Failure to notify the division of change is grounds for revocation.

R708-2-24. Change in Ownership.

(1) When any ownership change occurs in the commercial driver training school or testing only school, the school shall immediately notify the division in writing by the new owner and a new application shall be submitted.

(a) An application shall be considered a renewal when one or more of the original licensees remain part owner of the school. When the change in ownership involves a new applicant not named in the application for the last current license or renewal license of the school, the license shall be considered a new application.

(2) The division may permit continuance of the commercial driving training school or testing only school by the current licensee, pending processing of the application made by the new applicant to whom ownership of the school is to be transferred.

(3) Upon issuance of the new license, the prior license shall be immediately surrendered to the division. Refund of any part of the license fee is not permitted.

R708-2-25. Grounds for Revocation, Probation or Refusal to Issue or Renew Instructor License, Operator License, or School License.

(1) Following a hearing, the division may revoke, place on probation, or refuse to renew a license for either an instructor or operator of a commercial driver training school or a testing only school.

(a) The division may also refuse to issue a license for an instructor, operator, commercial driver training school or a testing only school.

(b) A license may be revoked, placed on probation or refused for renewal for any of the following reasons:

(i) failure to comply with any of the provisions of Title 53, Chapter 3, Part 5 Commercial Driver Training Schools Act;

(ii) failure to comply with any of the provisions of Rule 708-2;

(iii) cancellation of surety bond as required in Subsection R708-2-8;

(iv) providing false information in an application or form required by the division;

(v) violation of Subsection R708-2-11 pertaining to moving violations or an accident that results in a suspension or revocation of a driver license;

(vi) failure to permit the division or its representatives to inspect any school classroom, record, or vehicle used in instruction;

(c) conviction of a felony, or conviction of or reasonable grounds to believe an instructor has committed, a crime of moral turpitude;

(d) conviction of a felony, or conviction of or reasonable grounds to believe any licensee has committed a crime of moral turpitude; and

(i) failure to appear for a hearing on any of the above charges.

(2) Any proceeding to revoke, place on probation, or refuse to issue or renew an instructor license, operator license, commercial driver training school license or a testing only school license is an informal adjudicative proceeding under the Utah Administrative Procedures Act, Section 63G-4-202.

(3) Any licensee who has had a license revoked shall not be eligible to reapply for a license until six months have elapsed since the date of the revocation. The applicant shall complete an application for an original license and meet all applicable requirements for an original license. In addition to the other fees provided in Subsection R708-2-5, the licensee shall be required to pay a $75 reinstatement fee for each license revoked to the division upon application for reinstatement.

(a) Upon receipt of a completed application for an instructor license, operator license, commercial driver training school license or a testing only school, and applicable documentation and fees, the division shall conduct a review process as established by the division director in order to determine eligibility for reinstatement or re-licensure.

(b) Notice of final decision shall be in writing by the division within twenty days of receipt of evidence that all requirements have been met for reinstatement or re-licensure.

(c) When a request for reinstatement is denied, the applicant shall have an opportunity to request a hearing in writing within five days of receipt of the final decision of the division.

R708-2-26. Procedures Governing Informal Adjudicative Proceedings.

(1) The following procedures will govern informal adjudicative proceedings:

(a) the division shall commence an action to revoke, place on probation, or refuse to issue or renew a license by the issuance of notice of agency action. The notice of agency action shall comply with the provisions of Subsection 63G-4-201;

(b) no response is required to the notice of agency action;

(c) an opportunity for a hearing shall be granted on a revocation, probation or refusal to issue or renew a license when the division receives in writing a proper request for a hearing;

(d) the division will send written notice of a hearing to the licensee or applicant at least ten days prior to the date of the hearing;

(e) no discovery, either compulsory or voluntary, shall be permitted prior to the hearing except that all parties shall have access to information in the division's files, and to investigator information and materials not restricted by law;

(f) the division shall designate an individual or panel to conduct the hearing; and

(g) within twenty days after the date of the close of the hearing or after the failure of a party to appear for the hearing, the individual or panel conducting the hearing shall issue a written decision which shall constitute final agency action. The decision shall state the decision, the reason for the decision, notice of right to request reconsideration under Subsection 63G-4-302, notice of right of judicial review under Subsection 63G-4-402, and the time limits for filing an appeal to the appropriate district court.

(2) A commercial driver training school, after being notified of the division's intent to take action, may not transfer any contracts, records, properties, training activities, obligations, or licenses to another party.

(3) If a commercial driver training school license is revoked, placed on probation or refused renewal, the existing classroom, behind-the-wheel, and observation training hours may not be transferred to another school for completion.

(4) If a commercial driver training school license is revoked or refused renewal under the emergency provisions of the school shall not be authorized to conduct business unless otherwise determined at a hearing.

(5) If an instructor license is revoked, placed on probation, or refused renewal under the emergency provisions of Section 63G-4-502, and the school license is valid, the school may continue operation provided that an instructor employed by the school with a valid instructor license ensures operation does not compromise public safety.

(6) If an operator license is revoked, placed on probation, or refused renewal under the emergency provisions of Section 63G-4-502, and the school license is valid, the school may continue operation provided that an operator employed by the school with a valid operator license ensures operation does not compromise public safety.

(7) An instructor license, operator license, commercial driver training school license or a testing only school license may be placed on probation upon approval of the director of the division or designee.

(a) Any licensee placed on probation shall be subject to a period of close supervised probation conditions to be determined by the division. During a period of probation, provided that the terms of the probation agreement are adhered to by the probationer licensee. The instructor license, operator license, commercial driver training school license or a testing only school license shall remain intact and the instructor, operator, or school will be allowed to continue operation.

KEY: driver education, schools, rules and procedures
Date of Enactment or Last Substantive Amendment: [~~August 17, 2004~~]2008
Notice of Continuation: March 2, 2007
Authorizing, and Implemented or Interpreted Law: 53-3-505

♦ ♦

Regents (Board Of), Administration
R765-603
Regents' Scholarship

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 31524
FILED: 06/03/2008, 15:04

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this new rule is to establish policies and procedures for the administration of the Regents' Scholarship, which will be awarded to graduates of Utah high schools who complete a defined, rigorous core course of study by September 1 of the year they graduate from high school.

SUMMARY OF THE RULE OR CHANGE: This new rule establishes scholarship criteria, procedures for administration, and defines parameters for the use of scholarship funds.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 63G-3-201(2)(b) and (c), and Section 53B-8-108 et seq.

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is a $900,000 cost to the state budget based on legislative appropriation in S.B. 180 (Utah Legislature General Session 2008). (DAR NOTE: S.B. 180 (2008) is found at Chapter 271, Laws of Utah 2008, and will be effective 07/01/2008.)

❖ LOCAL GOVERNMENTS: None--There is no cost to local government because in FY 2008-09 the legislative appropriation in S.B. 180 was funded from the Education Fund, which is comprised of income tax funds and local government does not contribute directly to this fund.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--There is no cost to small businesses because in FY 2008-09 the legislative appropriation in S.B. 180 was funded from the Education Fund, which is comprised of income tax funds and small businesses do not contribute directly to this fund.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no cost for affected persons because in FY 2008-09 the legislative appropriation in S.B. 180 was funded from the Education Fund, which is comprised of income tax funds and affected persons do not directly contribute to this fund.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no cost to businesses because in FY 2008-09 the legislative appropriation in S.B. 180 was funded from the Education Fund which is limited to purposes of education in the State. The Education Fund is comprised of income tax funds and businesses do not contribute directly to this fund. David L. Buhler, Interim Commissioner

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:
David S. Doty at the above address, by phone at 801-321-7111, by FAX at 801-321-7199, or by Internet E-mail at ddoty@utahsbr.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

AUTHORIZED BY: David Buhler, Interim Commissioner

R765. Regents (Board of), Administration.
R765-603. Regents' Scholarship.
R765-603-1. Purpose.

To encourage all Utah high school students to take a rigorous high school curriculum that will successfully prepare them for postsecondary education and the demands of the modern workforce; to provide incentives for all Utah high school students to prepare academically and financially for postsecondary education; to motivate high school students to work hard through the senior year; to increase the numbers of Pell Grant-eligible students qualifying for federal Academic Competitiveness Grants; and to increase the numbers of Utahns enrolling in Utah colleges and universities.

R765-603-2. References.

2.1. Section 53B-8-108 et seq. (Regents' Scholarship Program).

2.2. Section R277-700-7 (High School Core Graduation Requirements for Graduating Students Beginning with the Class of 2011).

R765-603-3. Definitions.

3.1 Academic Competitiveness Grants: Awards of up to $750 for the first year of college and $1,300 for the second year of college that Pell Grant-eligible students may receive upon demonstrating the completion of a rigorous program of study in high school.

3.2. Base Award: A $1,000 base scholarship to be awarded to students who complete the core course of study with a cumulative weighted high school GPA of 3.0 or higher, and fulfill all other eligibility criteria.

3.3. Board: State Board of Regents.

3.4. Core Course of Study: The 16.5-credit Utah Scholars core course of study, comprised of 4.0 years of English; 4.0 years of mathematics (at minimum Algebra I, Geometry, Algebra II, and a senior-year class beyond Algebra II); 3.5 years of social studies; 3.0 years of lab-based natural science (one each of Biology, Chemistry, and Physics); and 2.0 years of the same language other than English, in grades 9-12.

3.5. Exemplary Academic Achievement Award: A scholarship equal in value to 75% of the tuition costs for up to two years of full-time equivalent enrollment at any USHE institution or any Utah private nonprofit college or university in Utah that has been accredited by the Northwest Association of Schools and Colleges Students eligible for the scholarship are those who complete the core course of study with a cumulative weighted high school GPA of 3.5 or higher, submit a verified ACT score of 26 or higher (or equivalent SAT score), and fulfill all other eligibility requirements for the Regents' Scholarship.

3.6. Regents' Diploma Endorsement: A certificate or transcript notation to be awarded to students who qualify for the Exemplary Academic Achievement Award of the Regents' Scholarship.

3.7. Regents' Scholarship: A scholarship with two component awards: 1) a $1,000 base scholarship to be awarded to students who complete the core course of study with a cumulative weighted high school GPA of 3.0 or higher, and fulfill all other eligibility criteria; and 2) a two-year scholarship awarded for exemplary academic achievement in completing the scholarship criteria.

3.8. Scholarship Review Committee: The committee appointed by the Commissioner of Higher Education to review Regents' Scholarship applications and make final decisions regarding scholarship awards.

3.9. UESP: Utah Educational Savings Plan.

R765-603-4. Policy.

4.1. Conditions of the Scholarship Program and Program Terms.

Both the base award and the Exemplary Academic Achievement award of the Regents' Scholarship may be used at any public college or university within the Utah System of Higher Education, including the Utah College of Applied Technology; any private, non-profit institution of higher education in the state accredited by the Northwest Association of Schools and Colleges; or a Western Undergraduate Exchange program approved by the Board. The Board may limit or reduce the base Regents' Scholarship and supplemental program awards, as well as the total number of scholarships and supplemental awards granted, depending on available funding. A student who does not apply for the scholarship by February 1st of his or her senior year, or who has not used the award in its entirety within five years after his or her high school graduation date, is ineligible to receive a program award.

4.2. Regents' Scholarship Criteria--Base Award.

To qualify for the base award of the Regents' Scholarship, an applicant must satisfy the following criteria:

4.2.1. Core Course of Study. The applicant must submit an official high school transcript, and college transcript, if applicable, demonstrating, in grades 9-12: 1) completion of the core course of study, or 2) completion of all requirements of an International Baccalaureate diploma (for a complete list of courses satisfying the core requirements, visit www.utahsbr.edu). Credit requirements in content areas of the core course of study (English, mathematics, laboratory science, social studies, and foreign language) may be satisfied by completion of an Advanced Placement (A.P.) course in a content area and an A.P. test score of 3 or higher for the course, regardless of when the course and/or test was completed in grades 9-12.

4.2.2. Required GPA and Weighted Courses. The applicant must demonstrate completion of the core course of study or the International Baccalaureate Diploma requirements with a cumulative weighted high school GPA of at least 3.0, with no individual core course grade lower than a "C". The grade earned in any course designated on the student's high school transcript as Advanced Placement (A.P.), International Baccalaureate (I.B.), pre-International Baccalaureate, or concurrent enrollment, shall typically receive a 0.25 weight per semester. The Scholarship Committee does maintain the discretion to use different weighting criteria based on a variety of factors, including but not limited to, school schedules (e.g., terms, trimesters, etc.), student scores on A.P. or I.B. tests, and exceptional or unusual individual circumstances.

4.2.3. Required ACT or SAT score. The applicant must submit at least one verified ACT or SAT score.

4.2.4. Qualify for a Utah High School Diploma. Applicants applying from Utah public high schools must successfully pass all sections of the Utah Basic Skills Competency Test (UBSCT) and satisfy all other state and school district requirements for a Utah high school diploma. Applicants applying from accredited Utah private high schools must satisfy all applicable requirements for a private high school diploma. Home-schooled students are not eligible for the scholarship. Home-schooled students and graduates of high schools outside Utah are not eligible for the scholarship.

4.2.5. No criminal record. The applicant must attest to the lack of a criminal record with the exception of misdemeanor traffic citations.

4.2.6. Proof of U.S. citizenship. The applicant must attest to being a U.S. citizen who is eligible to receive federal financial aid.

4.2.7. Enrollment within 12 months. The applicant must enroll full time at a qualifying institution of higher education within 12 months of the applicant's high school graduation unless the applicant seeks and obtains an approved leave of absence.

4.3. Regents' Scholarship Criteria--Exemplary Academic Achievement Award.

In order to qualify for the Exemplary Academic Achievement Award of the Regents' Scholarship, the applicant must satisfy all requirements for the base award, and in addition:

4.3.1. Required GPA. The applicant must demonstrate completion of the core course of study or the requirements for an International Baccalaureate Diploma with a cumulative weighted

high school GPA of at least 3.5, and no core course grade lower than "B".

4.3.2. Required ACT score. The applicant must submit a verified composite ACT score of at least 26 (or equivalent SAT score).

4.4. Eligible Institutions.

Both the base Regents' Scholarship and the Regents' Exemplary Academic Achievement Scholarship may be used at any public college or university within the Utah System of Higher Education, including the Utah College of Applied Technology; any private, non-profit institution of higher education in the state accredited by the Northwest Association of Schools and Colleges; or a Western Undergraduate Exchange program approved by the Board.

4.5. Enrollment at More than One Institution.

The award may be used at more than one of Utah's eligible institutions within the same semester.

4.6. Student Transfer.

A scholarship may be transferred to a different eligible Utah institution upon request of the student.

R765-603-5. Application Procedures.

5.1. Application Deadline.

Students must submit a scholarship application by regular mail to the Utah System of Higher Education, or on-line at www.utahmentor.org no later than February 1st of their high school senior year. Applications submitted at any time following the student's graduation from high school will not be accepted.

5.2. Required Documentation.

Required documents that must be submitted with a scholarship application include: 1) an official high school paper or electronic transcript, and official college transcript, where applicable, demonstrating all completed courses and GPA; 2) verified ACT or SAT test results; 3) the official application form. Applications that do not include all required documentation will not be considered. Applicants must also submit proof of UBSCT passage, receipt of a regular Utah public or private high school diploma, and final official transcripts, no later than September 1st of the year the applicant's class graduates from high school. Scholarship awards may be revoked if such documentation is not submitted, if such documentation demonstrates that an applicant did not satisfactorily fulfill all course and GPA requirements, or if any information, including the attestation of criminal record or citizenship status, proves to be falsified.

R765-603-6. Amount of Awards and Distribution of Award Funds.

6.1. Amount and Number of Awards.

6.1.1. Regents' Scholarship--Base Award.

The base scholarship is $1,000, and, subject to annual appropriations and available funding, will be adjusted annually by the Board in an amount equal the average percentage tuition increase approved by the board for USHE institutions. The base amount of the scholarship, as well as the total number of scholarships awarded, may also be reduced commensurate with annual legislative appropriations and available funding.

6.2.2. Regents' Scholarship--Exemplary Academic Achievement Award.

A student who qualifies for the base award may also be eligible for the Exemplary Academic Achievement award equal in value to 75% of the actual cost of tuition for up to two years of full-time enrollment or until the associate's or bachelor's degree requirements have been met (which ever happens first). If used at an eligible institution not within the Utah System of Higher Education, scholarship funds awarded will equal up to 75% of the tuition costs at the institution, not to exceed 75% of the average tuition costs at baccalaureate granting institutions within the Utah System of Higher Education. In addition, the student will receive a Regents' Diploma Endorsement. To retain the Exemplary Academic Achievement Scholarship, the student must maintain a cumulative postsecondary 3.0 GPA for two consecutive semesters and make reasonable progress toward completion of an associate's or bachelor's degree by enrolling in at least 12 credit hours per semester.

6.2.3. Relationship to New Century Scholarship.

A student who completes the core course of study with a cumulative weighted GPA of 3.0 or better, and no individual core course grade below a "C", as part of his or completion of the requirements of an associate's degree, may be awarded the $1,000 base award in addition to a New Century Scholarship. A student who completes both the requirements for the Exemplary Academic Achievement award and the New Century Scholarship will only be eligible to receive one of these two-year scholarships.

6.3. Distribution of Award Funds.

6.3.1. Tuition Documentation.

The award recipient shall submit to the Utah System of Higher Education a copy of the tuition invoice or class schedule verifying the number of hours enrolled. The Utah System of Higher Education will calculate the amount of the award based on the published tuition costs at the enrolled institution(s) and the availability of program funding.

6.3.2. Award Payable to Institution.

The scholarship award will be made payable to the institution. The institution shall pay over to the recipient any excess award funds not required for tuition payments. Award funds may be used for any qualifying higher education expense, including tuition, fees, books, supplies, equipment required for course instruction, or housing.

6.3.3. Added Hours After Award.

The award will be increased up to 75% of the tuition costs of any hours added in the semester after the initial award after the initial award has been made, depending on available funding. The recipient shall submit to the Utah System of Higher Education a copy of the tuition invoice or class schedule verifying the added hours before a supplemental award is made.

6.3.4. Credit Hours Dropped after Award.

If a student drops hours which were included in calculating the award amount, either the subsequent semester award will be reduced accordingly, or the student shall repay the excess award amount to the Utah System of Higher Education. If a recipient fails to complete a minimum of six semester hours, no award will be made for that semester, and a grade earned in a class completed in that semester, if any, will not be considered in evaluating the recipient's reasonable progress.

6.3.5. Reasonable Progress toward Degree Completion.

The Board may cancel an Exemplary Academic Achievement award if the student fails to maintain a cumulative 3.0 GPA for two consecutive semesters for which he or she has received award funds; or fails to make reasonable progress toward the completion of a degree by enrolling in at least 12 credit hours each semester. Each semester, the recipient must submit to the Board an official transcript verifying his or her grades to demonstrate that he or she is meeting the required grade point average and is making reasonable progress toward the completion of a degree. If a student earns less

than a "B" (3.0) GPA in any single semester, the student must earn a "B" (3.0) GPA or better the following semester to maintain eligibility for the scholarship.

6.4. Supplemental Award to Encourage College Savings.

Subject to available funding, a student who qualifies for the base award is eligible to receive up to an additional $400 in state funds to match funds deposited in a Utah Educational Savings Plan (UESP) account. For each year from the student's 14th to 17th birthday that the student had an active UESP account, the Board may contribute, subject to available funding, up to $100 (i.e., up to $400 total for all four years) to the scholarship as a dollar-for-dollar match to the student's UESP account contributions during those years. If no contributions are made to a student's account during a given year, the matching amount will likewise be $0. If contributions total more than $100 in a given year, the matching amount will cap at $100 for that year. Matching funds apply only to contributions, not to transfers, earnings, or interest.

R765-603-7. Continuing Eligibility.

7.1. No Awards after Five Years from High School Graduation.

The Board will not make an award to a recipient for an academic term that begins more than five years after the recipient's high school graduation date.

7.2. No Guarantee of Degree Completion.

Neither a base award, nor an Exemplary Academic Achievement award, nor any supplemental UESP award, guarantees that the recipient will complete his or her associate's or baccalaureate program within the recipient's scholarship eligibility period.

R765-603-8. Leave of Absence.

8.1. Scholarships Must be Used Within 12 Months of High School Graduation.

A scholarship recipient must enroll full time at an eligible Utah institution of higher education within 12 months of high school graduation unless the recipient seeks, and obtains, an approved leave of absence from the Board.

8.2. Leave of Absence Does Not Extend Time.

An approved leave of absence will not extend the time limits of the scholarship. The scholarship may only be used for academic terms which begin within five years after the recipient's high school graduation date.

R765-603-9. Scholarship Determinations and Appeals.

9.1. Scholarship Determinations.

Submission of a scholarship application does not guarantee a scholarship award. Individual scholarship applications will be reviewed, and award decisions made, at the discretion of a Scholarship Review Committee appointed by the Commissioner of Higher Education, based on available funding, applicant pool, and applicants' completion of scholarship criteria. Each applicant will receive a letter informing the applicant of the decision on his or her application, whether the decision is a scholarship award or denial of scholarship.

9.2. Notice of Eligibility for Academic Competitiveness Grant.

Each recipient of the scholarship will be notified in the decision letter that the recipient's satisfactory completion of the scholarship criteria also automatically qualifies the recipient, if he or she is a low-income student eligible for a Pell Grant, for a federal Academic Competitiveness Grant (ACG). The decision letter will include information on how to apply for an ACG through the U.S. Department of Education.

9.3. Appeals.

Applicants may appeal a denial of scholarship award by submitting a written appeal to the Utah System of Higher Education within 30 days of receipt of the decision letter. Appeals will be reviewed and decided by an appeals committee appointed by the Commissioner of Higher Education.

KEY: regents' scholarship, high school
Date of Enactment or Last Substantive Amendment: 2008
Authorizing, and Implemented or Interpreted Law: 63G-3-201(2)(b); 63G-3-201(2)(c); 53B-8-108 et seq.

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Sports Authority (Utah), Pete Suazo Utah Athletic Commission

R859-1-501

Promoter's Responsibility in Arranging Contests - Permit Fee, Bond, Restrictions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31566
FILED: 06/16/2008, 10:09

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Several contestants have been injured and have claimed they have not been adequately informed or compensated for their medical treatment. This proposed amendment will provide additional clarity and guidance for contest promoters and will establish minimum requirements for contestant medical insurance and prohibit the consumption of alcohol during a contest by a promoter.

SUMMARY OF THE RULE OR CHANGE: Currently, minimal guidance is provided concerning contestant medical insurance requirements. The proposed change will establish minimum requirements for contestant medical insurance. Current rules prohibit the consumption of alcohol by other unarmed combat licensees, with the exception of the promoter, actively involved in the contests. This proposed rule change would remove this inconsistency.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63C-11-316

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--The proposed rule amendment will not impact the state budget. The proposed action ensures the event promoter is required to provide medical insurance for their contestants, rather than have prompt medical treatment being avoided or the costs borne by a third party.

❖ LOCAL GOVERNMENTS: None--The proposed rule amendment will not impact local government. The proposed action ensures the event promoter is required to provide medical insurance for their contestants, rather than have prompt medical treatment being avoided or the costs borne by a third party.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Promoters will be required to provide medical insurance for all contestants. Providing this insurance may cost $2,000 per event, if the proposed rule is adopted as written mandating the insurance be primary, rather than secondary insurance. If the insurance is only required to be secondary, the estimated cost would drop to $500 per event. The proposed action ensures the event promoter is required to provide medical insurance for their contestants, rather than have prompt medical treatment being avoided or the costs borne by a third party.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The costs are projected at between $500 and $2,000 per unarmed combat event. The number of unarmed events vary by promoter and may range from 1 to 50 per year and could result in a potential annual compliance cost varying between $500 and $100,000.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed rule will increase the cost to conduct unarmed combat events. This cost is estimated to not exceed $2,000 per event. However, it will facilitate that uninsured athletes receive essential medical treatment for injuries sustained during a competition. Alan Dayton, PSUAC Chairman

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

SPORTS AUTHORITY (UTAH)
PETE SUAZO UTAH ATHLETIC COMMISSION
Room 500
324 S STATE ST
STE 500
SALT LAKE CITY UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Bill Colbert at the above address, by phone at 801-538-8876, by FAX at 801-538-8888, or by Internet E-mail at bcolbert@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 07/31/2008

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 7/09/2008 at 12:00 PM, PSUAC, 324 S STATE ST, STE 500, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

AUTHORIZED BY: Bill Colbert, Secretary, PSUAC

R859. Sports Authority (Utah), Pete Suazo Utah Athletic Commission.
R859-1. Pete Suazo Utah Athletic Commission Act Rule.
R859-1-501. Promoter's Responsibility in Arranging Contests-Permit Fee, Bond, Restrictions.

(1) Before a licensed promoter may hold a contest or single contest as part of a single promotion, the promoter shall file with the Commission an application for a permit to hold the contest not less than 15 days before the date of the proposed contest, or not less than seven days for televised contests.

(2) The application shall include the date, time, and place of the contest as well as information concerning the on-site emergency facilities, personnel, and transportation.

(3) The permit application must be accompanied by a contest registration fee determined by the Department under Section 63-38-32.

(4) Before a permit to hold a contest is granted, the promoter shall post a surety bond with the Commission in the amount of $10,000.

(5) Prior to the scheduled time of the contest, the promoter shall have available for inspection the completed physical facilities which will be used directly or indirectly for the contest. The designated Commission member shall inspect the facilities in the presence of the promoter or the promoter's authorized representative, and all deficiencies cited upon inspection shall be corrected before the contest.

(6) A promoter shall be responsible for verifying the identity, ring record, and suspensions of each contestant. A promoter shall be held responsible for the accuracy of the names and records of each of the participating contestants in all publicity or promotional material.

(7) A promoter shall be held responsible for a contest in which one of the contestants is disproportionately outclassed.

(8) Before a contest begins, the promoter shall give the designated Commission member the money for payment of contestants, referees, judges, and the attending physician. The designated Commission member shall pay each contestant, referee, judge, and physician in the presence of one witness.

(9) A promoter shall be not under the influence of alcohol or controlled substances during the contest and until all purses to the contestants and all applicable fees are paid to the commission, officials and ringside physician.

([~~9~~]10) At the time of [~~a boxing~~]an unarmed combat contest weigh-in, the promoter of a contest shall provide [~~evidence of health insurance pursuant to Public Law 104272, "The Professional Boxing Safety Act of 1996."~~]primary insurance coverage in the amount of $10,000 for each licensed contestant to provide medical, surgical and hospital care for licensed contestants who are injured while engaged in a contest or exhibition:

(a) The term of the insurance coverage must not require the contestant to pay a deductible for the medical, surgical or hospital care for injuries he sustains while engaged in a contest of exhibition.

(b) If a licensed contestant pays for the medical, surgical or hospital care, the insurance proceeds must be paid to the contestant or his beneficiaries as reimbursement for the payment.

(c) The promoter should also have life insurance coverage of $10,000 for each contestant in case of death.

KEY: licensing, boxing, unarmed combat, white-collar contests
Date of Enactment or Last Substantive Amendment: [~~May 1,~~]2008
Notice of Continuation: May 10, 2007
Authorizing, and Implemented or Interpreted Law: 63C-11-101 et seq.

Sports Authority (Utah), Pete Suazo Utah Athletic Commission

R859-1-506

Drug Tests

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31585
FILED: 06/16/2008, 16:58

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to provide greater detail and clarity regarding contestant drug testing.

SUMMARY OF THE RULE OR CHANGE: The rule change will provide much greater clarity to the commission's drug testing policy and make its policy consistent with other athletic commissions.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63C-11-317

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--The proposed change will not impact the state budget. The proposed amendment clarifies what substances are prohibited in an effort to mitigate any misunderstanding by contestants and promoters. Current rule and statute require the promoter to pay for the costs of drug testing.

❖ LOCAL GOVERNMENTS: None--The proposed change will not impact local government. The proposed amendment clarifies what substances are prohibited in an effort to mitigate any misunderstanding by contestants and promoters. Current rule and statute require the promoter to pay for the costs of drug testing.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: No change in costs to small businesses and persons. Current rule and statute require the promoter to pay for the costs of drug testing. The proposed amendment change will not require any change in testing requirements. There will be no change in costs to to affected persons, but clarifies what substances are prohibited in an effort to mitigate any misunderstanding by contestants and promoters.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will be no change in costs to to affected persons. The proposed amendment clarifies what substances are prohibited in an effort to mitigate any misunderstanding by contestants and promoters. Currently, oral drug tests cost $5.90 per kit. Urine test kits to detect steroids currently cost $65.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed rule change will not increase the cost on businesses. It clarifies existing policy. Alan Dayton, PSUAC Chairman

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
SPORTS AUTHORITY (UTAH)
PETE SUAZO UTAH ATHLETIC COMMISSION
Room 500
324 S STATE ST
STE 500
SALT LAKE CITY UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Bill Colbert at the above address, by phone at 801-538-8876, by FAX at 801-538-8888, or by Internet E-mail at bcolbert@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 07/31/2008

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 7/09/2008 at 12:00 PM, PSUAC, 324 S STATE ST, STE 500, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

AUTHORIZED BY: Bill Colbert, Secretary, PSUAC

R859. Sports Authority (Utah), Pete Suazo Utah Athletic Commission.
R859-1. Pete Suazo Utah Athletic Commission Act Rule.
R859-1-506. Drug Tests.

In accordance with Section 63C-11-317, the following shall apply to drug testing:

(1) The administration of or use of any:

(a) Alcohol;

(b) Stimulant; or

(c) Drug or injection that has not been approved by the Commission, including, but not limited to, the drugs or injections listed R859-1-506 (2), in any part of the body, either before or during a contest or exhibition, to or by any unarmed combatant, is prohibited.

(2) The following types of drugs, injections or stimulants are prohibited pursuant to R859-1-506 (1):

(a) Afrinol or any other product that is pharmaceutically similar to Afrinol.

(b) Co-Tylenol or any other product that is pharmaceutically similar to Co-Tylenol.

(c) A product containing an antihistamine and a decongestant.

(d) A decongestant other than a decongestant listed in R859-1-506 (4).

(e) Any over-the-counter drug for colds, coughs or sinuses other than those drugs listed in R859-1-506 (4). This paragraph includes, but is not limited to, Ephedrine, Phenylpropanolamine, and Mahuang and derivatives of Mahuang.

(f) Any drug identified on the most current edition of the Prohibited List published by the World Anti-Doping Agency, which is hereby adopted by reference. The most current edition of the Prohibited List may be obtained, free of charge, at www.wada-ama.org.

(3) The following types of drugs or injections are not prohibited pursuant to R859-1-506 (1), but their use is discouraged by the Commission:

(a) Aspirin and products containing aspirin.

(b) Nonsteroidal anti-inflammatories.

(4) The following types of drugs or injections are accepted by the Commission:

(a) Antacids, such as Maalox.

(b) Antibiotics, antifungals or antivirals that have been prescribed by a physician.

(c) Antidiarrheals, such as Imodium, Kaopectate or Pepto-Bismol.

(d) Antihistamines for colds or allergies, such as Bromphen, Brompheniramine, Chlorpheniramine Maleate, Chlor-Trimeton, Dimetane, Hismal, PBZ, Seldane, Tavist-1 or Teldrin.

(e) Antinauseants, such as Dramamine or Tigan.

(f) Antipyretics, such as Tylenol.

(g) Antitussives, such as Robitussin, if the antitussive does not contain codeine.

(h) Antiulcer products, such as Carafate, Pepcid, Reglan, Tagamet or Zantac.

(i) Asthma products in aerosol form, such as Brethine, Metaproterenol (Alupent) or Salbutamol (Albuterol, Proventil or Ventolin).

(j) Asthma products in oral form, such as Aminophylline, Cromolyn, Nasalide or Vanceril.

(k) Ear products, such as Auralgan, Cerumenex, Cortisporin, Debrox or Vosol.

(l) Hemorrhoid products, such as Anusol-HC, Preparation H or Nupercainal.

(m) Laxatives, such as Correctol, Doxidan, Dulcolax, Efferyllium, Ex-Lax, Metamucil, Modane or Milk of Magnesia.

(n) Nasal products, such as AYR Saline, HuMist Saline, Ocean or Salinex.

(o) The following decongestants:

(i) Afrin;

(ii) Oxymetazoline HCL Nasal Spray; or

(iii) Any other decongestant that is pharmaceutically similar to a decongestant listed in R859-1-506 (1)or (2).

([~~1~~]5) At the request of the Commission, the designated Commission member, or the ringside physician, a contestant or assigned official shall submit to a test of body fluids to determine the presence of drugs. A contestant must give an adequate sample or it will deem to be a denial. The promoter shall be responsible for any costs of testing.

([~~2~~]6) If the test results in a finding of the presence of a drug or if the contestant or assigned official is unable or unwilling to provide a sample of body fluids for such a test, the Commission may take one or more of the following actions:

(a) immediately suspend the contestant's or assigned official's license in accordance with Section R859-1-403;

(b) stop the contest in accordance with Subsection 63C-11-316(2);

(c) initiate other appropriate licensure action in accordance with Section 63C-11-310; or

(d) withhold the contestant's purse in accordance with Subsection 63C-11-321.

([~~3~~]7) A contestant who is disciplined pursuant to the provisions of this Rule and who was the winner of a contest shall be disqualified and the decision of the contest shall be changed to "no contest."

(8) Unless the commission licensing an event requires otherwise, a contestant who tests positive for illegal drugs shall be penalized as follows:

(a) First offense - 180 day suspension.

(b) Second offense - 1 year suspension, and mandatory completion of a supervisory treatment program approved by the commission that licensed the event.

(c) Third offense - 2 year suspension, and mandatory completion of a supervisory treatment program approved by the commission that licensed the event.

KEY: licensing, boxing, unarmed combat, white-collar contests
Date of Enactment or Last Substantive Amendment: [~~May 1,~~]2008
Notice of Continuation: May 10, 2007
Authorizing, and Implemented or Interpreted Law: 63C-11-101 et seq.

♦ ♦

Sports Authority (Utah), Pete Suazo Utah Athletic Commission

R859-1-509

Weighing-In

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 31586
FILED: 06/16/2008, 16:58

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: There have been concerns about the fairness of the current rule and the proposed rule change will provide additional clarity and guidance concerning unarmed combat contestant weigh-ins.

SUMMARY OF THE RULE OR CHANGE: The proposed rule change will provide additional clarity and guidance concerning unarmed combat contestant weigh-ins.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63C-11-324

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--The proposed change will not impact the state budget. The proposed amendment changes the weigh-in procedures to mitigate any misunderstanding by contestants and promoters and facilitates fair competition.

❖ LOCAL GOVERNMENTS: None--The proposed change will not impact local government. The proposed amendment changes the weigh-in procedures to mitigate any misunderstanding by contestants and promoters and facilitates fair competition.
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--The proposed change will not affect the costs to small businesses or other persons, other than unarmed combat contestants. The proposed amendment changes the weigh-in procedures to mitigate any misunderstanding by contestants and promoters and facilitates fair competition.

COMPLIANCE COSTS FOR AFFECTED PERSONS: If a contestant does not comply with the proposed change, they would be eliminated from the match or lose 25% of their purse. The proposed amendment changes the weigh-in procedures to mitigate any misunderstanding by contestants and promoters and facilitates fair competition.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no fiscal impact on businesses. The proposed rule changes provide guidance to facilitate fair competitions. Alan Dayton, PSUAC Chairman

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
SPORTS AUTHORITY (UTAH)
PETE SUAZO UTAH ATHLETIC COMMISSION
Room 500
324 S STATE ST
STE 500
SALT LAKE CITY UT 84111, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Bill Colbert at the above address, by phone at 801-538-8876, by FAX at 801-538-8888, or by Internet E-mail at bcolbert@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 07/31/2008

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 7/09/2008 at 12:00 PM, PSUAC, 324 S STATE ST, STE 500, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 09/01/2008

AUTHORIZED BY: Bill Colbert, Secretary, PSUAC

R859. Sports Authority (Utah), Pete Suazo Utah Athletic Commission.
R859-1. Pete Suazo Utah Athletic Commission Act Rule.
R859-1-509. Weighing-In.

(1) Unless otherwise approved by the Commission for a specific contest, the weigh-in shall occur not less than six nor more than 24 hours before the start of a contest. The designated Commission member or authorized Commission representative(s), shall weigh-in each contestant in the presence of other contestants.

(2) Contestants shall be licensed at the time they are weighed-in.

(3) Only those contestants who have been previously approved for the contest shall be permitted to weigh-in.

(4) Each contestant must weigh in the presence of his opponent, a representative of the commission and an official representing the promoter, on scales approved by the commission at any place designed by the commission.

(5) The contestant must have all weights stripped from his body before he is weighed in, but may wear shorts. Female contestants are permitted to wear a singlet and/or sports bra for modesty.

(6) The commission may require contestants to be weighted more than once for any cause deemed sufficient by the commission.

(7) A contestant who fails to make the weight agreed upon in his bout agreement forfeits:

(a) Twenty five percent of his purse if no lesser amount is set by the commission's representative: or

(b) A lesser amount set by the secretary and approved by the commission, unless the weight difference is 1 pound or less.

KEY: licensing, boxing, unarmed combat, white-collar contests
Date of Enactment or Last Substantive Amendment: [~~May 1,~~]2008
Notice of Continuation: May 10, 2007
Authorizing, and Implemented or Interpreted Law: 63C-11-101 et seq.

♦ ——————————— ♦

Tax Commission, Administration
R861-1A-1
Administrative Procedures Pursuant to Utah Code Ann. Section 59-1-210

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31535
FILED: 06/06/2008, 10:24

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This section is unnecessary. The removed language either exists in statute or is not needed.

SUMMARY OF THE RULE OR CHANGE: The section is removed.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-1-210

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: No revenue impact. There is no substantive impact in the removal of this section.
❖ LOCAL GOVERNMENTS: No revenue impact. There is no substantive impact in the removal of this section.
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: No revenue impact. There is no substantive impact in the removal of this section.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The amendment removes unnecessary language.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No impact because the amendment just removes unnecessary language. D'Arcy Dixon, Commissioner

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

TAX COMMISSION
ADMINISTRATION
210 N 1950 W
SALT LAKE CITY UT 84134-0002, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R861. Tax Commission, Administration.
R861-1A. Administrative Procedures.
[~~R861-1A-1. Administrative Procedures Pursuant to Utah Code Ann. Section 59-1-210.~~
~~A. Definitions as used in this rule:~~
~~1. "Agency" means the Tax Commission of the state of Utah.~~
~~2. "Agency head" means the Tax Commission of the state of Utah, or one or more tax commissioners.~~
~~3. "Appeal" means appeal from an order of the Commission to an appropriate judicial authority.~~
~~4. "Commission" means the Tax Commission of the state of Utah.~~
~~5. "Conference" means an informal meeting of a party or parties with division heads, officers, or employees designated by division heads and informal meetings between parties to an adjudicative proceeding and a presiding officer.~~
~~6. "Division" means any division of the Tax Commission, including but not restricted to the Auditing Division, Property Tax Division, Motor Vehicle Division, Motor Vehicle Business Administration Division, Data Processing Division, and the Operations Division.~~
~~7. "Hearing" means a proceeding, formal or informal, at which the parties may present evidence and arguments to the presiding officer in relation to a particular order or rule.~~
~~8. "Officer" means an employee of the Commission in a supervisory or responsible capacity.~~
~~9. "Order" means the final disposition by the Commission of any particular controversy or factual matter presented to it for its determination.~~
~~10. "Presiding officer" means one or more tax commissioners, administrative law judge, hearing officer, and other persons designated by the agency head to preside at hearings and adjudicative proceedings.~~
~~11. "Quorum" means three or more members of the Commission.~~
~~12. "Record" means that body of documents, transcripts, recordings, and exhibits from a hearing submitted for review on appeal.~~
~~13. "Rule" means an officially adopted Commission rule.~~
~~14. "Rulemaking Power" means the Commission's power to adopt rules and to administer the laws relating to the numerous divisions.~~
~~15. All definitions contained in the Administrative Procedures Act, Utah Code Ann. Section 63-46b-2 as amended, are hereby adopted and incorporated herein.~~
]
KEY: developmentally disabled, grievance procedures, taxation, disclosure requirements
Date of Enactment or Last Substantive Amendment: [~~February 25~~], 2008
Notice of Continuation: March 20, 2007
Authorizing, and Implemented or Interpreted Law: 59-1-210

♦ ♦

Tax Commission, Administration
R861-1A-3
Division and Prehearing Conferences Pursuant to Utah Code Ann. Section 59-1-210

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31536
FILED: 06/06/2008, 10:32

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment removes language discussing prehearing conferences since the commission no longer conducts prehearing conferences. Provisions relating to conferences appear in Section R861-1A-26.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment removes language, the substance of which is found in another section.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 59-1-210 and 636-4-102

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--The proposed amendment has no substantive affect on the current practice.
❖ LOCAL GOVERNMENTS: None--The proposed amendment has no substantive affect on the current practice.
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--The proposed amendment has no substantive affect on the current practice.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The proposed amendment has no substantive affect on the current practice.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No impact as there is no effect on current practice. D'Arcy Dixon, Commissioner

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

TAX COMMISSION
ADMINISTRATION
210 N 1950 W
SALT LAKE CITY UT 84134-0002, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R861. Tax Commission, Administration.
R861-1A. Administrative Procedures.
R861-1A-3. Division [~~and Prehearing~~]Conferences Pursuant to Utah Code Ann. [~~Section~~|Sections 59-1-210 and [~~63-46b-1~~|63G-4-102.

[~~A. Division Conferences.~~]Any party directly affected by a [~~Commission~~]commission action or contemplated action may request a conference with the supervisor or designated officer of the division involved in [~~relation to such~~]that action.

(1) [~~Such~~]A request may be [~~either~~]oral or written[~~, and such~~].

(2) A conference will be conducted in an informal manner in an effort to clarify and narrow the issues and problems involved.

(3) The party requesting [~~such~~]a conference will be notified of the result;[~~ of the same, either~~]

(a) orally or in writing[~~,~~];

(b) in person or through counsel[~~,~~]; and

(c) at the conclusion of [~~such~~]the conference or within a reasonable time thereafter.

(4) [~~Such~~]A conference may be held at any time prior to a hearing, whether or not a petition for [~~such~~] hearing, appeal, or other commencement of an adjudicative proceeding has been filed.[

~~B. Prehearing Conferences. In any matter pending before the Tax Commission, the presiding officer may, after prior written notice, require the parties to appear for a prehearing conference. Such prehearing conferences may be by telephone if the presiding officer determines that it will be more expeditious and will not adversely affect the rights of any party. Prehearing conferences will be for the purposes of encouraging settlement, clarifying the issues, simplifying the evidence, facilitating discovery, and expediting the proceedings. In furthering those purposes, the presiding officer may request that the parties make proffers of proof or written prehearing conference statements as to what they believe the evidence will show at the hearing. After hearing such proffers of proof and reviewing written statements, the presiding officer may then advise the parties how he views each side of the evidence and state how he believes the Commission may rule if evidence at the hearing is as proffered at the prehearing conference, and then invite the parties to see if a stipulation can be reached which would settle the matter. If a settlement is reached by way of stipulation, the presiding officer may sign and enter an order in the proceeding. If a settlement is not reached, the presiding officer shall enter an order on the prehearing conference which clarifies the issues, simplifies the evidence, facilitates and limits discovery, and expedites the proceedings to a reasonable extent.~~]

KEY: developmentally disabled, grievance procedures, taxation, disclosure requirements
Date of Enactment or Last Substantive Amendment: [~~February 25~~], 2008
Notice of Continuation: March 20, 2007
Authorizing, and Implemented or Interpreted Law: 59-1-210; 63G-4-102

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Tax Commission, Auditing
R865-6F-35
S Corporation Determination of Tax Pursuant to Utah Code Ann. Section 59-7-703

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31534
FILED: 06/06/2008, 10:19

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment is necessary because of recent changes in the law regarding the calculation of state income tax.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment deletes language referring to deductions that no longer exist because of recent statutory changes; adds a recapture provision required by federal law that has been commission practice.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-7-703

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--Any fiscal impacts were taken into account in H.B. 359 (2008). (DAR NOTE: H.B. 359 (2008) is found at Chapter 389, Laws of Utah 2008, and was effective 05/05/2008.)

❖ LOCAL GOVERNMENTS: None--Any fiscal impacts were taken into account in H.B. 359 (2008).

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--Any fiscal impacts were taken into account in H.B. 359 (2008).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The proposed amendment removes a deduction statutes no longer allow.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated impacts. D'Arcy Dixon, Commissioner

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

TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R865. Tax Commission, Auditing.
R865-6F. Franchise Tax.
R865-6F-35. S Corporation Determination of Tax Pursuant to Utah Code Ann. Section 59-7-703.

(1) For purposes of Section 59-7-703(2)(b)(i), "items of income or loss from Schedule K of the 1120S federal form" shall be calculated by:

(a) adding back to the line on the Schedule K labeled "Income/loss reconciliation" the amount included on that schedule for:

(i) charitable contributions;[~~and~~]

(ii) total foreign taxes paid or accrued; and

(iii) recapture of a benefit derived from a deduction under Section 179, Internal Revenue Code.

(b) If the S corporation was not required to complete the line labeled "Income/loss reconciliation" on the Schedule K, a pro forma calculation of the amounts for charitable contributions and foreign taxes paid or accrued, and of the amount that would have been entered on the "Income/loss reconciliation" line shall be used for purposes of this rule.

[~~(2) The amount that the S corporation shall withhold for nonresident shareholders shall be computed as follows:~~

~~(a) The deduction shall be equal to 15 percent of the Utah income attributable to nonresident shareholders.~~

~~(b) The deduction in Subsection (2)(a) shall be allowed in place of a standard deduction, itemized deductions, personal exemptions, federal tax determined for the same period, or any other deductions.~~

~~(3) The tax shall be computed using the maximum Utah individual income tax rate applied to the combined nonresident shareholders' share of the S corporation's income after deduction of the amount allowed under Subsection (2).~~](2) An S corporation shall withhold tax on behalf of a nonresident shareholder at the rate in effect in Section 59-10-104.

[~~(4)~~](3) An S corporation with nonresident shareholders shall complete Schedule N of form TC-20S, and shall provide the following information for each nonresident shareholder:

(a) name;

(b) social security number;

(c) percentage of S corporation held; and

(d) amount of Utah tax paid or withheld on behalf of that shareholder.

KEY: taxation, franchises, historic preservation, trucking industries
Date of Enactment or Last Substantive Amendment: [~~March 14~~], 2008
Notice of Continuation: March 8, 2007
Authorizing, and Implemented or Interpreted Law: 59-7-703

Tax Commission, Auditing

R865-9I-6

Returns by Husband and Wife when one is a Resident and the other is a Nonresident Pursuant to Utah Code Ann. Section 59-10-119

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31530
FILED: 06/05/2008, 14:44

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed amendment is necessary because of statutory changes arising from 2008 H.B. 359. (DAR NOTE: H.B. 359 (2008) is found at Chapter 389, Laws of Utah 2008, and was effective 05/05/2008.)

SUMMARY OF THE RULE OR CHANGE: This proposed amendment repeals references to deductions that have been repealed with the passage of the single rate income tax.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-10-119

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--Any revenue impacts were considered in H.B. 359 (2008).
❖ LOCAL GOVERNMENTS: None--Any revenue impacts were considered in H.B. 359 (2008).

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--Any revenue impacts were considered in H.B. 359 (2008).

COMPLIANCE COSTS FOR AFFECTED PERSONS: A husband and wife who file a joint federal tax return and qualify to file separate state tax returns will calculate their separate state tax differently with the passage of the single rate income tax.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated impacts. D'Arcy Dixon, Commissioner

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

TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R865. Tax Commission, Auditing.
R865-9I. Income Tax.
R865-9I-6. Returns by Husband and Wife When One is a Resident and the Other is a Nonresident Pursuant to Utah Code Ann. Section 59-10-119.

[~~A.~~](1) Except as provided in [~~B.~~]Subsection (2), a husband and wife, one being a nonresident and the other a resident, who file a joint federal income tax return, but separate state income tax returns shall determine their separate:

(a) state taxable income as follows:

[~~1.~~](i) [~~First,~~]Determine the amount of the total federal adjusted gross income ("FAGI") pertaining to each spouse[~~shall be determined. Any adjustments~~]. Any adjustments that apply to both spouses shall be divided between the spouses in proportion to the respective incomes of the spouses.

[~~2.~~](ii) [~~Next, each spouse is allocated~~]Allocate a portion of each deduction and add back item[-]described in Section 59-10-114 to each spouse by:

[~~a) To determine this allocation, each spouse shall:~~

] [~~(1)~~](A) [~~divide his or her own~~]dividing each spouse's FAGI by the combined FAGI of both spouses, and [~~round~~]rounding the resulting percentage to four decimal places; and

[~~(2)~~](B) [~~multiply~~]multiplying the resulting percentage by [~~the~~]any deductions and add back items described in Section 59-10-114; and

(b)(i) shares of the taxpayer tax credit authorized in Section 59-10-1018 by multiplying the percentage calculated under Subsection (1)(a)(ii)(A) by the:

(A) itemized or standard deduction; and

(B) state exemption for dependents.

(ii) For purposes of Subsection (1)(b)(i), each spouse shall claim his or her full state personal exemption.

[~~b) The deductions and add back items allowed are as follows:~~

~~(1) state income tax deducted as an itemized deduction on federal Schedule A;~~

~~(2) other items that must be added back to FAGI on the state income tax return;~~

~~(3) itemized or standard deduction;~~

~~(4) state exemption for dependents;~~

~~(5) one-half of the federal tax liability;~~

~~(6) state income tax refund included on line 10 of the federal income tax return; and~~

~~(7) other state deductions.~~

~~3. Each spouse shall claim his or her full state personal exemption.~~

~~4. Each spouse shall determine his or her separate tax using the Utah tax rate schedules applicable to a husband and wife filing separate returns.~~

~~B.~~](2) A husband and wife, one being a nonresident and the other a resident, may use an alternate method of calculating their separate state taxable incomes than the method provided in [~~A.~~]Subsection (1) if they can demonstrate to the satisfaction of the [~~Tax Commission~~]commission that the alternate method more accurately reflects their separate state taxable incomes.

KEY: historic preservation, income tax, tax returns, enterprise zones
Date of Enactment or Last Substantive Amendment: [~~March 14~~], 2008
Notice of Continuation: March 20, 2007
Authorizing, and Implemented or Interpreted Law: 59-10-108 through 59-10-122

♦ ♦

Tax Commission, Auditing
R865-9I-50
Addition to Adjusted Gross Income for Interest Earned on Bonds, Notes, and Other Evidences of Indebtedness Pursuant to Utah Code Ann. Section 59-10-114

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31532
FILED: 06/06/2008, 09:16

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment is necessary because of changes made by H.B. 359 (2008). (DAR NOTE: H.B. 359 (2008) is found at

Chapter 389, Laws of Utah 2008, and was effective 05/05/2008.)

SUMMARY OF THE RULE OR CHANGE: The proposed amendment replaces "federal taxable" income with "adjusted gross" income to follow changes to the calculation of state income tax.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-10-114

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--Any fiscal impact was considered in H.B. 359 (2008).
❖ LOCAL GOVERNMENTS: None--Any fiscal impact was considered in H.B. 359 (2008).
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--Any fiscal impact was considered in H.B. 359 (2008).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The proposed amendment matches rule language with new statutory language.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated impacts. D'Arcy Dixon, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R865. Tax Commission, Auditing.
R865-9I. Income Tax.
R865-9I-50. Addition to [~~Federal Taxable~~]Adjusted Gross Income for Interest Earned on Bonds, Notes, and Other Evidences of Indebtedness Pursuant to Utah Code Ann. Section 59-10-114.

The addition to [~~federal taxable~~]adjusted gross income required under Section 59-10-114 for interest earned on bonds, notes, and other evidences of indebtedness acquired on or after January 1, 2003 applies to:

[~~A.~~](1) interest on individual bonds, notes, or other evidences of indebtedness purchased by a resident or nonresident individual on or after January 1, 2003; and

[~~B.~~](2) for bonds, notes, and other evidences of indebtedness held in a bond fund owned by a resident or nonresident individual, the portion of interest attributable to individual bonds, notes, and other evidences of indebtedness purchased by the bond fund on or after January 1, 2003.

KEY: historic preservation, income tax, tax returns, enterprise zones
Date of Enactment or Last Substantive Amendment: [~~March 14~~], 2008
Notice of Continuation: March 20, 2007
Authorizing, and Implemented or Interpreted Law: 59-10-108 through 59-10-122

♦ ——— ♦

Tax Commission, Auditing
R865-19S-94
Tips, Gratuities, and Cover Charges Pursuant to Utah Code Ann. Section 59-12-103

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31531
FILED: 06/05/2008, 15:04

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: S.B. 147 (2003) amended the definition of sales price to include a charge by the seller for any service necessary to complete the sale. (DAR NOTE: S.B. 147 (2003) is found at Chapter 312, Laws of Utah 2003, and was effective 07/01/2004.)

SUMMARY OF THE RULE OR CHANGE: The proposed amendment deletes language indicating that if a tip is included on a patron's bill and the total amount of the tip is passed on to the server, the tip is not subject to sales tax. The current definition of sales price includes a charge by the seller for any service necessary to complete the sale. Thus, all tips included on a patron's bill are subject to sales tax.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 54-12-103

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--Any fiscal impact was taken into account in S.B. 147 (2003).
❖ LOCAL GOVERNMENTS: None--Any fiscal impact was taken into account in S.B. 147 (2003).
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--Any fiscal impact was taken into account in S.B. 147 (2003).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--Restaurant patrons who are billed for a tip are subject to sales tax on that tip, regardless of whether the tip is passed on to the server.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated fiscal impacts. D'Arcy Dixon, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R865. Tax Commission, Auditing.
R865-19S. Sales and Use Tax.
R865-19S-94. Tips, Gratuities, and Cover Charges Pursuant to Utah Code Ann. Section 59-12-103.

[~~A.~~](1) Restaurants, cafes, clubs, private clubs, and similar businesses must collect sales tax on tips or gratuities included on a patron's bill [~~and which~~]that are required to be paid[~~, unless the total amount of the gratuity or tip is passed on to the waiter or waitress who served the customer~~].

(a) Tax on the required gratuity is due from a private [~~clubs~~]club, even though the club is not open to the public.

(b) Voluntary tips left on the table or added to a credit card charge slip are not subject to sales tax.

[~~B.~~](2) Cover charges to enter a restaurant, tavern, club or similar facility are taxable as an admission to a place of recreation, amusement or entertainment.

KEY: charities, tax exemptions, religious activities, sales tax
Date of Enactment or Last Substantive Amendment: [~~February 25~~], 2008
Notice of Continuation: March 13, 2007
Authorizing, and Implemented or Interpreted Law: 59-12-103

♦ ♦

Tax Commission, Auditing
R865-20T-13
Calculation of Tax on Moist Snuff Pursuant to Utah Code Ann. Section 59-14-302

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 31533
FILED: 06/06/2008, 10:10

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 59-13-402 requires the commission to promulgate a rule on the calculation of tax on moist snuff when the weight of the moist snuff is in a quantity that is a fractional part of one ounce.

SUMMARY OF THE RULE OR CHANGE: The proposed section indicates how the tax on moist snuff is calculated when the weight of the moist snuff is a fractional part of one ounce.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-14-302

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: None--Any fiscal impacts were taken into account in H.B. 356 (2008). (DAR NOTE: H.B. 356 (2008) is found at Chapter 204, Laws of Utah 2008, and will be effective 07/01/2008.)
❖ LOCAL GOVERNMENTS: None--Any fiscal impacts were taken into account in H.B. 356 (2008).
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--Any fiscal impacts were taken into account in H.B. 356 (2008).

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The proposed section indicates how tax is calculated.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no anticipated impacts. D'Arcy Dixon, Commissioner

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY UT 84134, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Cheryl Lee at the above address, by phone at 801-297-3900, by FAX at 801-297-3919, or by Internet E-mail at clee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

AUTHORIZED BY: D'Arcy Dixon, Commissioner

R865. Tax Commission, Auditing.
R865-20T. Tobacco Tax.
R865-20T-13. Calculation of Tax on Moist Snuff Pursuant to Utah Code Ann. Section 59-14-302.

(1)(a) Tax on moist snuff shall be calculated by multiplying the net weight as listed by the manufacturer, in ounces, of the taxable moist snuff by $0.75.

(b) If the net weight includes a fractional part of an ounce, that fractional part of an ounce shall be included in the calculation.

(2) The calculation described in Subsection (1) shall be carried to three decimal places and rounded up to the nearest cent whenever the third decimal place of the calculation in Subsection (1) is greater than 4.

KEY: taxation, tobacco products
Date of Enactment or Last Substantive Amendment: [~~July 16, 2007~~]
Notice of Continuation: March 19, 2007
Authorizing, and Implemented or Interpreted Law: 59-14-301 through 59-14-303

♦ ♦

End of the Notices of Proposed Rules Section

NOTICES OF
CHANGES IN PROPOSED RULES

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

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

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

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends July 31, 2008. At its option, the agency may hold public hearings.

From the end of the waiting period through October 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 63G-3-303; and Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

The Changes in Proposed Rules Begin on the Following Page.

Health, Health Systems Improvement, Child Care Licensing
R430-50
Residential Certificate Child Care

NOTICE OF CHANGE IN PROPOSED RULE
DAR File No.: 31056
Filed: 06/12/2008, 13:01

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes are in response to comments received from the public and providers regarding the pending proposed rule. These proposed changes seek to minimize the fiscal impact on providers. The changes also reorganize the rule subsections.

SUMMARY OF THE RULE OR CHANGE: This rulemaking action clarifies language and modifies some proposed language based on comments received since the proposed repeal and reenactment was filed for public comment. The comments pointed out areas where the rule would have fiscal impacts on small business that the Department feels can be minimized without compromising the health and safety of children in care. A six-foot fence around swimming pools was proposed. This rule returns to the existing standard of a four-foot fence. In lieu of a fence, the option to have a power safety cover for the pool is allowed in this proposed rule. A four-foot fence around outdoor play areas is required in the current rule if a hazard is present. This rule specifies what the hazards are that trigger the requirement for a fence. Providers have three years to construct the fence. A requirement to maintain a body fluid clean-up kit in the provider's home is removed in this version. In its place, there is a general requirement for safe clean-up of body fluids. In addition, the maximum group size for all children ages birth through 12 present in the home during the time when child care is provided has been eliminated. A new standard of requiring grass or cushioning under a trampoline is added in response to public comment. Most providers already locate trampolines on grass or some other soft surface. For those that do not, they will have one year to meet the requirement. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed repeal and reenactment that was published in the April 1, 2008, 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 repeal and reenactment 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: Title 26, Chapter 39

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The changes do not materially change the state's workload in regulating child care providers and, as such, do not impose additional costs or create savings.

❖ LOCAL GOVERNMENTS: The changes do not materially change the workload for local governments in regulating in-home child care providers, and, as such do not impose additional costs or create savings. Local government does not operate any in-home child care.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: All residentially certified family child care providers are small businesses. Regarding aggregate savings: the removal of a maximum group size allowed will enable providers to enroll additional children in care, which would result in an estimated increase in revenue of approximately $396 per month per child. However, the Department does not know the number of providers who will enroll additional children based on this change, or the number of additional children they may enroll. For these reasons, the Department cannot reasonably estimate the aggregate savings. Regarding aggregate costs: providers who have trampolines accessible to children in care will be required to have grass or protective cushioning underneath the trampoline. Most providers already have grass in their outdoor play area. If they do not, it may be planted for less than $100. However, the Department does not know the number of providers who have trampolines, and the number of those providers who currently do not have grass underneath their trampoline. For these reasons, the Department cannot reasonably estimate the aggregate costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: A licensee who has a trampoline accessible to children that is not placed over grass or protective cushioning will be required to either move the trampoline onto grass, or plant grass is there is not already grass in the outdoor play area. This may be done for less than $100. This cost may be offset by increased revenue of approximately $396 per month per child, for those providers who choose to enroll additional children due to the elimination of the maximum allowed group size.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: All in home child care providers are small businesses. This rule reflects a careful attempt to minimize the cost of regulation to these small businesses. Requirements have been lightened and delays given for compliance. The small additional cost to have grass under a trampoline is necessary to protect children. Overall this rule has a positive fiscal impact on business. David N. Sundwall, MD, Executive Director

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT,
CHILD CARE 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:
Teresa Whiting at the above address, by phone at 801-538-6320, by FAX at 801-538-6325, or by Internet E-mail at TWHITING@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 07/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 09/01/2008

AUTHORIZED BY: David N. Sundwall, Executive Director

R430. Health, Health Systems Improvement, Child Care Licensing.
R430-50. Residential Certificate Child Care.

. . . . . .

R430-50-2. Definitions.

(1) "Body fluid[~~s~~]" means blood, urine, feces, vomit, mucus, saliva, [~~and~~]or breast milk.

(2) "Certificate holder" means the person holding a Department of Health child care certificate.

(3) "Department" means the Utah Department of Health.

(4) "Emotional abuse" means behavior that could impair a child's emotional development, such as threatening, intimidating, humiliating, or demeaning a child, constant criticism, rejection, profane language, and inappropriate physical restraint.

(5) "Health care provider" means a licensed professional with prescriptive authority, such as a physician, nurse practitioner, or physician's assistant.

(6) "Inaccessible to children" means:

(a) locked, such as in a locked room, cupboard or drawer;

(b) secured with a child safety device, such as a child safety cupboard lock or doorknob device;

(c) behind a properly secured child safety gate;

(d) located in a cupboard or on a shelf more than 36 inches above the floor; or

(e) not in any location in a bathroom where a child could reach, including by climbing on a toilet, bathtub, or counter.

(7) "Infant" means a child aged birth through 11 months of age.

(8) "Infectious disease" means an illness that is capable of being spread from one person to another.

(9) "Over-the-counter medication" means medication that can be purchased without a written prescription. This includes herbal remedies.

(10) "Parent" means the parent or legal guardian of a child in care.

(11) "Physical abuse" means causing nonaccidental physical harm to a child.

(12) "Preschooler" means a child aged 2 through 4, and 5 year olds who have not yet started kindergarten.

(13) "Protective cushioning" means stationary play equipment cushioning material that is approved by the American Society for Testing and Materials or the Consumer Products Safety Commission. For example, sand, pea gravel, [~~or~~]engineered wood fibers, shredded tires, or unitary cushioning material, such as rubber mats or poured rubber-like material.

(14) "Protrusion hazard" means a component or piece of hardware that could impale or cut a child if the child falls against it.

(15) "Provider" means the certificate holder or a substitute.

(16) "Related children" means children for whom a provider is the parent, legal guardian, step-parent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.

(17) "Sanitize" means to reduce the number of germs on a surface to such a level that disease transmission by that surface is unlikely.

(18) "School age" means kindergarten and older age children.

(19) "Sexual abuse" means abuse as provided in Utah Code, Section 76-5-404.1.

(20) "Sexually explicit material" means any depiction of sexually explicit conduct, as defined in Utah Code, Section 76-5a-2(8).

(21) "Sleeping equipment" means a cot, mat, crib, bassinet, porta-crib, play pen, or bed.

[~~(21)~~](22) "Stationary play equipment" means equipment such as a climber, a slide, a swing, a merry-go-round, or a spring rocker that is meant to stay in one location when a child uses it. Stationary play equipment does not include:

(a) a sandbox;

(b) a stationary circular tricycle;

(c) a sensory table; or

(d) a playhouse, if the playhouse has no play equipment, such as a slide, swing, ladder, or climber attached to it.

[~~(22)~~](23) "Strangulation hazard" means something on which a child's clothes or something around a child's neck could become caught on a component of playground equipment. For example, bolt ends that extend more than two threads beyond the face of the nut, hardware configurations that form a hook or leave a gap or space between components, and open "S" type hooks.

[~~(23)~~](24) "Supervision" means the function of observing, overseeing, and guiding a child or group of children.

[~~(24)~~](25) "Substitute" means a person who assumes the certificate holder's duties under this rule when the certificate holder is not present. This includes emergency substitutes.

[~~(25)~~](26) "Toddler" means a child aged 12 months but less than 24 months.

[~~(26)~~](27) "Unrelated children" means children who are not related children.

[~~(27)~~](28) "Use zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment, and onto which a child falling from or exiting the equipment could be expected to land.

[~~(28)~~](29) "Volunteer" means a person who provides direct care to a child but does not receive direct or indirect compensation for doing so. A volunteer is not included in the provider to child ratio.

. . . . . .

R430-50-4. Indoor Environment.

(1) The certificate holder shall ensure that any building or playground structure on the premises constructed prior to 1978 which has peeling, flaking, chalking, or failing paint is tested for

lead based paint. If lead based paint is found, the certificate holder shall contact the local health department and follow all required procedures for the remediation of the lead based paint hazard.

(2) There shall be a working toilet and a working handwashing sink accessible to each non-diapered child in care.

(3) Each school age child shall have privacy when using the bathroom.

(4) The home shall be ventilated by mechanical ventilation, or by windows that open and have screens.

(5) The certificate holder shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.

(6) The certificate holder shall maintain adequate light intensity for the safety of children and the type of activity being conducted and shall keep the lighting equipment in good working condition.

(7) For certificate holders who receive [~~a new~~]an initial certificate after 1 [~~July~~]September 2008 there shall be at least 35 square feet of indoor play space for each child, including the providers' related children who are ages four through twelve and not counted in the provider to child ratios.

(8) Indoor space per child may include floor space used for furniture, fixtures, or equipment if the furniture, fixture, or equipment is used:

(a) by children;

(b) for the care of children; or

(c) to store children's materials.

(9) Bathrooms, closets, hallways, and entryways are not included when calculating indoor space for children's use.

. . . . . .

R430-50-6. Outdoor Environment.

(1) There shall be an outdoor play area for children that is safely accessible to children.

(2) [~~The~~]For certificate holders who receive an initial certificate after 1 September 2008, the outdoor play area shall have at least 40 square feet of space for each child using the space at one time.

[~~(3) If the home is located near any safety hazard, such as heavy traffic, a water hazard, livestock, or machinery, the outdoor play area shall be enclosed within a 4 foot high fence or wall, or within a solid natural barrier that is at least 4 feet high. Certificate holders who do not currently have such a fence shall have until 1 July 2011 to meet this requirement.~~

~~(4) If a fence is required, there shall be no gaps in fences greater than 5 inches at any point, nor shall gaps between the bottom of the fence and the ground be more than 5 inches.~~](3) The outdoor play area shall be enclosed within a 4 foot high fence or wall, or within a solid natural barrier that is at least 4 feet high if:

(a) the certificate holder's home is located on a street with a speed limit higher than 25 miles per hour, or within half a mile of a street with a speed limit higher than 25 miles per hour; or

(b) the certificate holder's home is located on a street with more than two lanes of traffic, or within half a mile of a street with more than two lanes of traffic.

(4) If any of the following hazards exist, they must be located behind a 4 foot high fence, wall, or solid barrier that separates the hazard from the children's outdoor play area:

(a) livestock on the certificate holder's property or within 50 yards of the certificate holder's property line;

(b) a water hazard, such as a swimming pool, pond, ditch, lake, reservoir, river, stream, creek, or animal watering trough, on the certificate holder's property or within 100 yards of the certificate holder's property line;

(c) dangerous machinery, such as farm equipment, on the certificate holder's property or within 50 yards of the certificate holder's property line;

(d) a drop-off of more than 5 feet on the certificate holder's property or within 50 yards of the certificate holder's property line; or

(e) barbed wire within 30 feet of the children's play area.

(5) The outdoor play area shall be free of [~~trash, animal excrement, harmful~~]poisonous plants [~~or~~], harmful objects, toxic or hazardous substances, and standing water.

(6) When in use by children, the outdoor play area shall be free of trash and animal excrement.

[~~(6)~~](7) If a wading pool is used:

(a) a provider must be at the pool supervising each child whenever there is water in the pool;

(b) [~~each diapered child must wear a swim diaper or rubber pants while in the pool; and~~]diapered children must wear swim diapers and rubber pants whenever they are in the pool;

(c) the pool shall be emptied and sanitized after each use[~~-~~]; and

(d) before each child in care uses the pool, the certificate holder shall obtain parental permission for the child to use the pool.

[~~(7)~~](8) If there is a swimming pool on the premises that is not emptied after each use:

(a) a provider must be at the pool supervising each child whenever a child in care is using the pool or has access to the pool;

(b) diapered children must wear swim diapers and rubber pants whenever they are in the pool;

[~~(a)~~](c) the certificate holder shall ensure that children are protected from unintended access to the pool in one of the following ways:

(i) the pool is enclosed within a fence or other solid barrier at least [~~six~~]four feet high that is kept locked whenever the pool is not in use by any child in care[~~, except that if the certificate holder currently has a fence at least four feet high surrounding the pool, he or she shall have until 1 July 2011 to meet the six foot fence requirement~~]; or

(ii) the pool has a properly working power safety cover that meets ASTM Standard F1346, and the power safety cover is in place whenever the pool is not in use by any child in care;

[~~(b)~~](d) the certificate holder shall maintain the pool in a safe manner;

[~~(c)~~](e) the certificate holder shall meet all applicable state and local laws and ordinances related to the operation of a swimming pool;[~~ and~~]

[~~(d)~~](f) if the pool is over six feet deep, there shall be a Red Cross certified life guard on duty, or a lifeguard certified by another agency that the certificate holder can demonstrate to the Department to be equivalent to Red Cross certification, any time any child in care has access to the pool[~~-~~]; and

(g) before each child in care uses the pool, the certificate holder shall obtain parental permission for the child to use the pool.

(9) If there is a hot tub on the premises with water in it, the certificate holder shall ensure that children in care are protected from unintended access to the hot tub in one of the following ways:

(a) it shall have a properly working locking cover that is kept locked whenever there is any child in care on the premises; or

(b) it shall be surrounded by a four foot fence.

(10) If a fence is required in Subsections (3), (4) or (9)(b), there shall be no gap greater than five inches in the fence, nor shall any gap between the bottom of the fence and the ground be greater than five inches.

(11) Certificate holders who were issued a certificate prior to 1 September 2008 who do not have a fence as required by Subsections (3), (4), or (9)(b) shall have until 1 September 2011 to meet this requirement.

[~~(8)~~](12) The outdoor play area shall have a shaded area to protect each child from excessive sun and heat.

[~~(9)~~](13) An outdoor source of drinking water, such as individually labeled water bottles, or a pitcher of water and individual cups that are taken outside, shall be available to each child whenever the outside temperature is 75 degrees or higher.

[~~(10)~~](14) If there is a trampoline on the premises that is accessible to any child in care, the certificate holder shall ensure compliance with the following requirements:

(a) A provider must be at the trampoline supervising its use whenever any child in care is on the trampoline.

(b) Only one person at a time may use a trampoline.

(c) No child in care shall be allowed to do somersaults or flips on the trampoline.

(d) The trampoline must have shock absorbing pads that completely cover its springs, hooks, and frame.

(e) The trampoline must be placed at least 6 feet away from any structure, including playground equipment, trees, and fences.

(f) There shall be no ladders near the trampoline.

(g) No child in care shall be allowed to play under an above ground trampoline when it is in use.

(h) A parent of each child in care who uses the trampoline shall sign a Department-approved permission form before his or her child uses the trampoline.

(i) The trampoline shall be placed over grass or six inches of protective cushioning, which shall extend six feet from the perimeter of the trampoline frame.

[~~(11)~~](15) Outdoor stationary play equipment used by any child in care shall be located over grass or 6" of protective cushioning. If sand, gravel, or shredded tires are used as protective cushioning, the certificate holder shall ensure that the material is periodically checked for compaction, and if compacted, shall loosen the material to the required depth.

[~~(12)~~](16) There shall be no openings of a size greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter on any piece of stationary play equipment where the feet of any child in care whose head is entrapped in the opening cannot touch the ground.

[~~(13)~~](17) There shall be no protrusion hazard or strangulation hazard in or adjacent to the use zone of any piece of stationary play equipment.

[~~(14)~~](18) There shall be no crush, shearing, or sharp edge hazards in or adjacent to the use zone of any piece of stationary play equipment.

[~~(15)~~](19) The certificate holder shall ensure that outdoor play areas and outdoor play equipment are maintained to protect each child's safety.

R430-50-7. Personnel.

(1) The certificate holder and all substitutes must:

(a) be at least 18 years of age; and

(b) have knowledge of and comply with all applicable laws and rules.

(2) The certificate holder may make arrangements for a substitute who is at least 18 years old and who is capable of providing care, supervising children, and handling emergencies in the absence of the certificate holder.

(3) Substitutes who care for children an average of 10 hours per week or more shall meet the training, first aid and CPR, and TB screening requirements of this rule.

(4) In an unforeseeable emergency, such as a medical emergency requiring immediate care at a hospital or at an urgent care center or a lost child, the certificate holder may assign an emergency substitute who has not had a criminal background screening to care for the children. The certificate holder may use an emergency substitute for up to 24 hours for each emergency event.

(a) The emergency substitute shall be at least 18 years of age.

(b) The emergency substitute is not required to meet the training, first aid and CPR, and TB screening requirements of this rule.

(c) The emergency substitute cannot be a person who has been convicted of a felony or misdemeanor or has been investigated for abuse or neglect by any federal, state, or local government agency. The emergency substitute must provide a [~~shall make a~~]signed, written declaration to the certificate holder that he or she is not disqualified under this subsection.

(d) During the term of the emergency, the emergency substitute may be counted as a provider for the purpose of maintaining the required provider to child ratios.

(e) The certificate holder shall make reasonable efforts to minimize the time that the emergency substitute has unsupervised contact with the children in care.

(5) Any new non-emergency substitute or volunteer shall receive orientation training prior to assuming caregiving duties. Orientation training shall be documented in the individual's file and shall include the following topics:

(a) specific job responsibilities;

(b) the certificate holder's emergency and disaster plan;

(c) the current child care certificate rules found in Sections R430-50-11 through 24[~~for:~~

~~(i) Supervision and Ratios. R430-50-11;~~

~~(ii) Injury Prevention. R430-50-12;~~

~~(iii) Parent Notification and Child Security. R430-50-13;~~

~~(iv) Child Health. 430-50-14;~~

~~(v) Child Nutrition. R430-50-15;~~

~~(vi) Infection Control. R430-50-16;~~

~~(vii) Medications. R430-50-17;~~

~~(viii) Napping. R430-50-18;~~

~~(ix) Child Discipline. R430-50-19;~~

~~(x) Activities. R430-50-20;~~

~~(xi) Transportation, R430-50-21, if any child in care is transported while in care;~~

~~(xii) Animals, R430-50-22, if there are animals on the premises that are accessible to any child in care;~~

~~(xiii) Diapering, R430-50-23, if the certificate holder accepts diapered children; and~~

~~(xiv) Infant and Toddler Care, R430-50-24, if the certificate holder accepts infants or toddlers for care.~~];

(d) introduction and orientation to the children in care;

(e) a review of the information in the health assessment for each child in care;

(f) procedure for releasing children to authorized individuals only;

(g) proper clean up of body fluids;

(h) signs and symptoms of child abuse and neglect, and legal reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation;

(i) obtaining assistance in emergencies; and

(j) if the certificate holder accepts infants or toddlers for care, orientation training topics shall also include:

(i) preventing shaken baby syndrome and coping with crying babies; and

(ii) preventing sudden infant death syndrome.

(6) Substitutes who care for children an average of 10 hours per week or more and the certificate holder shall complete a minimum of 10 hours of training each year, based on the certificate date. A minimum of 5 hours of the required annual training shall be face-to-face instruction.

(a) Documentation of annual training shall be kept in each individual's file, and shall include the name of the training organization, the date, the training topic, and the total hours or minutes of training.

(b) All non-emergency substitutes who begin employment partway through the certificate year shall complete a proportionate number of training hours based on the number of months worked prior to the certificate renewal date.

(c) Annual training hours shall include the following topics at least once every two years:

(i) a review of all of the current child care certificate rules found in Sections R430-50-11 through 24[~~for:~~

~~(A) Supervision and Ratios. R430-50-11;~~

~~(B) Injury Prevention. R430-50-12;~~

~~(C) Parent Notification and Child Security. R430-50-13;~~

~~(D) Child Health. 430-50-14;~~

~~(E) Child Nutrition. R430-50-15;~~

~~(F) Infection Control. R430-50-16;~~

~~(G) Medications. R430-50-17;~~

~~(H) Napping. R430-50-18;~~

~~(I) Child Discipline. R430-50-19;~~

~~(J) Activities. R430-50-20;~~

~~(K) Transportation, R430-50-21, if any child in care is transported while in care;~~

~~(L) Animals, R430-50-22, if there are animals on the premises that are accessible to any child in care;~~

~~(M) Diapering, R430-50-23, if the certificate holder accepts diapered children; and~~

~~(N) Infant and Toddler Care, R430-50-24, if the certificate holder accepts infants or toddlers for care; and~~];

(ii) signs and symptoms of child abuse and neglect, and legal reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation;

(iii) principles of child growth and development, including development of the brain; and

(iv) positive guidance; and

(d) if the certificate holder accepts infants or toddlers for care, required training topics shall also include:

(i) preventing shaken baby syndrome and coping with crying babies; and

(ii) preventing sudden infant death syndrome.

R430-50-8. Administration.

(1) The certificate holder is responsible for all aspects of the operation and management of the child care program.

(2) The certificate holder shall comply with all federal, state, and local laws and rules pertaining to the operation of a child care program.

(3) The certificate holder shall not engage in or allow conduct that is adverse to the public health, morals, welfare, and safety of the children in care.

(4) The certificate holder shall take all reasonable measures to protect the safety of each child in care. The certificate holder shall not engage in activity or allow conduct that unreasonably endangers any child in care.

(5) Either the certificate holder or a substitute with authority to act on behalf of the certificate holder shall be present whenever there is a child in care.

(6) Each week, the certificate holder shall be present at the home at least 50% of the time that one or more children are in care.

(7) There shall be a working telephone in the home. The certificate holder shall inform the parents of each child in care and the Department of any changes to the certificate holder's telephone number within 48 hours of the change.

(8) The certificate holder shall call the Department within 24 hours to report any fatality, hospitalization, emergency medical response, or injury that requires attention from a health care provider, unless an emergency medical transport was part of a child's individualized medical treatment plan identified by the parent. The certificate holder shall also mail or fax a written report to the Department within five days of the incident.

(9) The certificate holder shall train and supervise all substitutes to:

(a) ensure their compliance with this rule;

(b) ensure they meet the needs of the children in care as specified in this rule; and

(c) ensure that children are not subjected to emotional, physical, or sexual abuse while in care.

R430-50-9. Records.

(1) [~~The certificate holder shall maintain the following records on-site for review by the Department during any inspection:~~]The certificate holder shall maintain on-site for review by the Department during any inspection the following general records:

(a) documentation of the previous 12 months of semi-annual fire drills and annual disaster drills as specified in R430-50-10(7) and R430-50-10(9);

(b) current animal vaccination records as required in R430-50-22[~~(3)~~](2)(b);

(c) a six week record of child attendance, as required in R430-50-13(3);

(d) all current variances granted by the Department;

(e) a current local health department kitchen inspection;

(f) an initial local fire department clearance for all areas of the home being used for care;

(g) approved initial "CBS/MIS Consent and Release of Liability for Child Care" form for all providers, volunteers, and each person age 12 and older who resides in the certificate holder's home;

(h) if the certificate holder has been certified for more than a year, the most recent criminal background "Disclosure Statement"

which includes all providers, volunteers, and each person age 12 and older who resided in the home of the certificate holder at any time since the last certificate renewal; and

(g) if the certificate holder has been certified for more than a year, the most recent "Request for Annual Renewal of CBS/MIS Criminal History Information for Child Care" which includes all providers, volunteers, and each person age 12 and older who resided in the home of the certificate holder at any time since the last certificate renewal[~~;~~].

[~~(h) records for each currently enrolled child, including the following:~~](2) The certificate holder shall maintain on-site for review by the Department during any inspection the following records for each enrolled child:

[~~(i)~~](a) an admission form containing the following information for each child:

[~~(A)~~](i) name;

[~~(B)~~](ii) date of birth;

[~~(C)~~](iii) date of enrollment;

[~~(D)~~](iv) the parent's name, address, and phone number, including a daytime phone number;

[~~(E)~~](v) the names of people authorized by the parent to pick up the child;

[~~(F)~~](vi) the name, address and phone number of a person to be contacted in the event of an emergency if [~~the certificate holder~~]a provider is unable to contact the parent;

[~~(G) the name, address, and phone number of an out-of area/state emergency contact person for the child, if available or a statement from the parent that one is not available; and~~

~~(H)~~](vii) child health information, as required in R430-50-14[~~(5)~~](6); and

[~~(I)~~](viii) current emergency medical treatment and emergency medical transportation releases with the parent's signature;

[~~(ii)~~](b) current immunization records or documentation of a legally valid exemption, as specified in R430-50-14(4) and (5);

[~~(iii)~~](c) a completed transportation permission form, if transportation services are offered to any child in care; and

[~~(iv)~~](d) a six week record of medication permission forms, and a six week record of medications actually administered, as specified in R430-50-17(4) and R430-50-17(6)[~~(e)~~](f), if medications are administered to any child in care[~~; and~~].

[~~(i) records for the certificate holder and each non-emergency substitute, including the following:~~

~~——~~](3) The certificate holder shall maintain on-site for review by the Department during any inspection the following records for the certificate holder and each non-emergency substitute:

[~~(i)~~](a) results of an initial TB screening, as required in R430-50-16(10) and (11)[~~and (12)~~];

[~~(ii) approved initial "CBS/MIS Consent and Release of Liability for Child Care" form;~~

~~(iii) if the certificate holder has been certified for more than a year, the most recent criminal background "Disclosure Statement" for the certificate holder and each individual who has worked for or resided in the home of the certificate holder since the last certificate renewal date;~~

~~(iv)~~](b) orientation training documentation for all non-emergency substitutes as required in R430-50-7(5);

[~~(v)~~](c) annual training documentation for the past two years, for the certificate holder and all non-emergency substitutes, as required in R430-50-7(6)(a); and

[~~(vi)~~](d) current first aid and CPR certification, as required in R430-50-10(2) and R430-50-20[~~(2)~~](3)(d)[~~; and~~].

[~~(j) records for the each volunteer, including the following:~~

~~(i) approved initial "CBS/MIS Consent and Release of Liability for Child Care" form;~~

~~(ii) if the certificate holder has been certified for more than a year, the most recent criminal background "Disclosure Statement" for each individual who has volunteered since the last certificate renewal date; and~~

~~(iii) orientation training documentation as required in R430-90-7(4).~~](4) The certificate holder shall maintain on-site for review by the Department during any inspection orientation training documentation for each volunteer as required in R430-50-7(5).

[~~(2)~~](5) The certificate holder shall ensure that information in any child's file is not released without written parental permission.

R430-50-10. Emergency Preparedness.

(1) The certificate holder shall post the home's street address and emergency numbers, including ambulance, fire, police, and poison control, near the telephone.

(2) The certificate holder and all substitutes who care for children an average of 10 hours per week or more shall maintain a current Red Cross, American Heart Association, or equivalent first aid and infant and child CPR certification.

(3) The certificate holder shall maintain first aid supplies in the home, including at least antiseptic, band-aids, and tweezers.

(4) The certificate holder shall have an emergency and disaster plan which shall include at least the following:

(a) procedures for responding to medical emergencies and serious injuries that require treatment by a health care provider;

(b) procedures for responding to fire, earthquake, flood, power failure, and water failure;

(c) the location of and procedure for emergency shut off of gas, electricity, and water;

(d) procedures to be followed if a child is missing;

(e) the name and phone number of a substitute to be called in the event the certificate holder must leave the home for any reason; and

(f) an emergency relocation site where children will be housed if the certificate holder's home is uninhabitable.

(5) The certificate holder shall ensure that the emergency and disaster plan is followed in the event of an emergency.

(6) The certificate holder shall conduct fire evacuation drills semi-annually. Drills shall include complete exit of all children and staff from the home.

(7) The certificate holder shall document all fire drills, including:

(a) the date and time of the drill;

(b) the number of children participating;

(c) the total time to complete the evacuation; and

(d) any problems encountered.

(8) The certificate holder shall conduct drills for disasters other than fires at least once every 12 months.

(9) The certificate holder shall document all disaster drills, including:

(a) the type of disaster, such as earthquake, flood, prolonged power outage, or tornado;

(b) the date and time of the drill;

(c) the number of children participating;

(d) the total time to complete the evacuation; and

[~~(d)~~](e) any problems encountered.

(10) The certificate holder shall vary the days and times on which fire and other disaster drills are held.

R430-50-11. Supervision and Ratios.

(1) The certificate holder or a substitute shall be physically present on-site and provide care and direct supervision of each child at all times, both indoors and outdoors. Direct care and supervision of each child includes:

(a) awareness of and responsibility for [~~the ongoing activity of~~]each child in care, including being near enough to intervene if needed; and

(b) monitoring of each sleeping infant in one of the following ways:

(i) by placing each infant for sleep in a location where the infant is within sight and hearing of a provider;

(ii) by in person observation of each sleeping infant at least once every 15 minutes; or

(iii) by using a Department-approved infant sleep monitoring device.

(2) A provider shall actively supervise each child during outdoor play to minimize the risk of injury to a child. A provider may allow only school age children to play outdoors while the provider is indoors, if:

(a) a provider can hear the children playing outdoors; and

(b) the children playing outdoors are in an area completely enclosed within a 4 foot high fence or wall, or a solid natural barrier that is at least 4 feet high.

(3) The certificate holder may permit a child to participate in supervised out of the home activities without the certificate holder if:

(a) the certificate holder has prior written permission from the child's parent for the child's participation; and

(b) the certificate holder has clearly assigned the responsibility for the child's whereabouts and supervision to a responsible adult who accepts responsibility for the care and supervision of the child throughout the period of the out of home activity.

(4) [~~The maximum allowed capacity for a residential certificate child care facility is 8 children, including the providers' own children under age 4.~~]The maximum allowed number of children in care at any one time is eight children, including no more than two children under the age of two. The number of children in care includes the providers' own children under the age of four.

(5) The total number of children in care may be further limited based on square footage, as found in Subsection R430-50-4(7) through (9).[~~(5) The certificate holder shall maintain the minimum provider to child ratio and group size in Table 1.~~

~~TABLE 1~~

~~CHILD CARE RATIO AND GROUP SIZE~~

~~# of Providers' Related Children Ages 4-12 Present in the Home During Child Care Hours~~	~~Maximum Allowed Certified Capacity, Including the Providers' Children Under Age 4~~	~~Total # of All Children Through Age 12 in the Home During Child Care Hours~~
~~0 - 2~~	~~8 children, including no more than 2 children under age 2~~	~~10~~
~~3~~	~~7 children, including no more than 2 children under age 2~~	~~10~~
~~4~~	~~6 children, including no more than 2 children under age 2~~	~~10~~
~~5~~	~~5 children, including no more than 2 children under age 2~~	~~10~~
~~6~~	~~4 children, including no more than 2 children under age 2~~	~~10~~
~~7~~	~~3 children, including no more than 2 children under age 2~~	~~10~~
~~8~~	~~2 children~~	~~10~~
~~9~~	~~1 child~~	~~10~~

]

R430-50-12. Injury Prevention.

(1) The certificate holder shall ensure that the home, outdoor play area, toys, and equipment are maintained and used in a safe manner to prevent injury to children.

(2) The certificate holder shall ensure that the indoor environment is free of tripping hazards such as unsecured flooring or cords.

(3) Areas accessible to children shall be free of unstable heavy equipment, furniture, or other items that a child could pull down on himself or herself.

(4) The following items shall be inaccessible to each child in care:

(a) firearms, ammunition, and other weapons on the premises. Firearms shall be stored separately from ammunition, in a locked cabinet or area, unless the use is in accordance with the Utah Concealed Weapons Act, or as otherwise allowed by law;

(b) tobacco, open containers of alcohol, illegal substances, and sexually explicit material;

(c) when in use: portable space heaters, fireplaces, and wood burning stoves;

(d) toxic or hazardous chemicals such as cleaners, insecticides, lawn products, and flammable materials;

(e) poisonous plants;

(f) matches or cigarette lighters;

(g) open flames;

(h) sharp objects, edges, corners, or points which could cut or puncture skin;

(i) for children age 4 and under, [~~strings~~]ropes and cords long enough to encircle a child's neck, such as those found on window blinds or drapery cords;

(j) for children age 4 and under, empty plastic bags large enough for a child's head to fit inside, latex gloves, and balloons; and

(k) for children age 2 and under, toys or other items with a diameter of less than 1-1/4 inch and a length of less than 2-1/4 inches, or objects with removable parts that have a diameter of less than 1-1/4 inch and a length of less than 2-1/4 inches.

(5) The certificate holder shall ensure that all toxic or hazardous chemicals are stored in a container labeled with its contents.

(6) Electrical outlets and surge protectors accessible to children age four and younger shall have protective caps or safety devices when not in use.

(7) Hot water accessible to children shall not exceed 120 degrees Fahrenheit.

(8) High chairs shall have T-shaped safety straps or devices that are used whenever a child is in the chair.

R430-50-13. Parent Notification and Child Security.

(1) The certificate holder shall either post or, upon enrollment, give each parent a copy of the Department's child care guide.

(2) [~~Parents shall have access to the certificate holder's home and outdoor play area at all times their child is in care.~~]At all times when their child is in care, parents shall have access to those areas of

the certificate holder's home and outdoor area that are used for child care.

(3) The certificate holder shall ensure that a daily attendance record is maintained to document each enrolled child's attendance.

(4) Only parents or persons with written authorization from the parent may pick up any child. In an emergency, a provider may accept verbal authorization if the provider can confirm the identity of the person giving the verbal authorization and the identity of the person picking up the child.

(5) The certificate holder shall ensure that parents are informed of every incident, accident, or injury involving their child within 24 hours of occurrence.

(6) In the case of a life threatening incident or injury to a child, or an incident or injury that poses a threat of the loss of vision, hearing, or a limb, a provider shall contact emergency personnel immediately, before contacting the parent. If the parent cannot be reached after emergency personnel have been contacted, a provider shall attempt to contact the child's emergency contact person.

(7) If a child is injured and the injury appears serious but not life threatening, a provider shall contact the parent immediately.

R430-50-14. Child Health.

(1) The certificate holder shall ensure that no child is subjected to physical, emotional, or sexual abuse while in care.

(2) All providers shall follow the reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation found in Utah Code, Section 62A-4a-403 and 62A-4a-411.

(3) The use of tobacco, alcohol, illegal substances, or sexually explicit material on the premises or in vehicles used to transport children is prohibited any time that a child is in care.

(4) The certificate holder shall not [~~admit~~]enroll any child for care without documentation of:

(a) proof of current immunizations, as required by Utah law;

(b) proof of receiving at least one dose of each required vaccine prior to enrollment, and a written schedule to receive all subsequent required vaccinations; or

(c) written documentation of an immunization exemption due to personal, medical or religious reasons.

(5) The certificate holder shall not shall not provide ongoing care to a child without documentation of:

(a) proof of current immunizations as required by Utah law; or

(b) written documentation of an immunization exemption due to personal, medical or religious reasons.

[~~(5)~~](6) The certificate holder shall not admit any child for care without the following written health information from the parent:

(a) allergies;

(b) food sensitivities;

(c) acute and chronic medical conditions;

(d) instructions for special or non-routine daily health care;

(e) current medications; and,

(f) any other special health instructions for the certificate holder.

[~~(6)~~](7) The certificate holder shall ensure that each child's parent reviews, updates, and signs or initials the child's health information at least annually.

. . . . . .

R430-50-16. Infection Control.

(1) All providers and volunteers shall wash their hands with soap and running water at the following times:

(a) before handling or preparing food or bottles;

(b) before and after eating meals and snacks or feeding a child;

(c) after diapering each child;

(d) after using the toilet or helping a child use the toilet;

(e) after coming into contact with any body fluid[~~s~~], including breast milk;

(f) after playing with or handling animals;

(g) when coming in from outdoors; and

(h) before administering medication.

(2) The certificate holder shall ensure that each child washes his or her hands with soap and running water at the following times:

(a) before and after eating meals and snacks;

(b) after using the toilet;

(c) after coming into contact with any body fluid[~~s~~];

(d) after playing with animals; and

(e) when coming in from outdoors.

(3) During outdoor play time, the requirements of [~~s~~]Subsections (1) and (2) may be met by having each provider, volunteer, and child clean his or her hands with individual disposable wet wipes and hand sanitizer.[

~~(4) Only single-use paper towels or individually labeled cloth towels shall be used to dry a child's hands. If cloth towels are used, they shall not be shared by children, providers, or volunteers, and a provider shall wash the towels daily.~~]

[~~(5)~~](4) The certificate holder shall ensure that toilet paper is accessible to each child, and that it is kept in a dispenser.

[~~(6)~~](5) The certificate holder shall ensure that children are taught proper hand washing techniques, and shall oversee hand washing whenever possible.

[~~(7)~~](6) Personal hygiene items such as toothbrushes, or combs and hair accessories that are not sanitized between each use, shall not be shared by children or used by a provider on more than one child. Each child's items shall be stored so that they do not touch another child's items.

[~~(8)~~](7) The certificate holder shall ensure that all washable toys and materials are cleaned and sanitized after each 5 days of use, or more often if needed.

[~~(9)~~](8) Stuffed animals, cloth dolls, and dress-up clothes must be machine washable. Pillows must be machine washable, or have removable covers that are machine washable. The certificate holder shall ensure that all stuffed animals, cloth dolls, dress-up clothes, and pillows or covers are washed after each 5 days of use, or more often if needed.

[~~(10)~~](9) If a water play table or tub is used, the certificate holder shall ensure that the table or tub is washed and sanitized daily, and that each child washes his or her hands prior to engaging in the activity.

[~~(11)~~](10) [~~The certificate holder, and all substitutes who work an average of 10 hours each week or more, shall be tested for tuberculosis (TB) prior to certification or within two weeks of hire by a skin testing method and follow-up acceptable to the Department.~~]All providers who provide care an average of 10 hours or more each week shall be tested for tuberculosis (TB) using a testing method and follow-up that is acceptable to the Department. Testing shall take place prior to certification, and for each substitute within two weeks of assuming duties.

[~~(12)~~](11) If the TB test is positive, the person shall provide documentation from a health care provider detailing:

(a) the reason for the positive reaction;

(b) whether the person is contagious; and

(c) if needed, how the person is being treated.

[~~(13)~~](12) Persons with contagious TB shall not work with, assist with, or be present with any child in care.

[~~(14)~~](13) An individual having a medical condition which contra-indicates a TB test must provide documentation from a health care provider indicating the individual is exempt from testing, with an associated time frame, if applicable. The certificate holder shall maintain this documentation in the individual's file.

[~~(15)~~](14) A provider shall promptly change a child's clothing if the child has a toileting accident.

[~~(16)~~](15) If a child's clothing is wet or soiled from any body fluid[~~s~~], the certificate holder shall ensure that:

(a) [~~the clothing is not rinsed or washed at the certificate holder's home; and~~]the clothing is washed and dried; or

(b) the clothing is placed in a leakproof container, labeled with the child's name, and returned to the parent.

[~~(17)~~](16) If a child uses a potty chair, the certificate holder shall ensure that it is cleaned and sanitized after each use.

[~~(18) The home shall have a portable body fluid clean up kit.~~

~~(a) The certificate holder and all non-emergency substitutes shall know the location of the kit and how to use it.~~

~~(b) The certificate holder shall ensure that the kit us used to clean up spills of body fluids.~~

~~(c) The certificate holder shall restock the kit as needed.~~](17) Except for diaper changes, which are covered in Section R430-50-23, and children's clothing that is soiled from a toileting accident, which is covered in Subsection R430-50-16(15), the certificate holder shall ensure that the following precautions are taken when cleaning up blood, urine, feces, vomit, and breast milk.

(a) The person cleaning up the substance shall wear waterproof gloves;

(b) the surface shall be cleaned using a detergent solution;

(c) the surface shall be rinsed with clean water;

(d) the surface shall be sanitized;

(e) if disposable materials such as paper towels or other absorbent materials are used to clean up the body fluid, they shall be disposed of in a leakproof plastic bag;

(f) if non-disposable materials, such as a cleaning cloth, mop, or re-usable rubber gloves are used to clean up the body fluid, they shall be washed and sanitized before reuse; and

(g) the person cleaning up the fluid shall wash his or her hands after cleaning up the body fluid.

[~~(19)~~](18) The certificate holder shall ensure that any child who is ill with an infectious disease is separated from any other children in care in a safe, supervised location.

[~~(20)~~](19) The certificate holder shall ensure that [~~the~~]a parent[~~s~~] of any child who [~~is ill~~]becomes ill after arrival [~~are~~]is contacted as soon as the illness is observed or suspected.

[~~(21)~~](20) The certificate holder shall ensure that the parents of every child in care are informed when any person in the home or child in care has an infectious disease or parasite. Parents shall be notified the day the infectious disease or parasite is discovered.

. . . . . .

R430-50-20. Activities.

(1) The certificate holder shall offer daily activities to support each child's healthy physical, social-emotional, and cognitive-language development.

(2) The certificate holder shall [~~make~~]ensure that the toys and equipment necessary to carry out the activities are accessible to children.

(3) If off-site activities are offered:

(a) the certificate holder shall obtain parental consent for off-site activities in advance;

(b) the certificate holder shall accompany the children and shall take [~~written emergency information and releases with them for each child in the group, which shall include:~~

~~(i) the child's name;~~

~~(ii) the parent's name and phone number;~~

~~(iii) the name and phone number of a person to notify in the event of an emergency if the parent cannot be contacted;~~

~~(iv) the names of people authorized by the parent to pick up the child; and~~

~~(v) current emergency medical treatment and emergency medical transportation releases;~~]a copy of each child's admission form as specified in R430-50-9(2)(a).

(c) the certificate holder shall maintain required provider to child ratios and direct supervision during the activity;

(d) at least one provider present shall have a current Red Cross, American Heart Association, or equivalent first aid and infant and child CPR certification; and

(e) the certificate holder shall ensure that there is a way for each provider, volunteer, and child to wash his or her hands as specified in R430-50-16(1) and (2). If there is no source of running water, providers, volunteers, and children may clean their hands with individual disposable wet wipes and hand sanitizer.

(4) If off-site swimming activities are offered, providers shall remain with the children during the activity, and lifeguards and pool personnel shall not count toward the provider to child ratio.

R430-50-21. Transportation.

(1) Any vehicle used for transporting any child in care shall:

(a) be enclosed;

(b) be equipped with individual, size appropriate safety restraints, properly installed and in working order, for each child being transported;

(c) be maintained in a safe condition and have a current vehicle registration and safety inspection;

(d) be maintained in a [~~safe and~~]clean condition; and

(e) maintain temperatures between 60-90 degrees Fahrenheit when in use;

(2) The adult transporting any child in care shall:

(a) have and carry with [~~them~~]him or her a current valid Utah driver's license, for the type of vehicle being driven, whenever he or she is transporting any child in care;

(b) have with him or her [~~written emergency contact information for each child in care being transported~~]a copy of each child's admission form as specified in R430-50-9(2)(a);

(c) ensure that each child in care being transported is wearing an appropriate individual safety restraint;

(d) ensure that each child is always attended by an adult while in the vehicle;

(e) ensure that all children remain seated while the vehicle is in motion;

(f) ensure that keys are never left in the ignition when the driver is not in the driver's seat; and[~~,~~]

(g) ensure that the vehicle is locked during transport.

. . . . . .

R430-50-23. Diapering.

If[-] children in care are diapered on the premises, the following applies:

(1) The diapering area shall not be located in a food preparation or eating area.

(2) Children shall not be diapered directly on the floor, or on any surface used for another purpose.

[~~(1)~~](3) The diapering surface shall be smooth, waterproof, and in good repair.

[~~(2)~~](4) A provider shall clean and sanitize the diapering surface after each diaper change, or use a disposable non-permeable diapering surface that is thrown away after each diaper change.

[~~(3)~~](5) The provider shall wash his or her hands after each diaper change.

[~~(4)~~](6) The provider shall place soiled disposable diapers in a container that has a plastic lining and a tightly fitting lid, or place soiled diapers directly in an outdoor garbage container that has a tightly fitting lid or is inaccessible to children.

[~~(5)~~](7) A provider shall daily clean and sanitize indoor containers where soiled diapers are placed.

[~~(6)~~](8) If cloth diapers are used:

(a) they shall not be rinsed at the facility; and

(b) after a diaper change, the provider shall place the cloth diaper directly into a leakproof container that is inaccessible to any child and labeled with the child's name, or a leakproof diapering service container.

[~~(7)~~](9) The certificate holder shall ensure that each child's diaper is checked at least once every two hours, and that each child's diaper is changed promptly if it is wet or soiled. If a child is napping at the end of a two-hour period, the child's diaper must be checked when the child awakes.

R430-50-24. Infant and Toddler Care.

If the certificate holder cares for infants or toddlers, the following applies:

(1) If an infant is not able to sit upright and hold his or her own bottle, a provider shall hold the infant during bottle feeding. Bottles shall not be propped.

(2) A provider shall clean and sanitize high chair trays prior to each use.

(3) A provider shall cut solid foods for infants into pieces no larger than 1/4 inch in diameter. A provider shall cut solid foods for toddlers into pieces no larger than 1/2 inch in diameter.

(4) If there is more than one infant or toddler in care, baby food, [~~infant~~]formula, and breast milk for each [~~infant~~]child that is brought from home must be labeled with the child's name or another unique identifier.

(5) Baby food, [~~infant~~]formula, and breast milk [~~for infants~~]that is brought from home for an individual child's use must be:

(a) kept refrigerated if needed; and

(b) discarded within 24 hours of preparation or opening, except that powdered formula or dry foods which are opened, but are not mixed, are not considered prepared.

(6) The certificate holder shall ensure that [~~infant~~]formula and milk, including breast milk, is discarded after each feeding, or within two hours of initiating a feeding.

(7) To prevent burns, a provider shall shake each heated bottle and test it for temperature before the bottle is fed to a child.

(8) If there is more than one infant or toddler in care, pacifiers and bottles shall be:

(a) labeled with each child's name or another unique identifier; or

(b) washed and sanitized after each individual use, before use by another child.

(9) The certificate holder shall ensure that only one infant or toddler occupies any one piece of equipment, such as a crib, playpen, stroller, or swing, at any time, unless the equipment has individual seats for more than one child.

(10) The certificate holder shall ensure that infants sleep in equipment designed for sleep, such as a crib, bassinet, porta-crib or play pen. The certificate holder shall ensure that infants are not placed to sleep on mats or cots, or in bouncers, swings, car seats, or other similar pieces of equipment, unless the certificate holder has written permission from the infant's parent.

(11) The certificate holder shall ensure that each [~~infant~~]crib used by a child in care:

(a) has a tight fitting mattress;

(b) has slats spaced no more than 2-3/8 inches apart;

(c) has at least 20 inches from the top of the mattress to the top of the crib rail, or at least 12 inches from the top of the mattress to the top of the crib rail if the child using the crib cannot sit up without assistance; and

(d) does not have strings, cords, ropes, or other entanglement hazards strung upon the crib rails or within reach of the child.

(12) The certificate holder shall ensure that infants are not placed on their stomachs for sleeping, unless there is documentation from a health care provider for treatment of a medical condition.

(13) The certificate holder shall ensure that each infant and toddler is allowed to follow his or her own pattern of sleeping and eating.

(14) Infant walkers with wheels are prohibited.

(15) The certificate holder shall ensure that infants and toddlers do not have access to objects made of styrofoam.

(16) The certificate holder shall ensure that a provider responds as promptly as possible to infants and toddlers who are in emotional distress due to conditions such as hunger, fatigue, wet or soiled diapers, fear, teething, or illness.

(17) The certificate holder shall ensure that awake infants and toddlers receive positive physical stimulation and positive verbal interaction with a provider at least once every 20 minutes.

(18) The certificate holder shall ensure that awake infants and toddlers are not confined for more than 30 minutes in one piece of equipment, such as swings, high chairs, cribs, play pens, or other similar pieces of equipment.

(19) The certificate holder shall ensure that mobile infants and toddlers have freedom of movement in a safe area.

(20) To stimulate their healthy development, there shall be safe toys accessible to infants and toddlers. The certificate holder shall ensure that there are enough toys for each child in the group to be engaged in play with toys.

(21) The certificate holder shall ensure that all toys used by infants and toddlers are cleaned and sanitized:

(a) weekly;

(b) after being put in a child's mouth; and

(c) after being contaminated by any body fluid[~~s~~].

KEY: child care facilities
Date of Enactment or Last Substantive Amendment: 2008
Notice of Continuation: July 7, 2003
Authorizing, and Implemented or Interpreted Law: 26-39

Health, Health Systems Improvement, Child Care Licensing
R430-90
Licensed Family Child Care

NOTICE OF CHANGE IN PROPOSED RULE
DAR File No.: 31057
Filed: 06/12/2008, 12:54

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes are in response to comments received from the public and providers regarding the pending proposed rule. These proposed changes seek to minimize the fiscal impact on providers.

SUMMARY OF THE RULE OR CHANGE: This rulemaking action clarifies language and modifies some proposed language based on comments received since the proposed repeal and reenactment was filed for public comment. The comments pointed out areas where the rule would have fiscal impacts on small business that the Department feels can be minimized without compromising the health and safety of children in care. A six-foot fence around swimming pools was proposed. This rule returns to the existing standard of a four-foot fence. In lieu of a fence, the option to have a power safety cover for the pool is allowed in this proposed rule. A four-foot fence around outdoor play areas is required in the current rule. This rule scales back that requirement to only apply if a hazard is present in the vicinity and specifies what those hazards are that trigger the requirement for a fence. Providers have three years to construct the fence. A requirement to maintain a body fluid clean-up kit in the provider's home and car is removed in this rule. In its place, there is a general requirement for safe clean-up of body fluids. In addition, the maximum group size for all children ages birth through 12 present in the home during the time when child care is provided is increased in this rule from 10 to 12 with one caregiver, and from 20 to 24 with two caregivers. A new standard of requiring grass or cushioning under a trampoline is added in response to public comment. Most providers already locate trampolines on grass or some other soft surface. For those that do not, they will have one year to meet the requirement. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed repeal and reenactment that was published in the April 1, 2008, issue of the Utah State Bulletin, on page 16. 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 repeal and reenactment 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: Title 26, Chapter 39

ANTICIPATED COST OR SAVINGS TO:
❖ THE STATE BUDGET: These changes do not materially change the state's workload in regulating licensed family child care providers and, as such, do not impose additional cost or create savings.
❖ LOCAL GOVERNMENTS: The changes do not materially change the workload for local governments in regulating licensed family child care providers, and, as such do not impose additional costs or create savings. Local government does not operate any in-home child care.
❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: All licensed family child care providers are small businesses. Regarding aggregate savings: all licensees will no longer be required to have a four-foot fence surrounding their outdoor play area or a six-foot fence surrounding a swimming pool. Only those licensees who have specific hazards accessible to children will be required to have a fence, and the majority of those providers already have a fence. Installing a fence can cost up to $5,000 per provider, but the Department does not know the number of home child care providers who will no longer be required to install fencing. Also, the increased maximum group size allowed will enable providers to enroll two more children for care, which would result in an average estimated increase in revenue of approximately $792 per month. However, the Department does not know the number of providers who will enroll up to the maximum number of children allowed. For these reasons, the Department cannot reasonably estimate the aggregate savings. Regarding aggregate costs: providers who have trampolines accessible to children in care will be required to have grass or protective cushioning underneath the trampoline. Most providers already have grass in their outdoor play area. If they do not, it may be planted for less than $100. However, the Department does not know the number of providers who have trampolines, and the number of those providers who currently do not have grass underneath their trampoline. For these reasons, the Department cannot reasonably estimate the aggregate costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: A licensee who has a trampoline accessible to children that is not placed over grass or protective cushioning will be required to either move the trampoline onto grass, or plant grass if there is not already grass in the outdoor play area. This may be done for less than $100. This cost may be offset by the savings resulting from some providers no longer being required to have a fenced outdoor play area, which can cost up to $5,000. The cost may also be offset by increased revenue of approximately $792 per month, for those providers who choose to enroll additional children due to the increase in the maximum allowed group size.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: All licensed family child care providers are small businesses. This rule reflects a careful attempt to minimize the cost of regulation to these small

businesses. Requirements have been lightened and delays given for compliance. The small additional cost to have grass under a trampoline is necessary to protect children. Overall, this rule has a positive fiscal impact on business. David N. Sundwall, MD, Executive Director

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

HEALTH
HEALTH SYSTEMS IMPROVEMENT,
CHILD CARE 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:
Teresa Whiting at the above address, by phone at 801-538-6320, by FAX at 801-538-6325, or by Internet E-mail at TWHITING@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 07/31/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 09/01/2008

AUTHORIZED BY: David N. Sundwall, Executive Director

R430. Health, Health Systems Improvement, Child Care Licensing.
R430-90. Licensed Family Child Care.

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R430-90-2. Definitions.

(1) "Body fluid[~~s~~]" means blood, urine, feces, vomit, mucus, saliva, [~~and~~]or breast milk.

(2) "Caregiver" means a person in addition to the licensee or substitute, including an assistant caregiver, who provides direct care to a child in care.

(3) "Department" means the Utah Department of Health.

(4) "Emotional abuse" means behavior that could impair a child's emotional development, such as threatening, intimidating, humiliating, or demeaning a child, constant criticism, rejection, profane language, and inappropriate physical restraint.

(5) "Health care provider" means a licensed professional with prescriptive authority, such as a physician, nurse practitioner, or physician's assistant.

(6) "Inaccessible to children" means:

(a) locked, such as in a locked room, cupboard or drawer;

(b) secured with a child safety device, such as a child safety cupboard lock or doorknob device;

(c) behind a properly secured child safety gate;

(d) located in a cupboard or on a shelf more than 36 inches above the floor; or

(e) not in any location in a bathroom where a child could reach, including by climbing on a toilet, bathtub, or counter.

(7) "Infant" means a child aged birth through 11 months of age.

(8) "Infectious disease" means an illness that is capable of being spread from one person to another.

(9) "Licensee" means the person holding a Department of Health child care license.

(10) "Over-the-counter medication" means medication that can be purchased without a written prescription. This includes herbal remedies.

(11) "Parent" means the parent or legal guardian of a child in care.

(12) "Physical abuse" means causing nonaccidental physical harm to a child.

(13) "Preschooler" means a child aged 2 through 4, and 5 year olds who have not yet started kindergarten.

(14) "Protective cushioning" means stationary play equipment cushioning material that is approved by the American Society for Testing and Materials or the Consumer Products Safety Commission. For example, sand, pea gravel, [~~or~~]engineered wood fibers, shredded tires, or unitary cushioning material, such as rubber mats or poured rubber-like material.

(15) "Protrusion hazard" means a component or piece of hardware that could impale or cut a child if the child falls against it.

(16) "Provider" means the licensee, a substitute, [~~or~~]a caregiver, or an assistant caregiver.

(17) "Related children" means children for whom a provider is the parent, legal guardian, step-parent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.

(18) "Sanitize" means to reduce the number of germs on a surface to such a level that disease transmission by that surface is unlikely.

(19) "School age" means kindergarten and older age children.

(20) "Sexual abuse" means abuse as provided in Utah Code, Section 76-5-404.1.

(21) "Sexually explicit material" means any depiction of sexually explicit conduct, as defined in Utah Code, Section 76-5a-2(8).

(22) "Sleeping equipment" means a cot, mat, crib, bassinet, porta-crib, play pen, or bed.

[~~(22)~~](23) "Stationary play equipment" means equipment such as a climber, a slide, a swing, a merry-go-round, or a spring rocker that is meant to stay in one location when a child uses it. Stationary play equipment does not include:

(a) a sandbox;

(b) a stationary circular tricycle;

(c) a sensory table; or

(d) a playhouse, if the playhouse has no play equipment, such as a slide, swing, ladder, or climber attached to it.

[~~(23)~~](24) "Strangulation hazard" means something on which a child's clothes or something around a child's neck could become caught on a component of playground equipment. For example, bolt ends that extend more than two threads beyond the face of the nut, hardware configurations that form a hook or leave a gap or space between components, and open "S" type hooks.

[~~(24)~~](25) "Substitute" means a person who assumes either the licensee's or a caregiver's duties under this rule when the licensee or caregiver is not present. This includes emergency substitutes.

[~~(25)~~](26) "Supervision" means the function of observing, overseeing, and guiding a child or group of children.

[~~(26)~~](27) "Toddler" means a child aged 12 months but less than 24 months.

[~~(27)~~](28) "Unrelated children" means children who are not related children.

[~~(28)~~](29) "Use zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment, and onto which a child falling from or exiting the equipment could be expected to land.

[~~(29)~~](30) "Volunteer" means a person who provides direct care to a child but does not receive direct or indirect compensation for doing so. A volunteer is not included in the provider to child ratio.

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R430-90-4. Indoor Environment.

(1) The licensee shall ensure that any building or playground structure on the premises constructed prior to 1978 which has peeling, flaking, chalking, or failing paint is tested for lead based paint. If lead based paint is found, the licensee shall contact the local health department and follow all required procedures for the remediation of the lead based paint hazard.

(2) There shall be a working toilet and a working handwashing sink accessible to each non-diapered child in care.

(3) Each school age child shall have privacy when using the bathroom.

(4) The home shall be ventilated by mechanical ventilation or by windows that open and have screens.

(5) The licensee shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.

(6) The licensee shall maintain adequate light intensity for the safety of children and the type of activity being conducted and shall keep the lighting equipment in good working condition.

(7) There shall be at least 35 square feet of indoor play space for each child, including providers' related children who are ages four through twelve[~~not counted in the provider to child ratios~~].

(8) Indoor space per child may include floor space used for furniture, fixtures, or equipment if the furniture, fixture, or equipment is used:

(a) by children;

(b) for the care of children; or

(c) to store children's materials.

(9) Bathrooms, closets, hallways, and entryways are not included when calculating indoor space for children's use.

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R430-90-6. Outdoor Environment.

(1) There shall be an outdoor play area for children that is safely accessible to children.

(2) The outdoor play area shall have at least 40 square feet of space for each child using the space at one time.

[~~(3) The outdoor play area shall be enclosed within a 4 foot high fence or wall or within a solid natural barrier that is at least 4 feet high. Licensees licensed prior to 1 July 2008 who do not have a fence that meets this requirement shall have until 1 July 2011 to meet this requirement.~~

~~(4) There shall be no gaps in fences greater than 5 inches at any point, nor shall gaps between the bottom of the fence and the ground be more than 5 inches.~~](3) The outdoor play area shall be enclosed within a 4 foot high fence or wall, or within a solid natural barrier that is at least 4 feet high if:

(a) the licensee's home is located on a street with a speed limit higher than 25 miles per hour, or within half a mile of a street with a speed limit higher than 25 miles per hour; or

(b) the licensee's home is located on a street with more than two lanes of traffic, or within half a mile of a street with more than two lanes of traffic.

(4) If any of the following hazards exist, they must be located behind a 4 foot high fence, wall, or solid barrier that separates the hazard from the children's outdoor play area:

(a) livestock on the licensee's property or within 50 yards of the licensee's property line;

(b) a water hazard, such as a swimming pool, pond, ditch, lake, reservoir, river, stream, creek, or animal watering trough, on the licensee's property or within 100 yards of the licensee's property line;

(c) dangerous machinery, such as farm equipment, on the licensee's property or within 50 yards of the licensee's property line;

(d) a drop-off of more than five feet on the licensee's property or within 50 yards of the licensee's property line; or

(e) barbed wire within 30 feet of the children's play area.

(5) The outdoor play area shall be free of [~~trash, animal excrement, harmful~~]poisonous plants[~~, or~~], harmful objects, toxic or hazardous substances, and standing water.

(6) When in use by a child in care, the outdoor play area shall be free of trash and animal excrement.

[~~(6)~~](7) If a wading pool is used:

(a) a provider must be at the pool supervising each child whenever there is water in the pool;

(b) [~~each diapered child must wear a swim diaper or rubber pants while in the pool; and~~]diapered children must wear swim diapers and rubber pants whenever they are in the pool;

(c) the pool shall be emptied and sanitized after each use[~~,~~]; and

(d) before each child in care uses the pool, the licensee shall obtain parental permission for the child to use the pool.

[~~(7)~~](8) If there is a swimming pool on the premises that is not emptied after each use:

(a) a provider must be at the pool supervising each child whenever a child in care is using the pool or has access to the pool;

(b) diapered children must wear swim diapers and rubber pants whenever they are in the pool;

[~~(a)~~](c) the licensee shall ensure that children in care are protected from unintended access to the pool in one of the following ways:

(i) the pool is enclosed within a fence or other solid barrier at least [~~six~~]four feet high that is kept locked whenever the pool is not in use by any child in care[~~, except that if the licensee currently has a fence at least four feet high surrounding the pool, he or she shall have until 1 July 2011 to meet the six foot fence requirement~~]; or

(ii) the pool has a properly working power safety cover that meets ASTM Standard F1346, and the power safety cover is in place whenever the pool is not in use by any child in care;

[~~(b)~~](d) the licensee shall maintain the pool in a safe manner;

[~~(c)~~](e) the licensee shall meet all applicable state and local laws and ordinances related to the operation of a swimming pool;[~~ and~~]

[~~(d)~~](f) if the pool is over six feet deep, there shall be a Red Cross certified life guard on duty, or a lifeguard certified by another agency that the licensee can demonstrate to the Department to be

equivalent to Red Cross certification, any time any child in care has access to the pool[-]; and

(g) before each child in care uses the pool, the licensee shall obtain parental permission for the child to use the pool.

(9) If there is a hot tub on the premises with water in it, the licensee shall ensure that children in care are protected from unintended access to the hot tub in one of the following ways:

(a) it shall have a properly working locking cover that is kept locked whenever there is any child in care on the premises; or

(b) it shall be surrounded by a four foot fence.

(10) If a fence is required in Subsections (3), (4) or (9)(b), there shall be no gap greater than five inches in the fence, nor shall any gap between the bottom of the fence and the ground be greater than five inches.

(11) Licensees licensed prior to 1 September 2008 who do not have a fence as required by Subsections (3), (4), or (9)(b) shall have until 1 September 2011 to meet this requirement.

[~~(8)~~](12) The outdoor play area shall have a shaded area to protect each child from excessive sun and heat.

[~~(9)~~](13) An outdoor source of drinking water, such as individually labeled water bottles or a pitcher of water and individual cups that are taken outside, shall be available to each child whenever the outside temperature is 75 degrees or higher.

[~~(10)~~](14) If there is a trampoline on the premises that is accessible to any child in care, the licensee shall ensure compliance with the following requirements:

(a) A provider must be at the trampoline supervising its use whenever any child in care is on the trampoline.

(b) Only one person at a time may use a trampoline.

(c) No child in care shall be allowed to do somersaults or flips on the trampoline.

(d) The trampoline must have shock absorbing pads that completely cover its springs, hooks, and frame.

(e) The trampoline must be placed at least 6 feet away from any structure, including playground equipment, trees, and fences.

(f) There shall be no ladders near the trampoline.

(g) No child in care shall be allowed to play under an above ground trampoline when it is in use.

(h) A parent of each child in care who uses the trampoline shall sign a Department-approved permission form before his or her child uses the trampoline.

(i) The trampoline shall be placed over grass or six inches of protective cushioning, which shall extend six feet from the perimeter of the trampoline frame.

[~~(11)~~](15) Outdoor stationary play equipment used by any child in care shall be located over grass or 6" of protective cushioning, in a 3' use zone.[~~ The licensee shall have until 1 July 2013 to meet the 3' requirement.~~]

(a) If sand, gravel, or shredded tires are used as protective cushioning, the licensee shall ensure that the material is periodically checked for compaction, and if compacted, shall loosen the material to the required depth.

(b) The licensee shall have until 1 September 2013 to meet the 3' use zone requirement.

[~~(12)~~](16) There shall be no openings of a size greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter on or within the use zone of any piece of stationary play equipment where the feet of any child in care whose head is entrapped in the opening cannot touch the ground.

[~~(13)~~](17) There shall be no protrusion hazard or strangulation hazard in or adjacent to the use zone of any piece of stationary play equipment.

[~~(14)~~](18) There shall be no crush, shearing, or sharp edge hazards in or adjacent to the use zone of any piece of stationary play equipment.

[~~(15)~~](19) There shall be no tripping hazards, such as concrete footings, tree stumps, exposed tree roots, or rocks within the use zone of any piece of stationary play equipment.

[~~(16)~~](20) The licensee shall ensure that outdoor play areas and outdoor play equipment are maintained to protect each child's safety.

R430-90-7. Personnel.

(1) The licensee and all substitutes and caregivers must:

(a) be at least 18 years of age; and

(b) have knowledge of and comply with all applicable laws and rules.

(2) All assistant caregivers shall:

(a) be at least 16 years of age;

(b) work under the immediate supervision of a provider who is at least 18 years of age; and

(c) have knowledge of and comply with all applicable laws and rules.

(3) Assistant caregivers may be included in provider to child ratios, but only if there is also another provider present in the home who is 18 years of age or older.

(4) Assistant caregivers shall meet the training and TB screening requirements of this rule.

(5) The licensee may make arrangements for a substitute who is at least 18 years old and who is capable of providing care, supervising children, and handling emergencies in the absence of the licensee.

(6) Substitutes who care for children an average of 10 hours per week or more shall meet the training, first aid and CPR, and TB screening requirements of this rule.

(7) In an unforeseeable emergency, such as a medical emergency requiring immediate care at a hospital or at an urgent care center or a lost child, the licensee may assign an emergency substitute who has not had a criminal background screening to care for the children. A licensee may use an emergency substitute for up to 24 hours for each emergency event.

(a) The emergency substitute shall be at least 18 years of age.

(b) The emergency substitute is not required to meet the training, first aid and CPR, and TB screening requirements of this rule.

(c) The emergency substitute cannot be a person who has been convicted of a felony or misdemeanor or has been investigated for abuse or neglect by any federal, state, or local government agency. The emergency substitute must provide a [~~shall make a~~] signed, written declaration to the licensee that he or she is not disqualified under this subsection.

(d) During the term of the emergency, the emergency substitute may be counted as a provider for the purpose of maintaining the required provider to child ratios.

(e) The licensee shall make reasonable efforts to minimize the time that the emergency substitute has unsupervised contact with the children in care.

(8) Any new caregiver, volunteer, or non-emergency substitute shall receive orientation training prior to assuming caregiving duties.

Orientation training shall be documented in the individual's file and shall include the following topics:

(a) specific job responsibilities;

(b) the licensee's written policies and procedures;

(c) the licensee's emergency and disaster plan;

(d) the current child care licensing rules found in Sections R430-90-11 through 24[~~for:~~

~~(i) Supervision and Ratios. R430-90-11;~~

~~(ii) Injury Prevention. R430-90-12;~~

~~(iii) Parent Notification and Child Security. R430-90-13;~~

~~(iv) Child Health. 430-90-14;~~

~~(v) Child Nutrition. R430-90-15;~~

~~(vi) Infection Control. R430-90-16;~~

~~(vii) Medications. R430-90-17;~~

~~(viii) Napping. R430-90-18;~~

~~(ix) Child Discipline. R430-90-19;~~

~~(x) Activities. R430-90-20;~~

~~(xi) Transportation, R430-90-21, if any child in care is transported while in care;~~

~~(xii) Animals, R430-90-22, if there are animals on the premises that are accessible to any child in care;~~

~~(xiii) Diapering, R430-90-23, if the licensee accepts diapered children; and~~

~~(xiv) Infant and Toddler Care, R430-90-24, if the licensee accepts infants or toddlers for care.~~];

(e) introduction and orientation to the children in care;

(f) a review of the information in the health assessment for each child in care;

(g) procedure for releasing children to authorized individuals only;

(h) proper clean up of body fluids;

(i) signs and symptoms of child abuse and neglect, and legal reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation;

(j) obtaining assistance in emergencies; and

(k) if the licensee accepts infants or toddlers for care, orientation training topics shall also include:

(i) preventing shaken baby syndrome and coping with crying babies; and

(ii) preventing sudden infant death syndrome.

(9) Substitutes who care for children an average of 10 hours per week or more, the licensee, and all caregivers shall complete a minimum of 20 hours of training each year, based on the license date. A minimum of 10 hours of the required annual training shall be face-to-face instruction.

(a) Documentation of annual training shall be kept in each individual's file, and shall include the name of the training organization, the date, the training topic, and the total hours or minutes of training.

(b) All caregivers and non-emergency substitutes who begin employment partway through the license year shall complete a proportionate number of training hours based on the number of months worked prior to the relicense date.

(c) Annual training hours shall include the following topics at least once every two years:

(i) a review of all of the current child care licensing rules found in Sections R430-90-11 through 24[~~for:~~

~~(A) Supervision and Ratios. R430-90-11;~~

~~(B) Injury Prevention. R430-90-12;~~

~~(C) Parent Notification and Child Security. R430-90-13;~~

~~(D) Child Health. 430-90-14;~~

~~(E) Child Nutrition. R430-90-15;~~

~~(F) Infection Control. R430-90-16;~~

~~(G) Medications. R430-90-17;~~

~~(H) Napping. R430-90-18;~~

~~(I) Child Discipline. R430-90-19;~~

~~(J) Activities. R430-90-20;~~

~~(K) Transportation, R430-90-21, if any child in care is transported while in care;~~

~~(L) Animals, R430-90-22, if there are animals on the premises that are accessible to any child in care;~~

~~(M) Diapering, R430-90-23, if the licensee accepts diapered children; and~~

~~(N) Infant and Toddler Care, R430-90-24, if the licensee accepts infants or toddlers for care; and~~];

(ii) a review of the licensee's written policies and procedures and emergency and disaster plan, including any updates;

(iii) signs and symptoms of child abuse and neglect, and legal reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation;

(iv) principles of child growth and development, including development of the brain; and

(v) positive guidance; and

(d) if the licensee accepts infants or toddlers for care, required training topics shall also include:

(i) preventing shaken baby syndrome and coping with crying babies; and

(ii) preventing sudden infant death syndrome.

R430-90-8. Administration.

(1) The licensee is responsible for all aspects of the operation and management of the child care program.

(2) The licensee shall comply with all federal, state, and local laws and rules pertaining to the operation of a child care program.

(3) The licensee shall not engage in or allow conduct that is adverse to the public health, morals, welfare, and safety of the children in care.

(4) The licensee shall take all reasonable measures to protect the safety of each child in care. The licensee shall not engage in activity or allow conduct that unreasonably endangers any child in care.

(5) Either the licensee or a substitute with authority to act on behalf of the licensee shall be present whenever there is a child in care.

(6) Each week, the licensee shall be present at the home at least 50% of the time that one or more children are in care.

(7) There shall be a working telephone in the home. The licensee shall inform the parents of each child in care and the Department of any changes to the licensee's telephone number within 48 hours of the change.

(8) The licensee shall call the Department within 24 hours to report any fatality, hospitalization, emergency medical response, or injury that requires attention from a health care provider, unless an emergency medical transport was part of a child's individualized medical treatment plan identified by the parent. The licensee shall also mail or fax a written report to the Department within five days of the incident.

(9) The licensee shall establish, and [~~all non-emergency substitutes, caregivers, and volunteers shall follow~~]shall ensure that all providers follow, written policies and procedures for the health and safety of each child in care. The written policies and procedures shall address at least the following areas:

(a) direct supervision and protection of each child at all times, including when he or she is sleeping, outdoors, and during off-site activities;

(b) procedures to account for each child's attendance and whereabouts;

(c) [~~the use of television, movies, and video or computer games, including what industry ratings and television programs the licensee allows;~~]the licensee's policy and practices regarding sick children, and whether they are allowed to be in care;

(d) recognizing early signs of illness and determining when there is a need for exclusion from care;

(e) discipline of children, including behavioral expectations of children and discipline methods used;

(f) transportation to and from off-site activities, or to and from home, if the licensee offers these services; and

(g) if the program offers transportation to or from school, policies addressing:

(i) how long a child will be unattended by a provider before school starts and after school lets out;

(ii) what steps will be taken if a child fails to meet the vehicle; and

(iii) how and when parents will be notified of delays or problems with transportation to and from school.

(10) The licensee shall ensure that the written policies and procedures are available for review by parents and the Department during business hours.

(11) The licensee shall train and supervise all caregivers and substitutes to:

(a) ensure their compliance with this rule;

(b) ensure they meet the needs of the children in care as specified in this rule; and

(c) ensure that children are not subjected to emotional, physical, or sexual abuse while in care.

R430-90-9. Records.

(1) [~~The licensee shall maintain the following records on-site for review by the Department during any inspection:~~]The licensee shall maintain on-site for review by the Department during any inspection the following general records:

(a) documentation of the previous 12 months of quarterly fire drills and annual disaster drills as specified in R430-90-10(9) and R430-90-10(11);

(b) current animal vaccination records as required in R430-90-22[~~(3)~~](2)(b);

(c) a six week record of child attendance, including sign-in and sign-out records, as required in R430-90-13(3)[~~and (4)~~];

(d) all current variances granted by the Department;

(e) a current local health department kitchen inspection;

(f) an initial local fire department clearance for all areas of the home being used for care;

(g) approved initial "CBS/MIS Consent and Release of Liability for Child Care" form for all providers, volunteers, and each person age 12 and older who resides in the licensee's home;

(h) if the licensee has been licensed for more than a year, the most recent criminal background "Disclosure Statement" which includes all providers, volunteers, and each person age 12 and older who resided in the home of the licensee at any time since the last license renewal; and

[~~(g)~~](i) if the licensee has been licensed for more than a year, the most recent "Request for Annual Renewal of CBS/MIS Criminal History Information for Child Care" which includes all providers, volunteers, and each person age 12 and older who resided in the home of the licensee at any time since the last license renewal[~~;~~].

[~~(h) records for each currently enrolled child, including the following:~~](2) The licensee shall maintain on-site for review by the Department during any inspection the following records for each enrolled child:

[~~(i)~~](a) an admission form containing the following information for each child:

[~~(A)~~](i) name;

[~~(B)~~](ii) date of birth;

[~~(C)~~](iii) date of enrollment;

[~~(D)~~](iv) the parent's name, address, and phone number, including a daytime phone number;

[~~(E)~~](v) the names of people authorized by the parent to pick up the child;

[~~(F)~~](vi) the name, address and phone number of a person to be contacted in the event of an emergency if a provider is unable to contact the parent;

[~~(G) the name, address, and phone number of an out-of area/state emergency contact person for the child, if available, or a statement from the parent that one is not available; and~~

~~(H)~~](vii) child health information, as required in R430-90-14[~~(5)~~](6); and

[~~(I)~~](viii) current emergency medical treatment and emergency medical transportation releases with the parent's signature;

[~~(ii)~~](b) current immunization records or documentation of a legally valid exemption, as specified in R430-90-14(4) and (5);

[~~(iii)~~](c) a completed transportation permission form, if transportation services are offered to any child in care;

[~~(iv)~~](d) a six week record of medication permission forms, and a six week record of medications actually administered as specified in R430-90-17(4) and R430-90-17(6)[~~(e)~~](f), if medications are administered to any child in care; and

[~~(v)~~](e) a six week record of incident, accident, and injury reports[~~; and~~].

[~~(i) records for the licensee and each non-emergency substitute and caregiver, including the following:~~](3) The licensee shall maintain on-site for review by the Department during any inspection the following records for the licensee and each non-emergency substitute and caregiver:

[~~(i)~~](a) results of an initial TB screening, as required in R430-90-16(11) and (12);

[~~(ii) approved initial "CBS/MIS Consent and Release of Liability for Child Care" form;~~

~~(iii) if the licensee has been licensed for more than a year, the most recent criminal background "Disclosure Statement" for the licensee and each individual who has worked for or resided in the home of the licensee since the last license renewal date;~~

~~(iv)~~](b) orientation training documentation for all non-emergency substitutes and caregivers as required in R430-90-7(8);

[~~(v)~~](c) annual training documentation for the past two years, for the licensee and all non-emergency substitutes and caregivers, as required in R430-90-7(9)(a); and

[~~(vi)~~](d) current first aid and CPR certification, as required in R430-90-10(2), R430-90-20(3)(d), and R430-90-21(2)[~~; and~~].

[~~(j) records for the each volunteer, including the following:~~

~~(i) approved initial "CBS/MIS Consent and Release of Liability for Child Care" form;~~

~~(ii) if the licensee has been licensed for more than a year, the most recent criminal background "Disclosure Statement" for each~~

~~individual who has volunteered since the last license renewal date; and~~

~~(iii) orientation training documentation as required in R430-90-7(8).~~](4) The licensee shall maintain on-site for review by the Department during any inspection orientation training documentation for each volunteer as required in R430-90-7(8).

[~~(2)~~](5) The licensee shall ensure that information in any child's file is not released without written parental permission.

R430-90-10. Emergency Preparedness.

(1) The licensee shall post the home's street address and emergency numbers, including ambulance, fire, police, and poison control, near the telephone.

(2) The licensee and all substitutes who care for children an average of 10 hours per week or more shall maintain a current Red Cross, American Heart Association, or equivalent first aid and infant and child CPR certification.

(3) The licensee shall maintain first-aid supplies in the home, including at least antiseptic, band-aids, and tweezers.

(4) The licensee shall have a written emergency and disaster plan which shall include at least the following:

(a) procedures for responding to medical emergencies and serious injuries that require treatment by a health care provider;

(b) procedures for responding to fire, earthquake, flood, power failure, and water failure;

(c) the location of and procedure for emergency shut off of gas, electricity, and water;

(d) procedures to be followed if a child is missing;

(e) the name and phone number of a substitute to be called in the event the licensee must leave the home for any reason;

(f) an emergency relocation site where children will be housed if the licensee's home is uninhabitable;

(g) provisions for emergency supplies, including at least food, water, a first aid kit, and diapers if the licensee accepts diapered children for care; and

(h) procedures for ensuring adequate supervision of children during emergency situations, including while at the emergency relocation site.

(5) The licensee shall ensure that the emergency and disaster plan is followed in the event of an emergency.

(6) The licensee shall review the emergency and disaster plan annually, and update it as needed. The licensee shall note the date of reviews and updates to the plan on the plan.

(7) The emergency and disaster plan shall be available for immediate review by parents and the Department during business hours.

(8) The licensee shall conduct fire evacuation drills quarterly. Drills shall include complete exit of all children and staff from the home.

(9) The licensee shall document all fire drills, including:

(a) the date and time of the drill;

(b) the number of children participating;

(c) the total time to complete the evacuation; and

(d) any problems encountered.

(10) The licensee shall conduct drills for disasters other than fires at least once every 12 months.

(11) The licensee shall document all disaster drills, including:

(a) the type of disaster, such as earthquake, flood, prolonged power outage, or tornado;

(b) the date and time of the drill;

(c) the number of children participating;

(d) the total time to complete the evacuation; and

[~~(d)~~](e) any problems encountered.

(12) The licensee shall vary the days and times on which fire and other disaster drills are held.

R430-90-11. Supervision and Ratios.

(1) The licensee or a substitute shall be physically present on-site and provide care and direct supervision of each child at all times, both indoors and outdoors. Direct care and supervision of each child includes:

(a) awareness of and responsibility for [~~the ongoing activity of~~]each child in care, including being near enough to intervene if needed; and

(b) monitoring of each sleeping infant in one of the following ways:

(i) by placing each infant for sleep in a location where the infant is within sight and hearing of a provider;

(ii) by in person observation of each sleeping infant at least once every 15 minutes; or

(iii) by using a Department-approved infant sleep monitoring device.

(2) A provider shall actively supervise each child during outdoor play to minimize the risk of injury to a child. A provider may allow only school age children to play outdoors while the provider is indoors, if:

(a) a provider can hear the children playing outdoors; and

(b) the children playing outdoors are in an area completely enclosed within a 4 foot high fence or wall, or a solid natural barrier that is at least 4 feet high.

(3) The licensee may permit a child to participate in supervised out of the home activities without the licensee if:

(a) the licensee has prior written permission from the child's parent for the child's participation; and

(b) the licensee has clearly assigned the responsibility for the child's whereabouts and supervision to a responsible adult who accepts responsibility for the care and supervision of the child throughout the period of the out of home activity.

(4) The maximum allowed capacity for a licensed family child care facility is 16 children, including providers' own children under age [~~4~~]four.

[~~(5) The licensee shall maintain the minimum provider to child ratios and group sizes in Table 1 and Table 2.~~](5) The licensee shall maintain a provider to child ratio of one provider for up to eight children in care, and two providers for nine to sixteen children in care.

(a) Children in care include the providers' own children under the age of four.

(b) Providers who are included in the provider to child ratio must meet all of the requirements of this rule.

(6) There shall be no more than four children under the age of two in care with two providers; and no more than two children under the age of two in care with one provider, except that if there are six or fewer children in care, there may be up to three children under the age of two in care.

(7) The total number of children in care may be further limited based on square footage, as found in Subsections R430-90-4(7) through (9).

(8) The licensee shall not exceed the maximum group sizes found in Table 1 and Table 2.

~~[TABLE 1~~

~~CHILD CARE RATIO AND GROUP SIZE WITH 1 PROVIDER~~

~~# of Providers' Related Children Ages 4-12 Present in the Home During Child Care Hours~~	~~Maximum Allowed Licensed Capacity, Including the Providers' Children Under Age 4~~	~~Total # of All Children Through Age 12 in the Home During Child Care Hours~~
~~0 - 2~~	~~8 children, including no more than 2 children under age 2~~	~~10~~
~~0 - 2~~	~~6 children, including no more than 3 children under age 2~~	~~8~~
~~3~~	~~7 children, including no more than 2 children under age 2~~	~~10~~
~~4~~	~~6 children, including no more than 2 children under age 2~~	~~10~~
~~5~~	~~5 children, including no more than 2 children under age 2~~	~~10~~
~~6~~	~~4 children, including no more than 2 children under age 2~~	~~10~~
~~7~~	~~3 children, including no more than 2 children under age 2~~	~~10~~
~~8~~	~~2 children~~	~~10~~
~~9~~	~~1 child~~	~~10~~

~~TABLE 2~~

~~CHILD CARE RATIO AND GROUP SIZE WITH 2 PROVIDERS~~

~~# of Providers' Related Children Ages 4-12 Present in the Home During Child Care Hours~~	~~Maximum Allowed Licensed Capacity, Including the Providers' Children Under Age 4~~	~~Total # of All Children Through Age 12 in the Home During Child Care Hours~~
~~0 - 4~~	~~16 children, including no more than 4 children under age 2~~	~~20~~
~~5~~	~~15 children, including no more than 4 children under age 2~~	~~20~~
~~6~~	~~14 children, including no more than 4 children under age 2~~	~~20~~
~~7~~	~~13 children, including no more than 4 children under age 2~~	~~20~~
~~8~~	~~12 children, including no more than 4 children under age 2~~	~~20~~
~~9~~	~~11 children, including no more than 4 children under age 2~~	~~20~~
~~10~~	~~10 children, including no more than 4 children under age 2~~	~~20~~
~~11~~	~~9 children, including no more than 4 children under age 2~~	~~20~~
~~12~~	~~8 children, including no more than 4 children under age 2~~	~~20~~
~~13~~	~~7 children, including no more than 4 children under age 2~~	~~20~~
~~14~~	~~6 children, including no more than 4 children under age 2~~	~~20~~
~~15~~	~~5 children, including no more than 4 children under age 2~~	~~20~~
~~16~~	~~4 children~~	~~20~~
~~17~~	~~3 children~~	~~20~~
~~18~~	~~2 children~~	~~20~~
~~19~~	~~1 child~~	~~20~~]

TABLE 1

MAXIMUM GROUP SIZE WITH 1 PROVIDER

# of Providers' Related Children Ages 4-12 Present in the Home During Child Care Hours	Maximum Allowed Number of Children in Care, Including the Providers' Children Under Age 4	Total # of All Children Through Age 12 Present in the Home During Child Care Hours
0-4	8 children	12
5	7 children	12
6	6 children	12
7	5 children	12
8	4 children	12
9	3 children	12
10	2 children	12
11	1 child	12

TABLE 2

MAXIMUM GROUP SIZE WITH 2 PROVIDERS

# of Providers' Related Children Ages 4-12 Present in the Home During Child Care Hours	Maximum Allowed Number of Children in Care, Including the Providers' Children Under Age 4	Total # of All Children Through Age 12 Present in the Home During Child Care Hours
0-8	16 children	24
9	15 children	24
10	14 children	24
11	13 children	24
12	12 children	24
13	11 children	24
14	10 children	24
15	9 children	24
16	8 children	24
17	7 children	24
18	6 children	24
19	5 children	24
20	4 children	24
21	3 children	24
22	2 children	24
23	1 child	24

R430-90-12. Injury Prevention.

(1) The licensee shall ensure that the home, outdoor play area, toys, and equipment are maintained and used in a safe manner to prevent injury to children.

(2) The licensee shall ensure that the indoor environment is free of tripping hazards such as unsecured flooring or cords.

(3) Areas accessible to children shall be free of unstable heavy equipment, furniture, or other items that a child could pull down on himself or herself.

(4) The following items shall be inaccessible to each child in care:

(a) firearms, ammunition, and other weapons on the premises. Firearms shall be stored separately from ammunition, in a locked cabinet or area, unless the use is in accordance with the Utah Concealed Weapons Act, or as otherwise allowed by law;

(b) tobacco, open containers of alcohol, illegal substances, and sexually explicit material;

(c) when in use: portable space heaters, fireplaces, and wood burning stoves;

(d) toxic or hazardous chemicals such as cleaners, insecticides, lawn products, and flammable materials;

(e) poisonous plants;

(f) matches or cigarette lighters;

(g) open flames;

(h) sharp objects, edges, corners, or points which could cut or puncture skin;

(i) for children age 4 and under, [~~strings~~]ropes and cords long enough to encircle a child's neck, such as those found on window blinds or drapery cords;

(j) for children age 4 and under, empty plastic bags large enough for a child's head to fit inside, latex gloves, and balloons; and

(k) for children age 2 and under, toys or other items with a diameter of less than 1-1/4 inch and a length of less than 2-1/4 inches, or objects with removable parts that have a diameter of less than 1-1/4 inch and a length of less than 2-1/4 inches.

(5) The licensee shall ensure that all toxic or hazardous chemicals are stored in a container labeled with its contents.

(6) Electrical outlets and surge protectors accessible to children age four and younger shall have protective caps or safety devices when not in use.

(7) Hot water accessible to children shall not exceed 120 degrees Fahrenheit.

(8) High chairs shall have T-shaped safety straps or devices that are used whenever a child is in the chair.

R430-90-13. Parent Notification and Child Security.

(1) The licensee shall either post or, upon enrollment, give each parent a copy of the Department's child care guide.

(2) [~~Parents shall have access to the licensee's home and outdoor play area at all times their child is in care.~~]At all times when their child is in care, parents shall have access to those areas of the licensee's home and outdoor area that are used for child care.

[~~(3) The licensee shall ensure that a daily attendance record is maintained to document each enrolled child's attendance.~~

~~(4)~~](3) [~~A provider or parent shall sign~~]The licensee shall ensure that either a provider or the parent signs each child in and out daily, including the date and the time the child arrives and leaves and when the child goes to and returns from school, and the signature or initials of the person signing the child in and out.

[~~(5)~~](4) Only parents or persons with written authorization from the parent may pick up any child. In an emergency, a provider may accept verbal authorization if the provider can confirm the identity of the person giving the verbal authorization and the identity of the person picking up the child.

[~~(6)~~](5) The licensee shall ensure that parents are given a written report of every serious incident, accident, or injury involving their child on the day of occurrence. A provider and the person picking up the child shall sign the report to acknowledge that he or she has received it.

[~~(7)~~](6) The licensee shall ensure that parents are notified verbally of minor accidents and injuries on the day of occurrence.

[~~(8)~~](7) In the case of a life threatening incident or injury to a child, or an incident or injury that poses a threat of the loss of vision, hearing, or a limb, a provider shall contact emergency personnel immediately, before contacting the parent. If the parent cannot be reached after emergency personnel have been contacted, a provider shall attempt to contact the child's emergency contact person.

[~~(9)~~](8) If a child is injured and the injury appears serious but not life threatening, a provider shall contact the parent immediately, in addition to giving the parent a written report of the injury.

R430-90-14. Child Health.

(1) The licensee shall ensure that no child is subjected to physical, emotional, or sexual abuse while in care.

(2) All providers shall follow the reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation found in Utah Code, Section 62A-4a-403 and 62A-4a-411.

(3) The use of tobacco, alcohol, illegal substances, or sexually explicit material on the premises or in vehicles used to transport children is prohibited any time that a child is in care.

(4) The licensee shall not [~~admit~~]enroll any child for care without documentation of:

(a) proof of current immunizations as required by Utah law;

(b) proof of receiving at least one dose of each required vaccine prior to enrollment, and a written schedule to receive all subsequent required vaccinations; or

(c) written documentation of an immunization exemption due to personal, medical or religious reasons.

(5) The licensee shall not provide ongoing care to a child without documentation of:

(a) proof of current immunizations as required by Utah law; or

(b) written documentation of an immunization exemption due to personal, medical or religious reasons.

[~~(5)~~](6) The licensee shall not admit any child for care without the following written health information from the parent:

(a) allergies;

(b) food sensitivities;

(c) acute and chronic medical conditions;

(d) instructions for special or non-routine daily health care;

(e) current medications; and

(f) any other special health instructions for the licensee.

[~~(6)~~](7) The licensee shall ensure that each child's parent reviews, updates, and signs or initials the child's health information at least annually.

R430-90-15. Child Nutrition.

(1) If food service is provided:

(a) The licensee shall ensure that his or her meal service complies with local health department food service regulations.

(b) Foods served by license holders not currently participating and in good standing with the USDA Child and Adult Care Food Program (CACFP) shall comply with the nutritional requirements of the CACFP. The licensee shall either use standard Department-approved menus, current menus provided by the CACFP, or menus approved by a registered dietician. Dietitian approval shall be noted and dated on the menus, and shall be current within the past 5 years.

(c) License holders not currently participating and in good standing with the CACFP shall keep a [~~six~~]one week record of foods served at each meal or snack.

(d) The current week's menu shall be available for parent review.

(2) The licensee shall ensure that each child in care is offered a meal or a snack at least once every three hours.

(3) Providers shall serve each child's food on dishes, napkins, or sanitary high chair trays, except for individual serving size items,

such as crackers, if they are placed directly in the child's hands. Providers shall not place food on a bare table.

(4) The licensee shall ensure that food and drink brought in by parents for an individual child's use is labeled with the child's name, and refrigerated if needed.

R430-90-16. Infection Control.

(1) All providers and volunteers shall wash their hands with soap and running water at the following times:

(a) before handling or preparing food or bottles;

(b) before and after eating meals and snacks or feeding a child;

(c) after diapering each child;

(d) after using the toilet or helping a child use the toilet;

(e) after coming into contact with any body fluid[~~s~~], including breast milk;

(f) after playing with or handling animals;

(g) when coming in from outdoors; and

(h) before administering medication.

(2) The licensee shall ensure that each child washes his or her hands with soap and running water at the following times:

(a) before and after eating meals and snacks;

(b) after using the toilet;

(c) after coming into contact with any body fluid[~~s~~];

(d) after playing with animals; and

(e) when coming in from outdoors.

(3) During outdoor play time, the requirements of [~~s~~]Subsections (1) and (2) may be met by having each provider, volunteer, and child clean his or her hands with individual disposable wet wipes and hand sanitizer.

(4) Only single-use paper towels or individually labeled cloth towels shall be used to dry a child's hands. If cloth towels are used, they shall not be shared by children, providers, or volunteers, and a provider shall wash the towels daily.

(5) The licensee shall ensure that toilet paper is accessible to each child, and that it is kept in a dispenser.

(6) The licensee shall ensure that children are taught proper hand washing techniques, and shall oversee hand washing whenever possible.

(7) Personal hygiene items such as toothbrushes, or combs and hair accessories that are not sanitized between each use, shall not be shared by children or used by a provider on more than one child. Each child's items shall be stored so that they do not touch another child's items.

(8) The licensee shall ensure that all washable toys and materials are cleaned and sanitized after each 5 days of use, or more often if needed.

(9) Stuffed animals, cloth dolls, and dress-up clothes must be machine washable. Pillows must be machine washable, or have removable covers that are machine washable. The licensee shall ensure that all stuffed animals, cloth dolls, dress-up clothes, and pillows or covers are washed after each 5 days of use, or more often if needed.

(10) If a water play table or tub is used, the licensee shall ensure that the table or tub is washed and sanitized daily, and that each child washes his or her hands prior to engaging in the activity.

(11) [~~The licensee, all substitutes who work an average of 10 hours each week or more, and all caregivers shall be tested for tuberculosis (TB) prior to licensure or within two weeks of hire by a skin testing method and follow-up acceptable to the Department.~~]All providers who provide care an average of 10 hours or more each week shall be tested for tuberculosis (TB) using a testing method and follow-up that is acceptable to the Department. Testing shall take place prior to licensure, and for each substitute or caregiver within two weeks of assuming duties.

(12) If the TB test is positive, the person shall provide documentation from a health care provider detailing:

(a) the reason for the positive reaction;

(b) whether the person is contagious; and

(c) if needed, how the person is being treated.

(13) Persons with contagious TB shall not work with, assist with, or be present with any child in care.

(14) An individual having a medical condition which contra-indicates a TB test must provide documentation from a health care provider indicating the individual is exempt from testing, with an associated time frame if applicable. The licensee shall maintain this documentation in the individual's file.

(15) A provider shall promptly change a child's clothing if the child has a toileting accident.

(16) If a child's clothing is wet or soiled from any body fluid[~~s~~], the licensee shall ensure that:

(a) [~~the clothing is not rinsed or washed at the licensee's home; and~~]the clothing is washed and dried; or

(b) the clothing is placed in a leakproof container, labeled with the child's name, and returned to the parent.

(17) If a child uses a potty chair, the licensee shall ensure that it is cleaned and sanitized after each use.

[~~(18) The home shall have a portable body fluid clean up kit.~~

~~(a) The licensee, all non-emergency substitutes, and all caregivers shall know the location of the kit and how to use it.~~

~~(b) The licensee shall ensure that the kit us used to clean up spills of body fluids.~~

~~(c) The licensee shall restock the kit as needed.~~](18) Except for diaper changes, which are covered in Section R430-90-23, and children's clothing that is soiled from a toileting accident, which is covered in Subsection R430-90-16(16), the licensee shall ensure that the following precautions are taken when cleaning up blood, urine, feces, vomit, and breast milk.

(a) The person cleaning up the substance shall wear waterproof gloves;

(b) the surface shall be cleaned using a detergent solution;

(c) the surface shall be rinsed with clean water;

(d) the surface shall be sanitized;

(e) if disposable materials such as paper towels or other absorbent materials are used to clean up the body fluid, they shall be disposed of in a leakproof plastic bag;

(f) if non-disposable materials, such as a cleaning cloth, mop, or re-usable rubber gloves are used to clean up the body fluid, they shall be washed and sanitized before reuse; and

(g) the person cleaning up the fluid shall wash his or her hands after cleaning up the body fluid.

(19) The licensee shall ensure that any child who is ill with an infectious disease is separated from any other children in care in a safe, supervised location.

(20) The licensee shall ensure that [~~the~~]a parent[~~s~~] of any child who [~~is ill~~]becomes ill after arrival [~~are~~]is contacted as soon as the illness is observed or suspected.

(21) The licensee shall ensure that the parents of every child in care are informed when any person in the home or child in care has an infectious disease or parasite. Parents shall be notified the day the infectious disease or parasite is discovered.

R430-90-17. Medications.

(1) Only a provider trained in the administration of medications may administer medication to a child in care.

(2) All over-the-counter and prescription medications shall:

(a) be labeled with the child's name;

(b) be kept in the original or pharmacy container;

(c) have the original label; and,

(d) have child-safety caps.

(3) The licensee shall ensure that all non-refrigerated over-the-counter and prescription medication is inaccessible to children. The licensee shall ensure that all refrigerated over-the-counter and prescription medication is placed in a waterproof container to avoid contamination between food and medication.

(4) The licensee shall have a written medication permission form completed and signed by the parent prior to the administering of any over-the-counter or prescription medication brought in by a parent for his or her child. The permission form must include:

(a) the name of the medication;

(b) written instructions for administration; including:

(i) the dosage;

(ii) the method of administration;

(iii) the times and dates to be administered; and

(iv) the disease or condition being treated; and

(c) the parent's [~~dated~~]signature and the date signed.

(5) If the licensee keeps over-the-counter medication that is not brought in by a parent for his or her child's use, the medication shall not be administered to any child without prior parental consent for each instance it is given. The consent must be either:

(a) prior written consent; or

(b) oral consent for which a provider documents in writing the date and time of the consent, and which the parent signs upon picking up the child.

(6) When administering medication, the person administering the medication shall:

(a) wash his or her hands;

(b) if the parent supplies the medication, check the medication label to confirm the child's name;

(c) if the parent supplies the medication, compare the instructions on the parent release form with the directions on the prescription label or product package to ensure that a child is not given a dosage larger than that recommended by the health care provider or the manufacturer;

(d) if the licensee supplies the medication, check the product package to ensure that a child is not given a dosage larger than that recommended by the manufacturer;

(e) administer the medication; and

(f) immediately record the following information:

(i) the date, time, and dosage of the medication given;

(ii) the signature or initials of the provider who administered the medication; and,

(iii) any errors in administration or adverse reactions.

(7) The licensee shall ensure that any adverse reaction to a medication or any error in administration is reported to the parent immediately upon recognizing the error or reaction, or after notifying emergency personnel if the reaction is life threatening.

(8) The licensee shall not keep medications in the home for any child who is no longer enrolled.

R430-90-18. Napping.

(1) The licensee shall ensure that children in care are offered a daily opportunity for rest or sleep in an environment that provides a low noise level and freedom from distractions.

(2) If the licensee has a scheduled nap time for children, it shall not exceed two hours daily.

(3) If [~~mats, cots, or other~~]a child uses sleeping equipment, sleeping bags, a pillow, a pillow case, sheets, or blankets while in care[~~ is provided~~], the licensee shall meet the following requirements:

(a) The licensee shall maintain sleeping equipment in good repair.

(b) If sleeping equipment[~~is~~], sleeping bags, pillow cases, sheets, or blankets are clearly assigned to and used by an individual child, a provider must clean and sanitize [~~it~~]them as needed, but at least weekly.

(c) If sleeping equipment[~~is~~], sleeping bags, pillow cases, sheets, or blankets are not clearly assigned to and used by an individual child, a provider must clean and sanitize [~~it~~]them prior to each use.

(4) If a child uses a pillow without a pillow case while in care, then the provider must clean and sanitize the pillow as required in Subsection (3). If a child uses a pillow with a pillow case while in care, then the provider must clean and sanitize the pillow case as required in Subsection (3).

(5) Sleeping equipment may not block exits at any time.

R430-90-19. Child Discipline.

(1) The licensee shall inform non-emergency substitutes, caregivers, parents, and children of the licensee's behavioral expectations for children.

(2) Providers and volunteers may discipline children using positive reinforcement and redirection, and by setting clear limits that promote a child's ability to become self-disciplined.

(3) A provider may use gentle, passive restraint with a child only when it is needed to stop the child from injuring himself or herself or others or from destroying property.

(4) Disciplinary measures shall not include any of the following:

(a) any form of corporal punishment such as hitting, spanking, shaking, biting, pinching, or any other measure that produces physical pain or discomfort;

(b) restraining a child's movement by binding, tying, or any other form of restraint that exceeds that specified in Subsection (3) above;

(c) shouting at any child;

(d) any form of emotional abuse;

(e) forcing or withholding of food, rest, or toileting; and,

(f) confining a child in a closet, locked room, or other enclosure such as a box, cupboard, or cage.

R430-90-20. Activities.

(1) The licensee shall develop a daily activity plan that offers activities to support each child's healthy physical, social-emotional, and cognitive-language development.

(2) The licensee shall ensure that the toys and equipment needed to carry out the activity plan are accessible to children.

(3) If off-site activities are offered:

(a) the licensee shall obtain parental consent for off-site activities in advance;

(b) the licensee shall accompany the children and shall take [~~written emergency information and releases with them for each child in the group, which shall include:~~

~~(i) the child's name;~~

~~(ii) the parent's name and phone number;~~

~~(iii) the name and phone number of a person to notify in the event of an emergency if the parent cannot be contacted;~~

~~(iv) the names of people authorized by the parent to pick up the child; and~~

~~(v) current emergency medical treatment and emergency medical transportation releases;~~]a copy of each child's admission form as specified in Subsection R430-90-9(2)(a).

(c) the licensee shall maintain required provider to child ratios and direct supervision during the activity;

(d) at least one provider present shall have a current Red Cross, American Heart Association, or equivalent first aid and infant and child CPR certification; and

(e) the licensee shall ensure that there is a way for each provider, volunteer, and child to wash his or her hands as specified in R430-90-16(1) and (2). If there is no source of running water, providers, volunteers, and children may clean their hands with individual disposable wet wipes and hand sanitizer.

(4) If off-site swimming activities are offered, providers shall remain with the children during the activity, and lifeguards and pool personnel shall not count toward the provider to child ratio.

R430-90-21. Transportation.

(1) Any vehicle used for transporting any child in care shall:

(a) be enclosed;

(b) be equipped with individual, size appropriate safety restraints, properly installed and in working order, for each child being transported;

(c) be maintained in a safe condition and have a current vehicle registration and safety inspection;

(d) be maintained in a [~~safe and~~]clean condition;

(e) maintain temperatures between 60-90 degrees Fahrenheit when in use; and

(f) [~~contain a first aid kit; and~~]contain first aid supplies, including at least antiseptic, band-aids, and tweezers.

[~~(g) contain a body fluid clean up kit.~~

~~——~~](2) At least one adult in each vehicle transporting any child in care shall have a current Red Cross, American Heart Association, or equivalent first aid and infant and child CPR certification.

(3) The adult transporting any child in care shall:

(a) have and carry with [~~them~~]him or her a current valid Utah driver's license for the type of vehicle being driven whenever he or she is transporting any child in care;

(b) have with him or her [~~written emergency contact information for each child in care being transported~~]a copy of each child's admission form as specified in Subsection R430-90-9(2)(a);

(c) ensure that each child in care being transported is wearing an appropriate individual safety restraint;

(d) ensure that each child is always attended by an adult while in the vehicle;

(e) ensure that all children remain seated while the vehicle is in motion;

(f) ensure that keys are never left in the ignition when the driver is not in the driver's seat; and,

(g) ensure that the vehicle is locked during transport.

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R430-90-23. Diapering.

If[-] children in care are diapered on the premises, the following applies:

(1) The diapering area shall not be located in a food preparation or eating area.

(2) Children shall not be diapered directly on the floor, or on any surface used for another purpose.

[~~(1)~~](3) The diapering surface shall be smooth, waterproof, and in good repair.

[~~(2)~~](4) A provider shall clean and sanitize the diapering surface after each diaper change, or use a disposable non-permeable diapering surface that is thrown away after each diaper change.

[~~(3)~~](5) The provider shall wash his or her hands after each diaper change.

[~~(4)~~](6) The provider shall place soiled disposable diapers in a container that has a disposable plastic lining and a tightly fitting lid, or place soiled diapers directly in an outdoor garbage container that has a tightly fitting lid or is inaccessible to children.

[~~(5)~~](7) A provider shall daily clean and sanitize indoor containers where soiled diapers are placed.

[~~(6)~~](8) If cloth diapers are used:

(a) they shall not be rinsed at the facility; and

(b) after a diaper change, the provider shall place the cloth diaper directly into a leakproof container that is inaccessible to any child and labeled with the child's name, or a leakproof diapering service container.

[~~(7)~~](9) The licensee shall ensure that each child's diaper is checked at least once every two hours, and that each child's diaper is changed promptly if it is wet or soiled. If a child is napping at the end of a two-hour period, the child's diaper must be checked when the child awakes.

R430-90-24. Infant and Toddler Care.

If the licensee accepts infants or toddlers for care, the following applies:

(1) If an infant is not able to sit upright and hold his or her own bottle, a provider shall hold the infant during bottle feeding. Bottles shall not be propped.

(2) A provider shall clean and sanitize high chair trays prior to each use.

(3) A provider shall cut solid foods for infants into pieces no larger than 1/4 inch in diameter. A provider shall cut solid foods for toddlers into pieces no larger than 1/2 inch in diameter.

(4) If there is more than one infant or toddler in care, baby food, [~~infant~~]formula, and breast milk for each [~~infant~~]child that is brought from home must be labeled with the child's name or another unique identifier.

(5) Baby food, [~~infant~~]formula, and breast milk [~~for infants~~]that is brought from home for an individual child's use must be:

(a) kept refrigerated if needed; and

(b) discarded within 24 hours of preparation or opening, except that powdered formula or dry foods which are opened, but are not mixed, are not considered prepared.

(6) The licensee shall ensure that [~~infant~~]formula and milk, including breast milk, is discarded after each feeding, or within two hours of initiating a feeding.

(7) To prevent burns, a provider shall shake each heated bottle and test it for temperature before the bottle is fed to a child.

(8) If there is more than one infant or toddler in care, pacifiers and bottles shall be:

(a) labeled with each child's name or another unique identifier; or

(b) washed and sanitized after each individual use, before use by another child.

(9) The licensee shall ensure that only one infant or toddler occupies any one piece of equipment, such as a crib, playpen, stroller, or swing, at any time, unless the equipment has individual seats for more than one child.

(10) The licensee shall ensure that infants sleep in equipment designed for sleep, such as a crib, bassinet, porta-crib or play pen. The licensee shall ensure that infants are not placed to sleep on mats or cots, or in bouncers, swings, car seats, or other similar pieces of equipment, unless the licensee has written permission from the infant's parent.

(11) The licensee shall ensure that each [~~infant~~]crib used by a child in care:

(a) has a tight fitting mattress;

(b) has slats spaced no more than 2-3/8 inches apart;

(c) has at least 20 inches from the top of the mattress to the top of the crib rail, or at least 12 inches from the top of the mattress to the top of the crib rail if the child using the crib cannot sit up without assistance; and

(d) does not have strings, cords, ropes, or other entanglement hazards strung upon the crib rails or within reach of the child.

(12) The licensee shall ensure that infants are not placed on their stomachs for sleeping, unless there is documentation from a health care provider for treatment of a medical condition.

(13) The licensee shall ensure that each infant and toddler is allowed to follow his or her own pattern of sleeping and eating.

(14) Infant walkers with wheels are prohibited.

(15) The licensee shall ensure that infants and toddlers do not have access to objects made of styrofoam.

(16) The licensee shall ensure that a provider responds as promptly as possible to infants and toddlers who are in emotional distress due to conditions such as hunger, fatigue, wet or soiled diapers, fear, teething, or illness.

(17) The licensee shall ensure that awake infants and toddlers receive positive physical stimulation and positive verbal interaction with a provider at least once every 20 minutes.

(18) The licensee shall ensure that awake infants and toddlers are not confined for more than 30 minutes in one piece of equipment, such as swings, high chairs, cribs, play pens, or other similar pieces of equipment.

(19) The licensee shall ensure that mobile infants and toddlers have freedom of movement in a safe area.

(20) To stimulate their healthy development, there shall be safe toys accessible to infants and toddlers. The licensee shall ensure that there are enough toys for each child in the group to be engaged in play with toys.

(21) The licensee shall ensure that all toys used by infants and toddlers are cleaned and sanitized:

(a) weekly;

(b) after being put in a child's mouth; and

(c) after being contaminated by any body fluid[~~s~~].

KEY: child care facilities
Date of Enactment or Last Substantive Amendment: 2008
Notice of Continuation: July 29, 2003
Authorizing, and Implemented or Interpreted Law: 26-39

Insurance, Administration
R590-131
Accident and Health Coordination of Benefits Rule

NOTICE OF CHANGE IN PROPOSED RULE
DAR File No.: 31062
Filed: 06/11/2008, 15:10

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Due to comments received during the last comment period, additional changes are being made to the rule.

SUMMARY OF THE RULE OR CHANGE: The changes are: 1) added "prescription drug" reference to allowable expense definition for consistency with the National Association of Insurance Commissioners' (NAIC) model rule; 2) at the request of an industry member, added the definition of "Group-type contract" for consistency with the NAIC model. It will not change coordination issues since Utah allows Coordination with Benefits (COB) with individual plans; 3) corrected a couple of incorrect code references; 4) at the request of an industry member added the definition of "Policyholder" for consistency with the NAIC model. It will not change coordination issues since Utah allows COB with individual plans; 5) added the definition of "Retiree employee benefit plan," and provision in Subsection R590-131-4(A)(2) to allow for coordination based on the ruling from the EEOC, 20 CFR Parts 1625 and 1627; 6) for consistency with the NAIC model rule the provision in Subsection R590-131-5(F) relating to the benefits paid by another plan, has been added. It will not change coordination issues, rather clarifies them; 7) changed Subsection R590-131-6(D)(2) to read more clearly; 8) removed redundant words in Subsection R590-131-9(D)(1); and 9) changes were made to correct grammar. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the April 1, 2008, issue of the Utah State Bulletin, on page 37. 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 31A-2-201 and 31A-21-307

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The changes to this rule will have no fiscal impact on the Insurance Department or the state's budget since the changes are being made for clarification purposes, to correct code citations and grammar.

❖ LOCAL GOVERNMENTS: The changes to this rule will have no impact on local government since the rule deals solely with the relationship between the department and its licensees.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: This rule does impact traditional health insurance plans sold to small businesses. However, since the changes to this rule are being made for clarification purposes, to correct code citations and grammar, there will be no fiscal impact on employees of small businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The changes made to this rule will be for clarification purposes for employers and employees of groups. However, individuals who whose not to enroll with Medicare will receive reduced benefits to the extent Medicare would have paid as a result of the change in Subsection R590-131-4(2).

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have no fiscal impact on businesses selling or purchasing health insurance. It will reduce the benefits of individuals who choose not to enroll with Medicare. Their benefits will be reduced. D. Kent Michie, Commissioner

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2008

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

7/21/2008 at 10:00 AM, State Office Building (behind the Capitol), 450 N State St, Room 4112, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2008

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.
R590-131. Accident and Health Coordination of Benefits Rule.

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R590-131-3. Definitions.

For the purposes of this rule, the commissioner adopts the definitions in Sections 31A-1-301 and 31A-30-103, and the following:

A. "Allowable Expense" means any health care expense, including coinsurance or copayments and without reduction for any applicable deductible, that is covered in full or in part by any of the plans covering the person.

1. If an insurer is advised by a covered person that all plans covering the person are high-deductible health plans and the person intends to contribute to a health savings account established in accordance with Section 223 of the Internal Revenue Code of 1986, the primary high-deductible health plan's deductible is not an allowable expense, except for any health care expense incurred that may not be subject to the deductible as described in Section 223(c)(2)(C) of the Internal Revenue Code of 1986.

2. An expense or a portion of an expense that is not covered by any of the plans is not an allowable expense.

3. Any expense that a provider, by law or in accordance with a contractual agreement, is prohibited from charging a covered person is not an allowable expense.

4. The following are examples of expenses that are not allowable expenses:

a. If a person is confined in a private hospital room, the difference between the cost of a semi-private room in the hospital and the private room is not an allowable expense, unless one of the plans provides coverage for private hospital room expenses.

b. If a person is covered by two or more plans that compute their benefit payments on the basis of usual and customary fees or relative value schedule reimbursement or other similar reimbursement methodology, any amount charged by the provider in excess of the highest reimbursement amount for a specified benefit is not an allowable expense.

c. If a person is covered by two or more plans that provide benefits or services on the basis of negotiated fees, any amount in excess of the highest of the negotiated fees is not an allowable expense.

d. If a person is covered by one plan that calculates its benefits or services on the basis of usual and customary fees, relative value schedule reimbursement, or other similar reimbursement methodology and another plan that provides its benefits or services on the basis of negotiated fees, the primary plan's payment arrangement shall be the allowable expense for all plans. However, if the provider has contracted with the secondary plan to provide the benefit or service for a specific negotiated fee or payment amount that is different than the primary plan's payment arrangement and if the provider's contract permits, that negotiated fee or payment shall be the allowable expense used by the secondary plan to determine its benefits.

e. The definition of "allowable expense" may exclude certain types of coverage or benefits such as dental care, vision care, prescription drug, or hearing aids.

i. A plan that limits the application of COB to certain coverages or benefits may limit the definition of allowable expense in its contract to expenses that are similar to the expenses that it provides.

ii. When COB is restricted to specific coverages or benefits in a contract, the definition of allowable expense shall include similar expenses to which COB applies.

f. When a plan provides benefits in the form of services, the reasonable cash value of each service will be considered an allowable expense and a benefit paid.

g. The amount of the reduction may be excluded from allowable expense when a covered person's benefits are reduced under a primary plan because the covered person does not comply with the plan provisions concerning second surgical opinions or pre-certification of admissions or services.

B. "Birthday" refers only to month and day in a calendar year and does not include the year in which the person was born.

C. "Child" means a:

1. child as defined in Section 78-45-2; or

2. dependent child that is provided coverage pursuant to Sections 31A-22-610, 610.5 and 611.

D. "Claim" means a request that benefits of a plan be provided or paid. The benefits claimed may be in the form of:

1. services (including supplies);

2. payment for all or a portion of the expenses incurred;

3. a combination of (1) and (2) above; or

4. an indemnification.

E. "Closed Panel Plan" means a plan that provides health benefits to covered persons primarily in the form of services through a panel of providers that have contracted with or are employed by a plan, and that excludes benefits for services provided by other providers, except in the cases of emergency or referral by a panel member.

F. "Conforming Plan" means a plan that is subject to this rule.

G. "Continuation Coverage" means coverage provided under right of continuation pursuant to the federal (COBRA) law, Utah mini-COBRA, or a state extension law. For the purposes of this rule, a person's eligibility status will maintain the same classification under continuation coverage.

H. "Coordination of Benefits" or "COB" means a provision establishing an order in which plans pay their coordination of benefit claims, and permitting secondary plans to reduce their benefits so that the combined benefits of all plans do not exceed total allowable expenses.

I. "Custodial Parent" means:

1. the legal custodial parent or physical custodial parent as awarded by a court decree; or

2. in the absence of a court decree, the parent with whom the child resides more than one half of the calendar year without regard to any temporary visitation.

J.1. "Group-type contract" means a contract that is not available to the general public and is obtained and maintained only because of membership in or a connection with a particular organization or group, including blanket coverage.

2. Group-type contract does not include an individually underwritten and issued guaranteed renewable policy even if the policy is purchased through payroll deduction at a premium savings to the insured since the insured would have the right to maintain or renew the policy independently of continued employment with the employer.

K. "High-deductible Health Plan" has the meaning given the term under Section 223 of the Internal Revenue Code of 1986, as amended by the Medicare Prescription Drug, Improvement and Modernization Act of 2003.

L. "Hospital Indemnity Benefits" means benefits not related to expenses incurred. The term does not include reimbursement-type benefits even if they are designed or administered to give the insured the right to elect indemnity-type benefits at the time of claim.

M. "Non-conforming Plan" means a plan that is not subject to this rule.

N. "Plan" means a form of coverage with which coordination is allowed.

1. Separate parts of a plan that are provided through alternative contracts that are intended to be part of a coordinated package of benefits are considered one plan and there is no COB among the separate parts of the plan.

2. If a plan coordinates benefits, its contract shall state the types of coverage that will be considered in applying the COB provision of that contract.

3. Whether a plan's contract uses the term "plan" or some other term such as "program," the contractual definition may be no broader than the definition of "plan."

4. Plan shall include:

a. individual and group accident and health insurance contracts and subscriber contracts except as provided by R590-131-3.N.5[~~R590-131-3.L.5~~];

b. uninsured arrangements of group or group-type coverage;

c. coverage through closed panel plans;

d. group-type contracts;

e. medical care components of long-term care contracts, such as skilled nursing care; and

f. Medicare or other governmental benefits, as permitted by law.

5. Plan shall not include:

a. hospital indemnity coverage benefits or other fixed indemnity coverage;

b. accident only coverage;

c. specified disease or specified accident coverage;

d. limited benefit health coverage, as defined in Rule R590-126;

e. school accident-type coverages that cover students for accidents only, including athletic injuries, either on a twenty-four-hour basis or on a "to and from school" basis;

f. benefits provided in long-term care insurance policies for non-medical services, for example, personal care, adult day care, homemaker services, assistance with activities of daily living, respite care and custodial care or for contracts that pay a fixed daily benefit without regard to expenses incurred or the receipt of services;

g. Medicare supplement policies;

h. a state plan under Medicaid; or

i. a governmental plan, which, by law, provides benefits that are in excess of those of any private insurance plan or other non-governmental plan.

O. "Policyholder" means the primary insured named in a non-group insurance policy.

P. "Primary Plan" means a plan whose benefits for a person's health care coverage must be determined without taking the existence of any other plan into consideration. A plan is a primary plan if:

1. the plan has no order of benefit determination;

2. its rules differ from those permitted by this rule; or

3. all plans which cover the person use the order of benefit determination provisions of this rule and under those requirements the plan determines its benefits first.

Q. "Retiree employee benefit plan" means an employee benefit plan as defined in 29 U.S.C. 1002(3).

R.[~~P.~~] "Secondary Plan" means any plan, which is not a primary plan.

S.[~~Q.~~] "Separated" means married persons who are legally separated.

R590-131-4. COB Contract Provisions.

A. A COB provision may not be used that permits a plan to reduce its benefits on the basis that:

1. another plan exists and the covered person did not enroll in that plan;

2. a person is or could have been covered under another plan, except with respect to a retiree employee benefit plan; or

3. a person has elected an option under another plan providing a lower level of benefits than another option that could have been elected.

B. Under the terms of a closed panel plan, benefits are not payable if the covered person does not use the services of a closed panel provider for either plan.

1. In most instances, COB does not occur if a covered person is enrolled in two or more closed panel plans and obtains services from a provider in one of the closed panel plans. The closed panel plan whose providers were not used, has no liability.

2. COB may occur during the plan year when the covered person receives services from a provider who is on each closed panel, or emergency services that would have been covered by both plans. The secondary plan shall use the provisions of R590-131-7 to determine the amount it should pay for the benefit.

C. No plan may use a COB provision, or any other provision that allows it to reduce its benefits with respect to any other coverage its insured may have that does not meet the definition of a plan under R590-131-3.

R590-131-5. Rules for Coordination of Benefits.

When a person is covered by two or more plans, the rules for determining the order of benefit payments are as follows:

A. The primary plan shall pay or provide its benefits as if the secondary plans or plan did not exist.

B. If the primary plan is a closed panel plan and the secondary plan is not a closed panel plan, the secondary plan shall pay or provide benefits as if it were the primary plan when a covered person uses a non-panel provider, except for emergency services or authorized referrals that are paid or provided by the primary plan.

C. When multiple contracts providing coordinated coverage are treated as a single plan under this rule, this section applies only to the plan as a whole, and coordination among the component contracts is governed by the terms of the contracts. If more than one insurer pays or provides benefits under the plan, the insurer designated as primary within the plan shall be responsible for the plan's compliance with this rule.

D. If a person is covered by more than one secondary plan, benefits are determined using the rules in R590-131-6. Each secondary plan shall take into consideration[~~considerations~~] the benefits of the primary plan or plans and the benefits of any other plan, which, under the rules of this rule, has its benefits determined before those of the secondary plan.

E.1. Except as provided in R590-131-5.E.2.[~~R590-131-5.E.b.~~], a plan that does not contain order of benefit determination provisions that are consistent with this regulation is always the primary plan unless the provisions of both plans, regardless of the provisions of this subsection, state that the complying plan is primary.

2. Coverage that is obtained by virtue of membership in a group and designed to supplement a part of a basic package of benefits may provide that the supplementary coverage shall be excess to any other parts of the plan provided by the contract holder. Examples of these types of situations are major medical coverages that are superimposed over base plan hospital and surgical benefits, and insurance type coverages that are written in connection with a closed panel plan to provide out-of-network benefits.

F. A plan may take into consideration the benefits paid or provided by another plan only when, under the rules of this regulation, it is secondary to that other plan.

R590-131-6. Determining Order of Benefits.

Each plan determines its order of benefits using the first of the following rules that apply:

A. Non-dependent or Dependent.

The plan that covers the person other than as a dependent, such as an employee, member, policyholder retiree or subscriber, is the primary plan and the plan that covers the person as a dependent is the secondary plan.

B. Child Covered Under More Than One Plan.

Unless there is a court decree stating otherwise, plans covering a child shall determine the order of benefits as follows:

1. For a child whose parents are married or living together if they have never been married:

a. The plan of the parent whose birthday falls earlier in the calendar year is the primary plan; or

b. If both parents have the same birthday, the plan that has covered the parent longest is the primary plan.

2. For a child whose parents are divorced or separated or are not living together if they have never been married:

a.i. If a court decree states that one of the parents is responsible for the child's health care expenses or health care coverage, the responsible parent's plan is primary.

ii. If the parent with responsibility has no health care coverage for the child's health care expenses, but the spouse of the responsible parent does have health care coverage for the child's health care expenses, the responsible parent's spouse's plan is the primary plan.

b. If a court decree states that both parents are responsible for the child's health care expenses or health care coverage, the provisions of R590-131-6.B.1. shall determine the order of benefits.

c. If a court decree states that the parents have joint custody without stating that one parent has responsibility for the health care expenses or health care coverage of the child the provisions of R590-131-6.B.1. shall determine the order of benefits, or

d. If there is no court decree allocating responsibility for the child's health care expenses or health care coverage, the order of benefits for the child are as follows:

i. the plan covering the custodial parent;

ii. the plan covering the custodial parent's spouse;

iii. the plan covering the non-custodial parent; and then

iv. the plan covering the non-custodial parent's spouse.

e. For a child covered under more than one plan, and one or more of the plans provides coverage for individuals who are not the parents of the child, such as a guardian, the order of benefits shall be determined under R590-131-6.B.1. or 2. as if those individuals were parents of the child.

C. Active, Retired, or Laid-Off Employee.

1. The plan that covers a person as an active employee who is neither laid off, nor retired, nor a dependent of an active employee, is the primary plan. The plan covering that same person as a retired or laid-off employee or as a dependent of a retired or laid-off employee is the secondary plan.

2. If the other plan does not have this rule, and the plans do not agree on the order of benefits, this rule is ignored.

3. This Subsection does not apply if the rule in Subsection 6.A. can determine the order of benefits.

D. COBRA or State Continuation Coverage.

1. If a person whose coverage is provided pursuant to COBRA or under a right of continuation pursuant to state or other federal law is covered under another plan, the plan covering the person as an[~~a~~] employee, member, subscriber or retiree or covering the person as a dependent of an employee, member, subscriber or retiree is the primary plan and the plan covering that same person pursuant to COBRA or under a right of continuation pursuant to state or other federal law is the secondary plan.

2. If the other plan does not have this rule, and [~~if, as a result,~~]the plans do not agree on the order of benefits, this rule is ignored.

3. This rule does not apply if the rule in R590-131-6.A. can determine the order of benefits.

E. Longer or Shorter Length of Coverage.

1. If the preceding rules do not determine the order of benefits, the plan that covered the person for the longer period of time is the primary plan and the plan that covered the person for the shorter period of time is the secondary plan.

2.a. To determine the length of time a person has been covered under a plan, two successive plans shall be treated as one if the claimant was eligible under the second within 24 hours after coverage under the first plan ended.

b. The start of a new plan does not include:

i. a change in the amount or scope of a plan's benefits;

ii. a change in the entity that pays, provides or administers the plan's benefits; or

iii. a change from one type of plan to another, such as, from a single employer plan to a multiple employer plan.

c. The person's length of time covered under a plan is measured from the person's first date of coverage under that plan. If that date is not readily available, the date the person first became a member of the group shall be used as the date from which to determine the length of time the person's coverage under the present plan has been in force.

F. If none of the above rules determine the primary plan, the allowable expenses shall be shared equally between the plans.

G. If the plans cannot agree on the order of benefits within 30 calendar days after the plans have received all of the information needed to pay the claim, the plans shall immediately pay the claim in equal shares and determine their relative liabilities following payment, except that no plan shall be required to pay more than it would have paid had it been the primary plan.

. . . . . .

R590-131-9. COB Scenarios.

The following scenarios are provided to assist in demonstrating the use of the COB rule:

A. Parents Not Married, Living Together, No Court Decree. The order of benefits pursuant to R590-131-6.B.1. shall be:

1. the parent whose birthday falls earlier in the calendar year; then

2. the parent whose birthday falls later in the calendar year; or

3. if the parents have the same birthday, the plan that has covered the parent longest; then

4. the plan that has covered the parent the shortest.

B. Parents Divorced, Separated, Or Not Living Together.

1. The court decree gives joint custody with the father responsible for the child's health care expenses or health care coverage, and the father has health care coverage. The order of benefits pursuant to R590-131-6.B.2.a. shall be the:

a. natural father;

b. step-mother;

c. natural mother; then

d. step-father.

2. The court decree gives joint custody with father responsible for the child's health care expenses or health care coverage, the father does not have health care coverage, but his wife does. The order of benefits pursuant to R590-131-6.B.2.a. shall be the:

a. step-mother;

b. natural mother; then

c. step-father.

3. The court decree gives custody to the father and requires both parents to be responsible for health care expenses or coverage. The father's date of birth (DOB) 12/01, the step-mother's DOB 02/17, the mother's DOB 08/23, and the step-father's DOB 01/10. The order of benefits pursuant to R590-131-6.B.2.b. shall be the:

a. step-father;

b. step-mother;

c. natural mother; then

d. natural father.

4. A court decree awards joint custody and the father physical custody. The court decree does not address health care expenses or coverage. The father's DOB is 12/01, the step-mother's DOB is 02/17, the mother's DOB is 08/23, and the step-father's DOB is 01/10. The order of benefits pursuant to R590-131-6.B.2.c. shall be the:

a. step-father;

b. step-mother;

c. natural mother; then

d. natural-father.

5. A court decree awards joint custody and requires both parents to be responsible for health care expenses or coverage. The child lives with the mother 51% of the year. The father's DOB is 12/01, the step-mother's DOB is 02/17, the mother's DOB is 08/23, and the step-father's DOB is 01/10. The order of benefits pursuant to R590-131-6.B.2.b. shall be the:

a. step-father;

b. step-mother;

c. natural mother; then

d. natural father.

C. Parents Never Married.

1. The parents are not living together and no court decree exists. The order of benefits pursuant to R590-131-6.B.2.d shall be the;

a. [~~plan covering the~~]custodial parent;
b. [~~plan covering the~~]custodial parent's spouse;
c. [~~plan covering the~~]non-custodial parent; and then
d. [~~plan covering the~~]non-custodial parent's spouse.

2. The parents are not living together and the court decree awards custody to mother, but the decree does not address health care expenses or coverage. The order of benefits pursuant to R590-131-6.B.2.d. shall be the:[~~:~~]

a. natural mother;
b. step-father;
c. natural father; then
d. step-mother.

D. Children No Longer Minors. A court decree orders that the natural father is to provide insurance for the minor children and custody is awarded to the natural mother. The dependents are age 18 and older. The order of benefits pursuant to R590-131-6.B.2.d shall be the:

1. natural mother;
2. step-father;
3. natural father; then
4. step-mother.

. . . . . .

KEY: insurance law
Date of Enactment or Last Substantive Amendment: 2008
Notice of Continuation: October 31, 2007
Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-21-307

End of the Notices of Changes in Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by Section 63G-3-305.

Agriculture and Food, Plant Industry
R68-9
Utah Noxious Weed Act

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 31544
FILED: 06/09/2008, 11:20

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is promulgated under the authority of Sections 4-2-2 and 4-17-3. The Noxious Weed Act designates weeds that are troublesome in the state and counties. The Utah Noxious Weed Act gives us the authority to write rules pertaining to this Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: There was no opposition to the current rule. This rule should be continued to protect agriculture from the invasion of noxious weeds. Also, the law continues to require this rule.

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, Clair Allen, or Kyle Stephens at the above address, by phone at 801-538-7103, 801-538-7180, or 801-538-7102, by FAX at 801-538-7126, 801-538-7189, or 801-538-7126, or by Internet E-mail at kmathews@utah.gov, ClairAllen@utah.gov, or kylestephens@utah.gov

AUTHORIZED BY: Leonard M. Blackham, Commissioner

EFFECTIVE: 06/09/2008

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Agriculture and Food, Plant Industry
R68-16
Utah Quarantine Pertaining to Pine Shoot Beetle, Tomicus Piniperda

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 31543
FILED: 06/09/2008, 11:13

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under the authority of Subsection 4-2-2(1)(k) and Section 4-35-9, the Utah Quarantine Pertaining to Pine Shoot Beetle, Tomicus Piniperda give us authority to write rules pertaining to this Act. Pine Shoot Beetle is on the Federal Domestic Quarantine list. Utah considers this insect a threat to our nursery and fruit industries. The Pine Shoot Beetle has not been found in Utah, but there is a need to continue to monitor for them.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: There has been no opposition to the current rule. This rule needs to continue to protect the Utah Nursery and Fruit industry from the Pine Shoot Beetle.

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:
Clair Allen, Kyle Stephens, or Kathleen Mathews at the above address, by phone at 801-538-7180, 801-538-7102, or 801-538-7103, by FAX at 801-538-7189, 801-538-7126, or 801-538-7126, or by Internet E-mail at ClairAllen@utah.gov, kylestephens@utah.gov, or kmathews@utah.gov

AUTHORIZED BY: Leonard M. Blackham, Commissioner

EFFECTIVE: 06/09/2008

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Health, Health Care Financing, Coverage and Reimbursement Policy
R414-53
Eyeglasses Services

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 31528
FILED: 06/05/2008, 08:50

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-1-5 grants the Department of Health the power to adopt, amend, or rescind rules that shall have the force and effect of law. In addition, 42 CFR 440.120(d) authorizes the state to provide eyeglasses services to Medicaid eligible clients.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department did not receive any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because it outlines eligibility requirements, service coverage, and reimbursement for eyeglasses services.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY UT 84116-3231, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Kimi McNutt at the above address, by phone at 801-538-6381, by FAX at 801-538-6099, or by Internet E-mail at KMCNUTT@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 06/05/2008

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Health, Health Systems Improvement, Child Care Licensing
R430-4
General Certificate Provisions

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 31537
FILED: 06/06/2008, 11:07

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 26-39-104(1)(a) allows the Department of Health to "make and enforce rules to implement this chapter and, as necessary to protect children's common needs for a safe and healthy environment...."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments 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 specifies the requirements to obtain a child care residential certificate, and outlines the regulatory process for certificate holders. The continuation of this rule is necessary in order for the Department of Health to continue to fulfill its statutory responsibility to regulate child care programs in order to protect the health and safety of the children in these programs.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
HEALTH SYSTEMS IMPROVEMENT,
CHILD CARE 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:
Teresa Whiting at the above address, by phone at 801-538-6320, by FAX at 801-538-6325, or by Internet E-mail at TWHITING@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 06/06/2008

Health, Health Systems Improvement, Child Care Licensing

R430-50

Residential Certificate Child Care Standards

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 31538
FILED: 06/06/2008, 11:11

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 26-39-104(1)(a) allows the Department of Health to "make and enforce rules to implement this chapter and, as necessary to protect children's common needs for a safe and healthy environment...."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments 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 contains the ongoing operational health and safety standards for residential certificate child care providers. The continuation of this rule is necessary in order for the Department of Health to continue to fulfill its statutory responsibility to regulate child care programs in order to protect the health and safety of the children in these programs.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
HEALTH SYSTEMS IMPROVEMENT,
CHILD CARE 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:
Teresa Whiting at the above address, by phone at 801-538-6320, by FAX at 801-538-6325, or by Internet E-mail at TWHITING@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 06/06/2008

Health, Health Systems Improvement, Child Care Licensing

R430-60

Hourly Child Care Center

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 31539
FILED: 06/06/2008, 11:12

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 26-39-104(1)(a) allows the Department of Health to "make and enforce rules to implement this chapter and, as necessary to protect children's common needs for a safe and healthy environment...."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments 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 contains the ongoing operational health and safety standards for hourly child care centers. The continuation of this rule is necessary in order for the Department of Health to continue to fulfill its statutory responsibility to regulate child care programs in order to protect the health and safety of the children in these programs.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
HEALTH SYSTEMS IMPROVEMENT,
CHILD CARE 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:
Teresa Whiting at the above address, by phone at 801-538-6320, by FAX at 801-538-6325, or by Internet E-mail at TWHITING@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 06/06/2008

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Health, Health Systems Improvement, Child Care Licensing
R430-90
Licensed Family Child Care

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 31540
FILED: 06/06/2008, 11:14

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 26-39-104(1)(a) allows the Department of Health to "make and enforce rules to implement this chapter and, as necessary to protect children's common needs for a safe and healthy environment...."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments 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 contains the ongoing operational health and safety standards for licensed family child care providers. The continuation of this rule is necessary in order for the Department of Health to continue to fulfill its statutory responsibility to regulate child care programs in order to protect the health and safety of the children in these programs.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
HEALTH SYSTEMS IMPROVEMENT,
CHILD CARE 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:
Teresa Whiting at the above address, by phone at 801-538-6320, by FAX at 801-538-6325, or by Internet E-mail at TWHITING@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 06/06/2008

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Insurance, Administration
R590-219
Credit Scoring

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 31525
FILED: 06/04/2008, 09:35

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-2-201(3) authorizes the commissioner to write rules to implement the provisions of Title 31A. Specific authorization for this rule is provided in Subsection 31A-22-320(3) to enforce the use of credit information by auto insurers.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The department has received no written comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is needed to regulate automobile insurance companies in the way they use an insured's credit score. One of the main reasons for this rule and the law is to disallow insurers from using a credit score as the sole reason to cancel an insured. The law and rule require there be risk-related factors before increasing an insured's premium or canceling them. Since the creation of this law and rule, the department has received fewer and fewer complaints related to misuse of credit scores. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
INSURANCE
ADMINISTRATION
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 06/04/2008

Insurance, Administration
R590-223
Rule to Recognize the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 31552
FILED: 06/12/2008, 12:38

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-2-201(3) authorizes the commissioner to make rules to implement the provisions of the insurance code. Subsection 31A-17-402(1) authorizes the commissioner adopt rules specifying the liabilities to be reported by an insurer in an annual statement, as well as the methods of valuing the liabilities. Subsection 31A-22-408(11) authorizes the commissioner to adopt rules interpreting, describing, and clarifying the application of the nonforfeiture 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: The department has not received any comments regarding this rule in the past five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is a part of statutory accounting requirements. It prescribes a mortality table to be used for the valuation and nonforfeiture for life insurance. It establishes reserving standards consistent with that recommended by the National Association of Insurance Commissioner's (NAIC) Accounting Practices and Procedures Manual. Repeal of the rule would adversely impact insurance companies, as well as consumers. If the rule is repealed it will make life insurance less affordable. Therefore, the rule should continue in force.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
INSURANCE
ADMINISTRATION
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

AUTHORIZED BY: Jilene Whitby, Information Specialist

EFFECTIVE: 06/12/2008

Workforce Services, Unemployment Insurance
R994-306
Charging Benefit Costs to Employers

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 31547
FILED: 06/10/2008, 13:30

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 35A-1-104 authorizes the Department of Workforce Services to adopt rules. Subsection 35A-4-502(1)(b) authorizes the Department to make rules necessary for the administration of the Employment Security 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: The Department has not received any comments since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to inform an employer of when it will be charged in unemployment cases, how it will be notified of those charges, and how and when an employer can seek relief of charges. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
WORKFORCE SERVICES
UNEMPLOYMENT INSURANCE
140 E 300 S
SALT LAKE CITY UT 84111-2333, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Kristen Cox, Executive Director

EFFECTIVE: 06/10/2008

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Workforce Services, Unemployment Insurance

R994-307

Social Costs -- Relief of Charges

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 31548
FILED: 06/10/2008, 13:37

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 35A-1-104 authorizes the Department of Workforce Services to adopt rules. Subsection 35A-4-502(1)(b) authorizes the Department to make rules necessary for the administration of the Employment Security 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: The Department has not received any comments since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule establishes when an employer can be relieved of charges in both separation and nonseparation cases. It is necessary to determine which employers will be charged for benefit costs. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
WORKFORCE SERVICES
UNEMPLOYMENT INSURANCE
140 E 300 S
SALT LAKE CITY UT 84111-2333, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Kristen Cox, Executive Director

EFFECTIVE: 06/10/2008

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Workforce Services, Unemployment Insurance

R994-315

Centralized New Hire Registry Reporting

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 31549
FILED: 06/10/2008, 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: Section 35A-1-104 authorizes the Department of Workforce Services to adopt rules. Subsections 35A-1-104(4) and 35A-7-104(3) direct the Department to establish rules to determine the form and manner for sending the information required under the statute.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any comments since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The statute directs the Department to establish by rule the format and manner for employers to use in sending the information required by the new hire registry. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
WORKFORCE SERVICES
UNEMPLOYMENT INSURANCE
140 E 300 S
SALT LAKE CITY UT 84111-2333, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Kristen Cox, Executive Director

EFFECTIVE: 06/10/2008

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Workforce Services, Unemployment Insurance
R994-508
Appeal Procedures

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 31546
FILED: 06/10/2008, 13:23

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 35A-1-104 authorizes the Department of Workforce Services to adopt rules. Subsection 35A-1-104(4) authorizes the Department to establish eligibility standards for its programs. Subsection 35A-4-502(1)(b) authorizes the Department to make rules necessary for the administration of the Employment Security Act. Section 35A-1-303 authorizes the Department to adopt rules governing adjudicative procedures.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any comments since the last five-year review of this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary to describe the procedures in place for appealing decisions in unemployment cases. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
WORKFORCE SERVICES
UNEMPLOYMENT INSURANCE
140 E 300 S
SALT LAKE CITY UT 84111-2333, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Suzan Pixton at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Kristen Cox, Executive Director

EFFECTIVE: 06/10/2008

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End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. Statute permits an agency to make a rule effective "on any date specified by the agency that is no fewer than seven calendar days after the close of the public comment period . . . , nor more than 120 days after the publication date." Subsection 63G-3-301(9).

Abbreviations
AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal and Reenact
REP = Repeal

Administrative Services
Fleet Operations
No. 31137 (AMD): R27-3. Vehicle Use Standards.
Published: May 1, 2008
Effective: June 17, 2008

Agriculture and Food
Conservation and Resource Management
No. 31079 (NEW): R64-2. Utah Conservation Commission Electronic Meetings.
Published: April 15, 2008
Effective: June 3, 2008

Commerce
Occupational and Professional Licensing
No. 31136 (AMD): R156-69. Dentist and Dental Hygienist Practice Act Rules.
Published: May 1, 2008
Effective: June 9, 2008

Governor
Economic Development
No. 31153 (NEW): R357-3. Refundable Economic Development Tax Credit.
Published: May 1, 2008
Effective: June 18, 2008

Health
Epidemiology and Laboratory Services, Epidemiology
No. 31099 (AMD): R386-702-12. Official References.
Published: April 15, 2008
Effective: June 11, 2008

Health Care Financing
No. 31129 (AMD): R410-14-17. Agency Review.
Published: May 1, 2008
Effective: June 9, 2008

Health Systems Improvement, Emergency Medical Services
No. 31068 (AMD): R426-5-3. Trauma Center Categorization Guidelines.
Published: April 15, 2008
Effective: June 4, 2008

No. 31096 (AMD): R426-8-4. Application and Award Formula.
Published: April 15, 2008
Effective: June 5, 2008

Human Services
Administration
No. 31067 (AMD): R495-878. Department of Human Services Civil Rights Complaint Procedure.
Published: April 15, 2008
Effective: June 13, 2008

Recovery Services
No. 31151 (AMD): R527-34. Non-IV-A Services.
Published: May 1, 2008
Effective: June 9, 2008

No. 31134 (AMD): R527-56. In-Kind Support.
Published: May 1, 2008
Effective: June 9, 2008

No. 31133 (REP): R527-257. Enforcing Child Support When the Obligor is Incarcerated.
Published: May 1, 2008
Effective: June 9, 2008

Labor Commission
Antidiscrimination and Labor, Labor
No. 31149 (AMD): R610-1-4. Tips, Gratuities, and Commissions.
Published: May 1, 2008
Effective: June 13, 2008

No. 31148 (AMD): R610-3-10. Attorney Fees.
Published: May 1, 2008
Effective: June 13, 2008

Transportation
Preconstruction
No. 31066 (AMD): R930-5. Establishment and Regulation of At-Grade Railroad Crossings.
Published: April 15, 2008
Effective: June 10, 2008

RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)

The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2008, including notices of effective date received through June 16, 2008, the effective dates of which are no later than July 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/).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment
CPR = Change in proposed rule
EMR = Emergency rule (120 day)
NEW = New rule
EXD = Expired
NSC = Nonsubstantive rule change
REP = Repeal
R&R = Repeal and reenact
5YR = Five-Year Review

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Administrative Services					
Administration					
R13-1	Public Petitions for Declaratory Orders	31342	NSC	05/05/2008	Not Printed
R13-2	Access to Records	31343	NSC	05/05/2008	Not Printed
Administrative Rules					
R15-1	Administrative Rule Hearings	31143	NSC	05/05/2008	Not Printed
R15-2	Public Petitioning for Rulemaking	31144	NSC	05/05/2008	Not Printed
R15-3	Definitional Clarification of Administrative Rule	31145	NSC	05/05/2008	Not Printed
R15-4	Administrative Rulemaking Procedures	31146	NSC	05/05/2008	Not Printed
R15-5	Administrative Rules Adjudicative Proceedings	31147	NSC	05/05/2008	Not Printed
Facilities Construction and Management					
R23-13	State of Utah Parking Rules for Facilities Managed by the Division of Facilities Construction and Management	31063	5YR	03/17/2008	2008-8/50

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R23-14	Management of Roofs on State Buildings	31064	5YR	03/17/2008	2008-8/50
R23-22	General Procedures For Acquisition and Selling of Real Property	31607	EMR	06/25/2008	Not Printed
Finance					
R25-2	Finance Adjudicative Proceedings	31318	NSC	05/05/2008	Not Printed
R25-5	Payment of Per Diem to Boards	31317	5YR	04/29/2008	2008-10/143
R25-6	Relocation Reimbursement	31316	5YR	04/29/2008	2008-10/143
R25-7	Travel-Related Reimbursements for State Employees	31319	5YR	04/29/2008	2008-10/144
R25-7	Travel-Related Reimbursements for State Employees	31320	AMD	07/01/2008	2008-10/4
R25-8	Meal Allowance	31321	AMD	07/01/2008	2008-10/7
R25-14	Payment of Attorneys' Fees in Death Penalty Cases	31363	EMR	05/05/2008	2008-10/140
Fleet Operations					
R27-3	Vehicle Use Standards	31137	AMD	06/17/2008	2008-9/3
R27-4	Vehicle Replacement and Expansion of State Fleet	30618	AMD	03/06/2008	2007-22/9
Fleet Operations, Surplus Property					
R28-3	Utah State Agency for Surplus Property Adjudicative Proceedings	31117	5YR	04/04/2008	2008-9/52
Purchasing and General Services					
R33-1	Utah State Procurement Rules Definitions	31477	NSC	06/18/2008	Not Printed
R33-2-101	Delegation of Authority of the Chief Procurement Officer	31478	NSC	06/18/2008	Not Printed
R33-3	Source Selection and Contract Formation	31479	NSC	06/18/2008	Not Printed
R33-4	Specifications	31480	NSC	06/18/2008	Not Printed
R33-5	Construction and Architect-Engineer Selection	31481	NSC	06/18/2008	Not Printed
R33-7	Cost Principles	31482	NSC	06/18/2008	Not Printed
R33-8-101	Quality Assurance, Inspection, and Testing	31483	NSC	06/18/2008	Not Printed
Agriculture and Food					
Conservation and Resource Management					
R64-2	Utah Conservation Commission Electronic Meetings	31079	NEW	06/03/2008	2008-8/4
Marketing and Development					
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
Plant Industry					
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
R68-9	Utah Noxious Weed Act	31544	5YR	06/09/2008	2008-13/147
R68-14	Quarantine Pertaining to Gypsy Moth - Lymantria Dispar	31125	5YR	04/04/2008	2008-9/52
R68-16	Utah Quarantine Pertaining to Pine Shoot Beetle, Tomicus Piniperda	31543	5YR	06/09/2008	2008-13/147
R68-17	Quarantine Pertaining to Necrotic Strain of the Potato Virus Y	31009	REP	04/11/2008	2008-5/4
Alcoholic Beverage Control					
Administration					
R81-4C	Limited Restaurant Licenses	31154	NSC	05/01/2008	Not Printed

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R81-4D	On-Premise Banquet License	31155	NSC	05/01/2008	Not Printed
Auditor					
Administration					
R123-3-1	Definitions	31257	NSC	05/05/2008	Not Printed
R123-3-2	Designation	31260	NSC	05/05/2008	Not Printed
R123-3-3	Adjudicative Proceedings	31261	NSC	05/05/2008	Not Printed
R123-4-1	Authority	31262	NSC	05/05/2008	Not Printed
R123-4-2	Definitions	31263	NSC	05/05/2008	Not Printed
R123-4-5	Intervention	31265	NSC	05/05/2008	Not Printed
R123-4-6	Petition Review and Disposition	31266	NSC	05/05/2008	Not Printed
R123-4-7	Administrative Review	31267	NSC	05/05/2008	Not Printed
Capitol Preservation Board (State)					
Administration					
R131-1	Procurement of Architectural and Engineering Services	30591	AMD	02/29/2008	2007-21/11
R131-4	Procurement of Construction	30590	R&R	02/29/2008	2007-21/13
Career Service Review Board					
Administration					
R137-2	Government Records Access and Management Act	31473	5YR	05/21/2008	2008-12/50
Commerce					
Administration					
R151-2	Government Records Access and Management Act Rule	31345	NSC	05/05/2008	Not Printed
R151-3-1	Authority and Purpose	31346	NSC	05/05/2008	Not Printed
R151-14-3	Adjudicative Proceedings	31354	NSC	05/05/2008	Not Printed
R151-35-3	Adjudicative Proceedings	31355	NSC	05/05/2008	Not Printed
Consumer Protection					
R152-1	Utah Division of Consumer Protection: "Buyer Beware List"	31184	NSC	05/05/2008	Not Printed
R152-11	Utah Consumer Sales Practices Act Rules	31213	NSC	05/05/2008	Not Printed
R152-15-2	Filing Requirements. Filing Fees	31214	NSC	05/05/2008	Not Printed
R152-20	New Motor Vehicle Warranties Rules	31215	NSC	05/05/2008	Not Printed
R152-22-9	Grounds for Denial, Suspension or Revocation Procedure	31216	NSC	05/05/2008	Not Printed
R152-23-1	Authority	31217	NSC	05/05/2008	Not Printed
R152-34-10	Rules Relating to Suspension, Termination or Refusal to Register under Section 13-34-111	31218	NSC	05/05/2008	Not Printed
Corporations and Commercial Code					
R154-10	Utah Digital Signatures Act Rules	30642	REP	03/03/2008	2007-22/16
Occupational and Professional Licensing					
R156-1	General Rules of the Division of Occupational and Professional Licensing	31288	AMD	06/23/2008	2008-10/30
R156-1-102a	Global Definitions of Levels of Supervision	30655	AMD	01/08/2008	2007-23/3
R156-3a-303	Qualifications for Licensure - Examination Requirements	30935	AMD	03/27/2008	2008-4/5
R156-11a	Barber, Cosmetologist/Barber, Esthetician, Electrology, and Nail Technician Licensing Act Rule	30953	AMD	04/10/2008	2008-5/5

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R156-11a-601	Standards for Accreditation	31174	NSC	05/05/2008	Not Printed
R156-22-305	Inactive Status	31175	NSC	05/05/2008	Not Printed
R156-26a	Certified Public Accountant Licensing Act Rules	30715	AMD	03/31/2008	2007-23/4
R156-26a	Certified Public Accountant Licensing Act Rules	30715	CPR	03/31/2008	2008-4/35
R156-31b	Nurse Practice Act Rules	31094	5YR	04/01/2008	2008-8/51
R156-31b	Nurse Practice Act Rules	31156	AMD	06/23/2008	2008-10/34
R156-38a	Residence Lien Restriction and Lien Recovery Fund Rules	30654	AMD	01/07/2008	2007-23/14
R156-38a-105a	Adjudicative Proceedings	31176	NSC	05/05/2008	Not Printed
R156-38b-703	SCR Record Classification	31177	NSC	05/05/2008	Not Printed
R156-40-302e	Qualifications for Temporary License as a TRS - Supervision Required	31178	NSC	05/05/2008	Not Printed
R156-46b	Division Utah Administrative Procedures Act Rules	31179	NSC	05/05/2008	Not Printed
R156-47b	Massage Therapy Practice Act Rules	30853	AMD	02/21/2008	2008-2/4
R156-49	Dietitian Certification Act Rules	31073	5YR	03/24/2008	2008-8/52
R156-49	Dietitian Certification Act Rules	31180	NSC	05/05/2008	Not Printed
R156-53	Landscape Architect Licensing Act Rules	31074	5YR	03/24/2008	2008-8/52
R156-55a	Utah Construction Trades Licensing Act Rule	30892	AMD	03/11/2008	2008-3/3
R156-55a	Utah Construction Trades Licensing Act Rule	31292	AMD	06/24/2008	2008-10/42
R156-55d	Utah Construction Trades Licensing Act Burglar Alarm Licensing Rules	31181	NSC	05/05/2008	Not Printed
R156-56	Utah Uniform Building Standard Act Rules	30574	AMD	01/01/2008	2007-21/38
R156-56	Utah Uniform Building Standard Act Rules	31139	AMD	07/01/2008	2008-9/23
R156-56-420	Administration of Building Code Training Fund	30573	AMD	01/01/2008	2007-21/57
R156-56-701	Specific Editions of Uniform Building Standards	31142	AMD	07/01/2008	2008-9/30
R156-61	Psychologist Licensing Act Rules	30915	CPR	05/08/2008	2008-7/55
R156-61	Psychologist Licensing Act Rules	30915	AMD	05/08/2008	2008-3/6
R156-63	Security Personnel Licensing Act Rule	31182	NSC	05/05/2008	Not Printed
R156-67	Utah Medical Practice Act Rules	31183	NSC	05/05/2008	Not Printed
R156-68	Utah Osteopathic Medical Practice Act Rules	31083	5YR	03/27/2008	2008-8/53
R156-68	Utah Osteopathic Medical Practice Act Rules	31185	NSC	05/05/2008	Not Printed
R156-69	Dentist and Dental Hygienist Practice Act Rules	31136	AMD	06/09/2008	2008-9/35
R156-76	Professional Geologist Licensing Act Rules	30694	AMD	01/08/2008	2007-23/17
R156-78A	Prelitigation Panel Review Rules	31055	NSC	03/26/2008	Not Printed
Real Estate					
R162-2-2	Licensing Procedure	31003	AMD	04/07/2008	2008-5/7
R162-8-4	School Conduct and Standards of Practice	31001	AMD	04/07/2008	2008-5/10
R162-9	Continuing Education	31277	AMD	06/23/2008	2008-10/48
R162-12	Utah Housing Opportunity Restricted Account	31000	NEW	04/07/2008	2008-5/11
R162-207-6	Determining Fitness for Renewal	31002	AMD	04/07/2008	2008-5/12
R162-208	Continuing Education	31278	AMD	06/23/2008	2008-10/50
R162-210-4	Rules of Conduct for Certified Schools	31004	AMD	04/07/2008	2008-5/13
Community and Culture					
Home Energy Assistance Target (HEAT)					
R195-1	Energy Assistance: General Provisions	31331	NSC	05/05/2008	Not Printed

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
Housing and Community Development					
R199-8	Permanent Community Impact Fund Board Review and Approval of Applications for Funding Assistance	30451	AMD	01/01/2008	2007-19/6
History					
R212-4	Archaeological Permits	31290	R&R	06/25/2008	2008-10/52
Corrections					
Administration					
R251-112	Americans With Disabilities Act Implementation and Complaint Process	30713	AMD	03/11/2008	2007-23/19
R251-114	Offender Long-Term Health Care - Notice	30803	NEW	03/11/2008	2008-1/6
R251-304	Contract Procedures	30952	5YR	02/05/2008	2008-5/39
R251-304	Contract Procedures	30980	AMD	05/20/2008	2008-5/15
Crime Victim Reparations					
Administration					
R270-1	Award and Reparation Standards	31322	NSC	05/05/2008	Not Printed
R270-1-11	Collateral Source	30593	AMD	01/02/2008	2007-22/33
R270-1-22	Sexual Assault Forensic Examinations	31013	AMD	05/19/2008	2008-6/3
R270-2	Crime Victim Reparations Adjudicative Proceedings	31323	NSC	05/05/2008	Not Printed
R270-4	Government Records Access and Management Act	31324	NSC	05/05/2008	Not Printed
Education					
Administration					
R277-104	USOE ADA Compliant Procedure	31517	5YR	06/02/2008	2008-12/50
R277-423	Delivery of Flow Through Money	30845	AMD	02/07/2008	2008-1/8
R277-436	Gang Prevention and Intervention Programs in the Schools	31518	5YR	06/02/2008	2008-12/51
R277-460	Distribution of Substance Abuse Prevention Account	31519	5YR	06/02/2008	2008-12/51
R277-469	Instructional Materials Commission Operating Procedures	30781	AMD	01/22/2008	2007-24/4
R277-469	Instructional Materials Commission Operating Procedures	31035	5YR	03/03/2008	2008-7/62
R277-470-7	Timelines - Charter School Starting Date	30846	AMD	02/07/2008	2008-1/9
R277-483	Persistently Dangerous Schools	31036	5YR	03/03/2008	2008-7/62
R277-484	Data Standards	31005	AMD	04/11/2008	2008-5/17
R277-484	Data Standards	31520	5YR	06/02/2008	2008-12/52
R277-485	Loss of Enrollment	31037	5YR	03/03/2008	2008-7/63
R277-502	Educator Licensing and Data Retention	30944	AMD	03/24/2008	2008-4/6
R277-508	Employment of Substitute Teachers	31038	5YR	03/03/2008	2008-7/63
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
R277-609-5	Parent/Guardian Notification and Court Referral	30958	NSC	02/29/2008	Not Printed
R277-610	Released-Time Classes for Religious Instruction	30881	5YR	01/08/2008	2008-3/73

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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
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R495-878	Department of Human Services Civil Rights Complaint Procedure	31067	AMD	06/13/2008	2008-8/23
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R608-1	Utah Fair Housing Rules	31240	NSC	05/05/2008	Not Printed
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R610-3-4	Filing Procedure and Commencement of Agency Action	30876	EMR	01/03/2008	2008-3/70
R610-3-4	Filing Procedure and Commencement of Agency Action	30941	AMD	03/24/2008	2008-4/20
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R614-1	General Provisions	31244	NSC	05/05/2008	Not Printed
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R645-100-500	Petition to Initiate Rulemaking	31204	NSC	05/05/2008	Not Printed
R645-102	Exemption for Coal Extraction Incidental to Government-Financed Highway or Other Construction	31509	5YR	06/02/2008	2008-12/58
R645-300-100	Review, Public Participation, and Approval or Disapproval of Permit Applications and Permit Terms and Conditions	30934	AMD	03/26/2008	2008-4/24
R645-301	Coal Mine Permitting: Permit Application Requirements	30933	AMD	03/26/2008	2008-4/25
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R647-2	Exploration	31511	5YR	06/02/2008	2008-12/59
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R708-22	Commercial Driver License Administrative Proceedings	31114	NSC	05/05/2008	Not Printed
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R746-402	Rules Governing Reports of Accidents by Electric, Gas, Telephone, and Water Utilities	31093	5YR	04/01/2008	2008-8/56
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R994-508-118	What Constitutes Grounds to Reopen a Hearing	31071	NSC	04/14/2008	Not Printed

RULES INDEX - BY KEYWORD (SUBJECT)

ABBREVIATIONS

AMD = Amendment
CPR = Change in proposed rule
EMR = Emergency rule (120 day)
NEW = New rule
EXD = Expired
NSC = Nonsubstantive rule change
REP = Repeal
R&R = Repeal and reenact
5YR = Five-Year Review

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access					
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Regents (Board Of), Administration	31325	R765-134	NSC	05/05/2008	Not Printed
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	31144	R15-2	NSC	05/05/2008	Not Printed
	31145	R15-3	NSC	05/05/2008	Not Printed
	31146	R15-4	NSC	05/05/2008	Not Printed
	31147	R15-5	NSC	05/05/2008	Not Printed
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	31260	R123-3-2	NSC	05/05/2008	Not Printed
	31261	R123-3-3	NSC	05/05/2008	Not Printed
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Crime Victim Reparations, Administration	31323	R270-2	NSC	05/05/2008	Not Printed
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Environmental Quality, Radiation Control	31171	R313-17	NSC	05/05/2008	Not Printed
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	31282	R380-5	NSC	05/05/2008	Not Printed
	31283	R380-10	NSC	05/05/2008	Not Printed
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	31236	R602-2-1	NSC	05/05/2008	Not Printed
	30811	R602-2-4	AMD	02/07/2008	2008-1/14
	31238	R602-3	NSC	05/05/2008	Not Printed
	30810	R602-3-3	AMD	02/07/2008	2008-1/16
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	31252	R612-10	NSC	05/05/2008	Not Printed
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	31197	R641-104-100	NSC	05/05/2008	Not Printed
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	31269	R652-8	NSC	05/05/2008	Not Printed
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	31108	R652-121	NSC	05/01/2008	Not Printed
	31111	R652-123	NSC	05/01/2008	Not Printed
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	31462	R307-102	NSC	06/18/2008	Not Printed
	31461	R307-103	NSC	06/18/2008	Not Printed
	30698	R307-115	AMD	02/08/2008	2007-23/28
	30961	R307-115	5YR	02/08/2008	2008-5/41
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	30963	R307-202	5YR	02/08/2008	2008-5/42
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	30701	R307-221	AMD	02/08/2008	2007-23/32
	30966	R307-221	5YR	02/08/2008	2008-5/44
	30832	R307-221-2	NSC	02/08/2008	Not Printed
	30702	R307-222	AMD	02/08/2008	2007-23/36
	30967	R307-222	5YR	02/08/2008	2008-5/44
	30833	R307-222-1	NSC	02/08/2008	Not Printed
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	30971	R307-310	5YR	02/08/2008	2008-5/46
	30705	R307-310-2	AMD	02/08/2008	2007-23/40
	30709	R307-401-14	AMD	02/08/2008	2007-23/42
	30431	R307-405	AMD	01/11/2008	2007-19/15
	30972	R307-801	5YR	02/08/2008	2008-5/47
	30707	R307-801	AMD	02/08/2008	2007-23/45
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	30708	R307-840	AMD	02/08/2008	2007-23/48
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	30706	R307-417	AMD	02/08/2008	2007-23/43
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	31261	R123-3-3	NSC	05/05/2008	Not Printed
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Auditor, Administration	31257	R123-3-1	NSC	05/05/2008	Not Printed
	31260	R123-3-2	NSC	05/05/2008	Not Printed
	31261	R123-3-3	NSC	05/05/2008	Not Printed
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Public Safety, Fire Marshal	31088	R710-5	5YR	03/28/2008	2008-8/54
	30896	R710-5-1	AMD	03/10/2008	2008-3/51
	31080	R710-5-3	AMD	05/23/2008	2008-8/35
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Commerce, Consumer Protection	31215	R152-20	NSC	05/05/2008	Not Printed
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Commerce, Administration	31354	R151-14-3	NSC	05/05/2008	Not Printed
Commerce, Consumer Protection	31215	R152-20	NSC	05/05/2008	Not Printed
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Human Services, Substance Abuse and Mental Health, State Hospital	31448	R525-5	5YR	05/19/2008	2008-12/57
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Commerce, Consumer Protection	31213	R152-11	NSC	05/05/2008	Not Printed
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Human Services, Recovery Services	30982	R527-928	AMD	04/07/2008	2008-5/26
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Natural Resources, Wildlife Resources	30906	R657-33	AMD	03/10/2008	2008-3/44
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Human Services, Substance Abuse and Mental Health	31089	R523-1	5YR	03/31/2008	2008-8/53
	30767	R523-1	NSC	03/31/2008	Not Printed
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	31172	R859-1-102	NSC	06/18/2008	Not Printed
	31029	R859-1-302	AMD	05/01/2008	2008-6/16
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	30859	R357-2-7	NSC	01/30/2008	Not Printed
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	30924	R414-304	5YR	01/25/2008	2008-4/44
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	31139	R156-56	AMD	07/01/2008	2008-9/23
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	31142	R156-56-701	AMD	07/01/2008	2008-9/30
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	31139	R156-56	AMD	07/01/2008	2008-9/23
	30573	R156-56-420	AMD	01/01/2008	2007-21/57
	31142	R156-56-701	AMD	07/01/2008	2008-9/30
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	31050	R657-45-2	AMD	05/08/2008	2008-7/49
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	31249	R616-1	NSC	05/05/2008	Not Printed
	31246	R616-2	NSC	05/05/2008	Not Printed
	30943	R616-3-3	AMD	03/24/2008	2008-4/21
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	31540	R430-90	5YR	06/06/2008	2008-13/150
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	30891	R527-39	5YR	01/10/2008	2008-3/78
	31498	R527-39-2	NSC	06/18/2008	Not Printed
	30939	R527-56	5YR	01/31/2008	2008-4/46
	31134	R527-56	AMD	06/09/2008	2008-9/44
	31061	R527-231	AMD	05/15/2008	2008-7/32
	31133	R527-257	REP	06/09/2008	2008-9/45
	31054	R527-258	AMD	05/14/2008	2008-7/33
	31163	R527-302	AMD	06/25/2008	2008-10/120
	30978	R527-305	5YR	02/12/2008	2008-5/58
	31025	R527-305	AMD	04/21/2008	2008-6/8
	30905	R527-430	5YR	01/14/2008	2008-3/78
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	31162	R527-475	AMD	06/25/2008	2008-10/121
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Health, Children's Health Insurance Program	31503	R382-1	5YR	05/30/2008	2008-12/53
	31357	R382-10	AMD	07/01/2008	2008-10/55
	31454	R382-10	5YR	05/19/2008	2008-12/53
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	30923	R634-1	5YR	01/25/2008	2008-4/47
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	31367	R495-878	NSC	05/05/2008	Not Printed
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	31204	R645-100-500	NSC	05/05/2008	Not Printed
	31509	R645-102	5YR	06/02/2008	2008-12/58
	30934	R645-300-100	AMD	03/26/2008	2008-4/24
	30933	R645-301	AMD	03/26/2008	2008-4/25
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Regents (Board Of), Administration	31325	R765-134	NSC	05/05/2008	Not Printed
	31515	R765-555	5YR	06/02/2008	2008-12/64
	31104	R765-555	NSC	06/02/2008	Not Printed
	31327	R765-993	NSC	05/05/2008	Not Printed
commerce					
Commerce, Corporations and Commercial Code	30642	R154-10	REP	03/03/2008	2007-22/16
commercial motor vehicle insurance					
Insurance, Administration	30490	R590-243	NEW	01/11/2008	2007-20/28
commercialization					
Natural Resources, Wildlife Resources	31227	R657-52-6	NSC	05/05/2008	Not Printed
communicable diseases					
Health, Epidemiology and Laboratory Services, Epidemiology	31099	R386-702-12	AMD	06/11/2008	2008-8/5
complaint procedures					
Corrections, Administration	30713	R251-112	AMD	03/11/2008	2007-23/19
complaints					
Education, Administration	31517	R277-104	5YR	06/02/2008	2008-12/50
Human Services, Substance Abuse and Mental Health, State Hospital	31451	R525-7	5YR	05/19/2008	2008-12/57
Public Service Commission, Administration	31370	R746-500	NSC	05/05/2008	Not Printed

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concealed firearm permit					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	31349	R722-300	NSC	05/01/2008	Not Printed
	30928	R722-300	NSC	05/01/2008	Not Printed
concerns					
Human Services, Substance Abuse and Mental Health, State Hospital	31451	R525-7	5YR	05/19/2008	2008-12/57
conduct					
Professional Practices Advisory Commission, Administration	30951	R686-100	5YR	02/04/2008	2008-5/59
confidentiality of information					
Administrative Services, Administration	31343	R13-2	NSC	05/05/2008	Not Printed
Community and Culture, Home Energy Assistance Target (HEAT)	31331	R195-1	NSC	05/05/2008	Not Printed
Environmental Quality, Air Quality	30960	R307-102	5YR	02/08/2008	2008-5/40
	31462	R307-102	NSC	06/18/2008	Not Printed
consumer protection					
Commerce, Consumer Protection	31184	R152-1	NSC	05/05/2008	Not Printed
	31213	R152-11	NSC	05/05/2008	Not Printed
	31214	R152-15-2	NSC	05/05/2008	Not Printed
	31215	R152-20	NSC	05/05/2008	Not Printed
	31216	R152-22-9	NSC	05/05/2008	Not Printed
	31217	R152-23-1	NSC	05/05/2008	Not Printed
contamination					
Environmental Quality, Radiation Control	30865	R313-15	AMD	03/17/2008	2008-2/10
contests					
Sports Authority (Utah), Pete Suazo Utah Athletic Commission	31172	R859-1-102	NSC	06/18/2008	Not Printed
continuing education					
Commerce, Real Estate	31277	R162-9	AMD	06/23/2008	2008-10/48
continuing professional education					
Commerce, Occupational and Professional Licensing	30715	R156-26a	AMD	03/31/2008	2007-23/4
	30715	R156-26a	CPR	03/31/2008	2008-4/35
continuous monitoring					
Environmental Quality, Air Quality	30962	R307-170	5YR	02/08/2008	2008-5/41
	30699	R307-170-7	AMD	02/08/2008	2007-23/29
contractors					
Commerce, Occupational and Professional Licensing	30654	R156-38a	AMD	01/07/2008	2007-23/14
	31176	R156-38a-105a	NSC	05/05/2008	Not Printed
	31292	R156-55a	AMD	06/24/2008	2008-10/42
	30892	R156-55a	AMD	03/11/2008	2008-3/3
	30574	R156-56	AMD	01/01/2008	2007-21/38
	31139	R156-56	AMD	07/01/2008	2008-9/23
	30573	R156-56-420	AMD	01/01/2008	2007-21/57

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contracts					
Capitol Preservation Board (State), Administration	30590	R131-4	R&R	02/29/2008	2007-21/13
	30952	R251-304	5YR	02/05/2008	2008-5/39
	30980	R251-304	AMD	05/20/2008	2008-5/15
cooperative agreement					
Natural Resources, Forestry, Fire and State Lands	31109	R652-122-100	NSC	05/01/2008	Not Printed
cooperative wildlife management unit					
Natural Resources, Wildlife Resources	31401	R657-37	5YR	05/08/2008	2008-11/126
corrections					
Corrections, Administration	30952	R251-304	5YR	02/05/2008	2008-5/39
	30980	R251-304	AMD	05/20/2008	2008-5/15
cosmetologists/barbers					
Commerce, Occupational and Professional Licensing	30953	R156-11a	AMD	04/10/2008	2008-5/5
	31174	R156-11a-601	NSC	05/05/2008	Not Printed
costs					
Administrative Services, Finance	31316	R25-6	5YR	04/29/2008	2008-10/143
Financial Institutions, Administration	31315	R331-22-1	NSC	05/05/2008	Not Printed
coverage groups					
Health, Health Care Financing, Coverage and Reimbursement Policy	30925	R414-303	5YR	01/25/2008	2008-4/44
covered-at-work					
Health, Health Care Financing, Coverage and Reimbursement Policy	31356	R414-310	AMD	07/01/2008	2008-10/66
credit scoring					
Insurance, Administration	31525	R590-219	5YR	06/04/2008	2008-13/150
criminal investigation					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	30929	R722-320	NSC	05/14/2008	Not Printed
	31434	R722-320	5YR	05/14/2008	2008-11/127
cultural resources					
Natural Resources, Forestry, Fire and State Lands	31271	R652-60-1000	NSC	05/05/2008	Not Printed
curricula					
Education, Administration	30882	R277-700	5YR	01/08/2008	2008-3/74
	30977	R277-703-6	NSC	02/27/2008	Not Printed
custody of children					
Human Services, Administration	31465	R495-879	NSC	06/18/2008	Not Printed
data standards					
Education, Administration	31520	R277-484	5YR	06/02/2008	2008-12/52
	31005	R277-484	AMD	04/11/2008	2008-5/17

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deadlines					
Education, Administration	31520	R277-484	5YR	06/02/2008	2008-12/52
	31005	R277-484	AMD	04/11/2008	2008-5/17
declaratory orders					
Auditor, Administration	31262	R123-4-1	NSC	05/05/2008	Not Printed
	31263	R123-4-2	NSC	05/05/2008	Not Printed
	31265	R123-4-5	NSC	05/05/2008	Not Printed
	31266	R123-4-6	NSC	05/05/2008	Not Printed
	31267	R123-4-7	NSC	05/05/2008	Not Printed
	31281	R380-1	NSC	05/05/2008	Not Printed
	31282	R380-5	NSC	05/05/2008	Not Printed
	31232	R600-1	5YR	04/28/2008	2008-10/148
	31237	R600-1	NSC	05/05/2008	Not Printed
definitions					
Environmental Quality, Air Quality	30697	R307-101	AMD	02/08/2008	2007-23/21
	30959	R307-101	5YR	02/08/2008	2008-5/40
Environmental Quality, Radiation Control	31170	R313-12-1	NSC	05/05/2008	Not Printed
	30774	R313-12-111	AMD	04/11/2008	2007-24/8
	30774	R313-12-111	CPR	04/11/2008	2008-5/34
Human Resource Management, Administration	31211	R477-13	NSC	06/19/2008	Not Printed
Workforce Services, Unemployment Insurance	31467	R994-201	5YR	05/20/2008	2008-12/64
demonstration					
Health, Health Care Financing, Coverage and Reimbursement Policy	31356	R414-310	AMD	07/01/2008	2008-10/66
dental					
Health, Health Care Financing, Coverage and Reimbursement Policy	31452	R414-51	5YR	05/19/2008	2008-12/53
dental hygienists					
Commerce, Occupational and Professional Licensing	31136	R156-69	AMD	06/09/2008	2008-9/35
dentists					
Commerce, Occupational and Professional Licensing	31136	R156-69	AMD	06/09/2008	2008-9/35
developmentally disabled					
Commerce, Administration	31346	R151-3-1	NSC	05/05/2008	Not Printed
	31067	R495-878	AMD	06/13/2008	2008-8/23
	31367	R495-878	NSC	05/05/2008	Not Printed
	30688	R861-1A-20	AMD	01/11/2008	2007-23/68
	30589	R861-1A-24	AMD	01/11/2008	2007-21/69
	30717	R861-1A-26	AMD	01/11/2008	2007-23/69
	30838	R861-1A-40	AMD	02/25/2008	2008-1/32
	30835	R861-1A-42	AMD	02/25/2008	2008-1/33
	30780	R861-1A-43	AMD	01/25/2008	2007-24/24

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dietitians					
Commerce, Occupational and Professional Licensing	31180	R156-49	NSC	05/05/2008	Not Printed
	31073	R156-49	5YR	03/24/2008	2008-8/52
digital signature					
Commerce, Corporations and Commercial Code	30642	R154-10	REP	03/03/2008	2007-22/16
disabilities					
Human Services, Services for People with Disabilities	30877	R539-1-8	AMD	04/01/2008	2008-3/32
	30926	R539-1-8	EMR	01/28/2008	2008-4/38
	31084	R539-9	AMD	05/22/2008	2008-8/26
	31594	R539-15	EMR	07/01/2008	Not Printed
disabled persons					
Corrections, Administration	30713	R251-112	AMD	03/11/2008	2007-23/19
	31517	R277-104	5YR	06/02/2008	2008-12/50
	31285	R380-100	NSC	05/05/2008	Not Printed
Natural Resources, Wildlife Resources	30777	R657-12	AMD	01/22/2008	2007-24/19
	31221	R657-12-1	NSC	05/05/2008	Not Printed
Public Service Commission, Administration	31370	R746-500	NSC	05/05/2008	Not Printed
disables					
Human Services, Aging and Adult Services	31027	R510-105	5YR	02/27/2008	2008-6/26
discharge					
Environmental Quality, Water Quality	30636	R317-14	NEW	02/04/2008	2007-22/62
disciplinary actions					
Education, Administration	30847	R277-609	AMD	02/07/2008	2008-1/10
	30958	R277-609-5	NSC	02/29/2008	Not Printed
	31521	R686-101	5YR	06/02/2008	2008-12/62
	31522	R686-102	5YR	06/02/2008	2008-12/62
	31016	R686-103	REP	04/21/2008	2008-6/12
disciplinary problems					
Education, Administration	31518	R277-436	5YR	06/02/2008	2008-12/51
disclosure requirements					
Tax Commission, Administration	30688	R861-1A-20	AMD	01/11/2008	2007-23/68
	30589	R861-1A-24	AMD	01/11/2008	2007-21/69
	30717	R861-1A-26	AMD	01/11/2008	2007-23/69
	30838	R861-1A-40	AMD	02/25/2008	2008-1/32
	30835	R861-1A-42	AMD	02/25/2008	2008-1/33
	30780	R861-1A-43	AMD	01/25/2008	2007-24/24
discretion clauses					
Insurance, Administration	30897	R590-218	5YR	01/11/2008	2008-3/80
discrimination					
Labor Commission, Antidiscrimination and Labor, Antidiscrimination	31241	R606-1	NSC	05/05/2008	Not Printed

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	31242	R606-2	NSC	05/05/2008	Not Printed
Labor Commission, Antidiscrimination and Labor, Fair Housing	31240	R608-1	NSC	05/05/2008	Not Printed
disruptive students					
Education, Administration	30958	R277-609-5	NSC	02/29/2008	Not Printed
diversion programs					
Commerce, Occupational and Professional Licensing	31288	R156-1	AMD	06/23/2008	2008-10/30
	30655	R156-1-102a	AMD	01/08/2008	2007-23/3
drinking water					
Environmental Quality, Drinking Water	31157	R309-352	5YR	04/18/2008	2008-10/144
driver address record					
Public Safety, Driver License	31121	R708-42-4	NSC	05/05/2008	Not Printed
driver education					
Education, Administration	31039	R277-746	5YR	03/03/2008	2008-7/64
	31040	R277-747	5YR	03/03/2008	2008-7/64
Public Safety, Driver License	31105	R708-2-25	NSC	05/05/2008	Not Printed
	31113	R708-18-1	NSC	05/05/2008	Not Printed
driver license					
Public Safety, Driver License	31119	R708-36-1	NSC	05/05/2008	Not Printed
	31123	R708-44-4	NSC	05/05/2008	Not Printed
driver license verification					
Public Safety, Driver License	31122	R708-43	NSC	05/05/2008	Not Printed
driver training					
Public Safety, Driver License	31120	R708-37-11	NSC	05/05/2008	Not Printed
dual employment					
Human Resource Management, Administration	30778	R477-8-5	AMD	01/22/2008	2007-24/16
due process					
Human Services, Substance Abuse and Mental Health	31089	R523-1	5YR	03/31/2008	2008-8/53
	30767	R523-1	NSC	03/31/2008	Not Printed
DUI programs					
Human Services, Substance Abuse and Mental Health	31352	R523-22-9	NSC	05/05/2008	Not Printed
economic development					
Governor, Economic Development	31153	R357-3	NEW	06/18/2008	2008-9/37
education					
Commerce, Consumer Protection	31218	R152-34-10	NSC	05/05/2008	Not Printed
Education, Administration	30846	R277-470-7	AMD	02/07/2008	2008-1/9
	30884	R277-709	5YR	01/08/2008	2008-3/75
	30885	R277-718	5YR	01/08/2008	2008-3/75
	30888	R277-730	5YR	01/08/2008	2008-3/77

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education finance Education, Administration	30845	R277-423	AMD	02/07/2008	2008-1/8
educational policy Regents (Board Of), Administration	31515	R765-555	5YR	06/02/2008	2008-12/64
	31104	R765-555	NSC	06/02/2008	Not Printed
educational testing Education, Administration	30883	R277-702	5YR	01/08/2008	2008-3/74
educator Education, Administration	30976	R277-515-3	NSC	02/27/2008	Not Printed
educator licensing Education, Administration	30944	R277-502	AMD	03/24/2008	2008-4/6
	30878	R277-518	5YR	01/08/2008	2008-3/72
educators Professional Practices Advisory Commission, Administration	31016	R686-103	REP	04/21/2008	2008-6/12
effluent standards Environmental Quality, Water Quality	30639	R317-1-4	AMD	02/04/2008	2007-22/52
	30637	R317-13	NEW	02/04/2008	2007-22/61
eldercare Human Services, Aging and Adult Services	31378	R510-110-5	NSC	05/05/2008	Not Printed
elderly Human Services, Aging and Adult Services	31379	R510-200-3	NSC	05/05/2008	Not Printed
electric generating unit Environmental Quality, Air Quality	30965	R307-220	5YR	02/08/2008	2008-5/43
	30969	R307-224	5YR	02/08/2008	2008-5/45
	30704	R307-224-2	AMD	02/08/2008	2007-23/39
electric utility industries Public Service Commission, Administration	31617	R746-210	5YR	06/24/2008	Not Printed
electrologists Commerce, Occupational and Professional Licensing	30953	R156-11a	AMD	04/10/2008	2008-5/5
	31174	R156-11a-601	NSC	05/05/2008	Not Printed
electronic commerce Commerce, Corporations and Commercial Code	30642	R154-10	REP	03/03/2008	2007-22/16
electronic communication Commerce, Corporations and Commercial Code	30642	R154-10	REP	03/03/2008	2007-22/16
electronic meetings Agriculture and Food, Conservation and Resource Management	31079	R64-2	NEW	06/03/2008	2008-8/4
electronic preliminary lien filing Commerce, Occupational and Professional Licensing	31177	R156-38b-703	NSC	05/05/2008	Not Printed

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elevators					
Labor Commission, Safety	31253	R616-3	NSC	05/05/2008	Not Printed
	30943	R616-3-3	AMD	03/24/2008	2008-4/21
eligibility					
Health, Health Care Financing, Coverage and Reimbursement Policy	30938	R414-308	5YR	01/31/2008	2008-4/46
	30927	R414-308-7	AMD	04/01/2008	2008-4/16
Human Services, Child and Family Services	30721	R512-50	NSC	01/07/2008	Not Printed
	30718	R512-50	REP	01/07/2008	2007-23/60
emergency medical services					
Health, Health Systems Improvement, Emergency Medical Services	31068	R426-5-3	AMD	06/04/2008	2008-8/17
	30758	R426-6	AMD	02/07/2008	2007-24/14
	31096	R426-8-4	AMD	06/05/2008	2008-8/22
	30954	R426-15-203	AMD	06/24/2008	2008-5/19
emergency meetings					
Environmental Quality, Administration	30506	R305-3	NSC	02/15/2008	Not Printed
	30766	R305-3	REP	02/15/2008	2007-24/6
emergency vehicles					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	31433	R722-340	5YR	05/14/2008	2008-11/128
	30930	R722-340	NSC	05/14/2008	Not Printed
employer					
Labor Commission, Industrial Accidents	31229	R612-5	5YR	04/28/2008	2008-10/149
employment					
Labor Commission, Antidiscrimination and Labor, Antidiscrimination	31241	R606-1	NSC	05/05/2008	Not Printed
	31242	R606-2	NSC	05/05/2008	Not Printed
Workforce Services, Unemployment Insurance	31468	R994-202	5YR	05/20/2008	2008-12/65
employment agencies					
Labor Commission, Antidiscrimination and Labor, Labor	31239	R610-4	NSC	05/05/2008	Not Printed
endangered species					
Natural Resources, Forestry, Fire and State Lands	31112	R652-120	NSC	05/01/2008	Not Printed
energy					
Natural Resources, Geological Survey	30902	R638-2-6	AMD	03/10/2008	2008-3/35
energy utility					
Public Service Commission, Administration	31072	R746-440	NSC	04/11/2008	Not Printed
engineers					
Capitol Preservation Board (State), Administration	30591	R131-1	AMD	02/29/2008	2007-21/11
Commerce, Occupational and Professional Licensing	31175	R156-22-305	NSC	05/05/2008	Not Printed

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English proficiency					
Regents (Board Of), Administration	31490	R765-136	5YR	05/27/2008	2008-12/63
	31326	R765-136	NSC	05/05/2008	Not Printed
enrollment					
Education, Administration	31037	R277-485	5YR	03/03/2008	2008-7/63
enterprise zones					
Tax Commission, Auditing	30916	R865-9I-37	AMD	03/14/2008	2008-3/63
	30849	R865-9I-53	AMD	02/25/2008	2008-1/36
environmental protection					
Environmental Quality, Air Quality	30698	R307-115	AMD	02/08/2008	2007-23/28
	30961	R307-115	5YR	02/08/2008	2008-5/41
essential facilities					
Public Service Commission, Administration	31374	R746-349-3	NSC	05/05/2008	Not Printed
estheticians					
Commerce, Occupational and Professional Licensing	30953	R156-11a	AMD	04/10/2008	2008-5/5
	31174	R156-11a-601	NSC	05/05/2008	Not Printed
exceptional children					
Education, Administration	31041	R277-751	5YR	03/03/2008	2008-7/65
exemptions					
Environmental Quality, Radiation Control	31170	R313-12-1	NSC	05/05/2008	Not Printed
	30774	R313-12-111	AMD	04/11/2008	2007-24/8
	30774	R313-12-111	CPR	04/11/2008	2008-5/34
exemptions to wildland fire suppression fund					
Natural Resources, Forestry, Fire and State Lands	31111	R652-123	NSC	05/01/2008	Not Printed
expelled					
Education, Administration	31036	R277-483	5YR	03/03/2008	2008-7/62
extended area service					
Public Service Commission, Administration	31045	R746-347	5YR	03/07/2008	2008-7/66
extinguishers					
Public Safety, Fire Marshal	31076	R710-1-4	AMD	05/23/2008	2008-8/31
extracurricular activities					
Education, Administration	30880	R277-605	5YR	01/08/2008	2008-3/73
eyeglasses					
Health, Health Care Financing, Coverage and Reimbursement Policy	30776	R414-53	AMD	02/01/2008	2007-24/13
	31528	R414-53	5YR	06/05/2008	2008-13/148
facility notice					
Corrections, Administration	30803	R251-114	NEW	03/11/2008	2008-1/6

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fair housing					
Labor Commission, Antidiscrimination and Labor, Fair Housing	31240	R608-1	NSC	05/05/2008	Not Printed
family employment program					
Workforce Services, Employment Development	31032	R986-200	AMD	05/01/2008	2008-6/18
	30864	R986-200-214	AMD	02/26/2008	2008-2/25
fees					
Administrative Services, Finance	31363	R25-14	EMR	05/05/2008	2008-10/140
Human Services, Child and Family Services	30721	R512-50	NSC	01/07/2008	Not Printed
	30718	R512-50	REP	01/07/2008	2007-23/60
Human Services, Substance Abuse and Mental Health	31089	R523-1	5YR	03/31/2008	2008-8/53
	30767	R523-1	NSC	03/31/2008	Not Printed
Labor Commission, Industrial Accidents	31234	R612-2	5YR	04/28/2008	2008-10/148
	31333	R612-2-5	AMD	07/01/2008	2008-10/130
Natural Resources, Parks and Recreation	30621	R651-611	AMD	01/01/2008	2007-22/80
	30898	R651-611	AMD	03/10/2008	2008-3/39
Public Safety, Driver License	31113	R708-18-1	NSC	05/05/2008	Not Printed
filing deadlines					
Labor Commission, Adjudication	31250	R602-1	NSC	05/05/2008	Not Printed
Labor Commission, Industrial Accidents	31235	R612-1	NSC	05/05/2008	Not Printed
filing requirements					
Public Service Commission, Administration	31072	R746-440	NSC	04/11/2008	Not Printed
finance					
Administrative Services, Finance	31318	R25-2	NSC	05/05/2008	Not Printed
	31316	R25-6	5YR	04/29/2008	2008-10/143
	31321	R25-8	AMD	07/01/2008	2008-10/7
financial aid					
Regents (Board Of), Administration	31402	R765-605	5YR	05/09/2008	2008-11/128
	30957	R765-607	5YR	02/08/2008	2008-5/60
financial disclosures					
Health, Health Care Financing, Coverage and Reimbursement Policy	30652	R414-304	AMD	01/28/2008	2007-23/54
	30924	R414-304	5YR	01/25/2008	2008-4/44
financial institutions					
Financial Institutions, Administration	31256	R331-20	NSC	05/05/2008	Not Printed
	31315	R331-22-1	NSC	05/05/2008	Not Printed
fire alarm systems					
Public Safety, Fire Marshal	31086	R710-11-3	AMD	05/23/2008	2008-8/42
fire marshal					
Environmental Quality, Air Quality	30963	R307-202	5YR	02/08/2008	2008-5/42

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fire prevention					
Public Safety, Fire Marshal	31076	R710-1-4	AMD	05/23/2008	2008-8/31
	31085	R710-7	AMD	05/23/2008	2008-8/40
	30919	R710-9-6	AMD	03/10/2008	2008-3/52
fire training					
Public Safety, Fire Marshal	30894	R710-10	AMD	03/10/2008	2008-3/56
firearms					
Natural Resources, Parks and Recreation	30901	R651-612	AMD	03/10/2008	2008-3/42
fireworks					
Public Safety, Fire Marshal	30918	R710-2-4	AMD	03/10/2008	2008-3/50
	31078	R710-2-7	AMD	05/23/2008	2008-8/34
fiscal					
Natural Resources, Parks and Recreation	30899	R651-301	AMD	03/10/2008	2008-3/37
fish					
Natural Resources, Wildlife Resources	30676	R657-13	AMD	01/07/2008	2007-23/61
	31048	R657-13-3	AMD	05/08/2008	2008-7/47
	30904	R657-13-4	AMD	03/10/2008	2008-3/43
	30903	R657-58	NEW	03/10/2008	2008-3/47
	31052	R657-58	NSC	03/26/2008	Not Printed
	31625	R657-59	EMR	06/27/2008	Not Printed
	31624	R657-60	EMR	06/27/2008	Not Printed
fishing					
Natural Resources, Wildlife Resources	30676	R657-13	AMD	01/07/2008	2007-23/61
	31048	R657-13-3	AMD	05/08/2008	2008-7/47
	30904	R657-13-4	AMD	03/10/2008	2008-3/43
	30903	R657-58	NEW	03/10/2008	2008-3/47
	31052	R657-58	NSC	03/26/2008	Not Printed
	31625	R657-59	EMR	06/27/2008	Not Printed
fleet expansion					
Administrative Services, Fleet Operations	30618	R27-4	AMD	03/06/2008	2007-22/9
food aid programs					
Education, Administration	30886	R277-721	5YR	01/08/2008	2008-3/76
	31014	R277-721	REP	04/21/2008	2008-6/5
	30887	R277-722	5YR	01/08/2008	2008-3/76
	31015	R277-722	REP	04/21/2008	2008-6/6
foods					
Education, Administration	30848	R277-719	NEW	02/07/2008	2008-1/12
franchises					
Commerce, Administration	31354	R151-14-3	NSC	05/05/2008	Not Printed
	31355	R151-35-3	NSC	05/05/2008	Not Printed
Commerce, Consumer Protection	31214	R152-15-2	NSC	05/05/2008	Not Printed
Tax Commission, Auditing	30913	R865-6F-28	AMD	03/14/2008	2008-3/61

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	30842	R865-6F-37	AMD	02/25/2008	2008-1/35
fraud					
Human Services, Recovery Services	30982	R527-928	AMD	04/07/2008	2008-5/26
free enterprise					
Regents (Board Of), Administration	31104	R765-555	NSC	06/02/2008	Not Printed
freedom of information					
Administrative Services, Administration	31343	R13-2	NSC	05/05/2008	Not Printed
	31345	R151-2	NSC	05/05/2008	Not Printed
Natural Resources, Wildlife Resources	31225	R657-29	NSC	05/05/2008	Not Printed
fuel composition					
Environmental Quality, Air Quality	30964	R307-203	5YR	02/08/2008	2008-5/43
fuel oil					
Environmental Quality, Air Quality	30964	R307-203	5YR	02/08/2008	2008-5/43
funding					
Environmental Quality, Drinking Water	31157	R309-352	5YR	04/18/2008	2008-10/144
game birds					
Natural Resources, Wildlife Resources	31222	R657-22-1	NSC	05/05/2008	Not Printed
game laws					
Natural Resources, Wildlife Resources	30829	R657-5	AMD	02/07/2008	2008-1/18
	30828	R657-23	AMD	02/07/2008	2008-1/25
	30955	R657-23-5	AMD	04/07/2008	2008-5/31
	30906	R657-33	AMD	03/10/2008	2008-3/44
	31398	R657-34	5YR	05/08/2008	2008-11/125
gangs					
Education, Administration	31518	R277-436	5YR	06/02/2008	2008-12/51
general assistance					
Workforce Services, Employment Development	31034	R986-400-406	AMD	05/01/2008	2008-6/20
general conformity					
Environmental Quality, Air Quality	30698	R307-115	AMD	02/08/2008	2007-23/28
	30961	R307-115	5YR	02/08/2008	2008-5/41
geology					
Commerce, Occupational and Professional Licensing	30694	R156-76	AMD	01/08/2008	2007-23/17
government documents					
Commerce, Administration	31345	R151-2	NSC	05/05/2008	Not Printed
	31284	R380-20	NSC	05/05/2008	Not Printed
	31368	R495-810	NSC	05/05/2008	Not Printed
Natural Resources, Forestry, Fire and State Lands	31259	R652-6	NSC	05/05/2008	Not Printed
Natural Resources, Wildlife Resources	31225	R657-29	NSC	05/05/2008	Not Printed

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government hearings					
Administrative Services, Administrative Rules	31143	R15-1	NSC	05/05/2008	Not Printed
Administrative Services, Finance	31318	R25-2	NSC	05/05/2008	Not Printed
Commerce, Occupational and Professional Licensing	31179	R156-46b	NSC	05/05/2008	Not Printed
Financial Institutions, Administration	31256	R331-20	NSC	05/05/2008	Not Printed
	30949	R671-403	5YR	02/04/2008	2008-5/59
	31373	R746-100	NSC	05/05/2008	Not Printed
	31372	R746-101-4	NSC	05/05/2008	Not Printed
government purchasing					
Administrative Services, Purchasing and General Services	31477	R33-1	NSC	06/18/2008	Not Printed
	31478	R33-2-101	NSC	06/18/2008	Not Printed
	31479	R33-3	NSC	06/18/2008	Not Printed
	31480	R33-4	NSC	06/18/2008	Not Printed
	31481	R33-5	NSC	06/18/2008	Not Printed
	31482	R33-7	NSC	06/18/2008	Not Printed
	31483	R33-8-101	NSC	06/18/2008	Not Printed
government records					
Crime Victim Reparations, Administration	31324	R270-4	NSC	05/05/2008	Not Printed
graduation requirements					
Education, Administration	30977	R277-703-6	NSC	02/27/2008	Not Printed
GRAMA					
Health, Administration	31284	R380-20	NSC	05/05/2008	Not Printed
Natural Resources, Forestry, Fire and State Lands	31259	R652-6	NSC	05/05/2008	Not Printed
Regents (Board Of), Salt Lake Community College	31344	R784-1	NSC	05/05/2008	Not Printed
Regents (Board Of), University of Utah, Administration	31340	R805-2	NSC	05/05/2008	Not Printed
grants					
Community and Culture, Housing and Community Development	30451	R199-8	AMD	01/01/2008	2007-19/6
grievance procedures					
Health, Administration	31285	R380-100	NSC	05/05/2008	Not Printed
	30688	R861-1A-20	AMD	01/11/2008	2007-23/68
	30589	R861-1A-24	AMD	01/11/2008	2007-21/69
	30717	R861-1A-26	AMD	01/11/2008	2007-23/69
	30838	R861-1A-40	AMD	02/25/2008	2008-1/32
	30835	R861-1A-42	AMD	02/25/2008	2008-1/33
	30780	R861-1A-43	AMD	01/25/2008	2007-24/24
habitat designation					
Natural Resources, Wildlife Resources	31226	R657-48-7	NSC	05/05/2008	Not Printed
halfway houses					
Human Services, Recovery Services	31133	R527-257	REP	06/09/2008	2008-9/45

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hazardous air pollutant					
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	30895	R307-214	5YR	01/11/2008	2008-3/77
hazardous materials					
Public Safety, Fire Marshal	30893	R710-12	NEW	03/10/2008	2008-3/58
	31087	R710-12-4	AMD	05/23/2008	2008-8/44
hazardous materials transportation					
Transportation, Motor Carrier	31090	R909-75	AMD	05/27/2008	2008-8/45
hazardous substances					
Environmental Quality, Environmental Response and Remediation	31487	R311-201	NSC	06/18/2008	Not Printed
Transportation, Motor Carrier	31090	R909-75	AMD	05/27/2008	2008-8/45
hazardous substances priority list					
Environmental Quality, Environmental Response and Remediation	30567	R311-401-2	AMD	01/02/2008	2007-21/59
hazardous waste					
Environmental Quality, Solid and Hazardous Waste	31377	R315-2	NSC	05/05/2008	Not Printed
	31065	R315-3	NSC	04/11/2008	Not Printed
	31376	R315-12	NSC	05/05/2008	Not Printed
	30907	R315-15-1	AMD	03/13/2008	2008-3/16
	30908	R315-15-10	AMD	03/13/2008	2008-3/19
	30909	R315-15-11	AMD	03/13/2008	2008-3/21
	30910	R315-15-12	AMD	03/13/2008	2008-3/23
	30911	R315-15-17	AMD	03/13/2008	2008-3/29
Transportation, Motor Carrier	31090	R909-75	AMD	05/27/2008	2008-8/45
health					
Health, Center for Health Data, Health Care Statistics	31167	R428-11	5YR	04/21/2008	2008-10/146
	31021	R428-11	NSC	04/21/2008	Not Printed
	31168	R428-13	5YR	04/21/2008	2008-10/146
	31022	R428-13	NSC	04/21/2008	Not Printed
	30956	R428-13-4	AMD	05/16/2008	2008-5/25
health administration					
Health, Administration	31283	R380-10	NSC	05/05/2008	Not Printed
health care					
Health, Community and Family Health Services, Children with Special Health Care Needs	31350	R398-1	AMD	06/25/2008	2008-10/60
health care facilities					
Health, Health Systems Improvement, Licensing	31489	R432-35	5YR	05/27/2008	2008-12/54
health facilities					
Health, Health Systems Improvement, Licensing	30975	R432-16	5YR	02/11/2008	2008-5/58

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Insurance, Administration	30462	R590-167-11	AMD	05/20/2008	2007-20/23
	30462	R590-167-11	CPR	05/20/2008	2008-3/68
health planning					
Health, Center for Health Data, Health Care Statistics	31167	R428-11	5YR	04/21/2008	2008-10/146
	31021	R428-11	NSC	04/21/2008	Not Printed
	31168	R428-13	5YR	04/21/2008	2008-10/146
	31022	R428-13	NSC	04/21/2008	Not Printed
	30956	R428-13-4	AMD	05/16/2008	2008-5/25
health policy					
Health, Center for Health Data, Health Care Statistics	31021	R428-11	NSC	04/21/2008	Not Printed
	31168	R428-13	5YR	04/21/2008	2008-10/146
	31022	R428-13	NSC	04/21/2008	Not Printed
	30956	R428-13-4	AMD	05/16/2008	2008-5/25
health spas					
Commerce, Consumer Protection	31217	R152-23-1	NSC	05/05/2008	Not Printed
hearing impaired					
Public Service Commission, Administration	31375	R746-510	NSC	05/05/2008	Not Printed
hearings					
Community and Culture, Home Energy Assistance Target (HEAT)	31331	R195-1	NSC	05/05/2008	Not Printed
Environmental Quality, Air Quality	31461	R307-103	NSC	06/18/2008	Not Printed
Environmental Quality, Water Quality	30948	R317-9	5YR	02/01/2008	2008-4/42
Labor Commission, Adjudication	31236	R602-2-1	NSC	05/05/2008	Not Printed
	30811	R602-2-4	AMD	02/07/2008	2008-1/14
	31238	R602-3	NSC	05/05/2008	Not Printed
	30810	R602-3-3	AMD	02/07/2008	2008-1/16
Professional Practices Advisory Commission, Administration	30951	R686-100	5YR	02/04/2008	2008-5/59
higher education					
Regents (Board Of), Administration	31325	R765-134	NSC	05/05/2008	Not Printed
	31490	R765-136	5YR	05/27/2008	2008-12/63
	31326	R765-136	NSC	05/05/2008	Not Printed
	31515	R765-555	5YR	06/02/2008	2008-12/64
	31104	R765-555	NSC	06/02/2008	Not Printed
	31402	R765-605	5YR	05/09/2008	2008-11/128
	30957	R765-607	5YR	02/08/2008	2008-5/60
	31327	R765-993	NSC	05/05/2008	Not Printed
Regents (Board Of), University of Utah, Administration	31340	R805-2	NSC	05/05/2008	Not Printed
higher education assistance					
Regents (Board Of), Administration	31405	R765-606	5YR	05/09/2008	2008-11/129

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HIPAA					
Health, Administration	31455	R380-250	5YR	05/19/2008	2008-12/52
	31484	R495-881	5YR	05/27/2008	2008-12/55
historic preservation					
Tax Commission, Auditing	30913	R865-6F-28	AMD	03/14/2008	2008-3/61
	30842	R865-6F-37	AMD	02/25/2008	2008-1/35
	30916	R865-9I-37	AMD	03/14/2008	2008-3/63
	30849	R865-9I-53	AMD	02/25/2008	2008-1/36
hospital					
Health, Administration	31286	R380-200	NSC	05/05/2008	Not Printed
	31280	R380-210-6	NSC	05/05/2008	Not Printed
Health, Health Care Financing, Coverage and Reimbursement Policy	31424	R414-5	5YR	05/13/2008	2008-11/125
hospital policy					
Health, Center for Health Data, Health Care Statistics	31167	R428-11	5YR	04/21/2008	2008-10/146
hospitals					
Environmental Quality, Air Quality	30702	R307-222	AMD	02/08/2008	2007-23/36
	30967	R307-222	5YR	02/08/2008	2008-5/44
	30833	R307-222-1	NSC	02/08/2008	Not Printed
housing					
Labor Commission, Antidiscrimination and Labor, Fair Housing	31240	R608-1	NSC	05/05/2008	Not Printed
human services					
Human Services, Administration, Administrative Services, Licensing	31017	R501-16	5YR	02/22/2008	2008-6/25
	31026	R501-17	5YR	02/27/2008	2008-6/25
Human Services, Services for People with Disabilities	30877	R539-1-8	AMD	04/01/2008	2008-3/32
	30926	R539-1-8	EMR	01/28/2008	2008-4/38
hunter education					
Natural Resources, Wildlife Resources	30828	R657-23	AMD	02/07/2008	2008-1/25
	30955	R657-23-5	AMD	04/07/2008	2008-5/31
hunting closures					
Natural Resources, Wildlife Resources	31398	R657-34	5YR	05/08/2008	2008-11/125
impairment ratings					
Labor Commission, Industrial Accidents	31231	R612-7	5YR	04/28/2008	2008-10/150
implements of husbandry					
Transportation, Motor Carrier	30783	R909-1-1	AMD	02/15/2008	2007-24/25
import restrictions					
Natural Resources, Wildlife Resources	31047	R657-3	5YR	03/11/2008	2008-7/65
	31220	R657-3	NSC	05/05/2008	Not Printed
	31053	R657-3	AMD	05/08/2008	2008-7/45
	31051	R657-53	AMD	05/08/2008	2008-7/50

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	31508	R657-53	5YR	06/02/2008	2008-12/61
imputation					
Public Service Commission, Administration	31374	R746-349-3	NSC	05/05/2008	Not Printed
incinerators					
Environmental Quality, Air Quality	30965	R307-220	5YR	02/08/2008	2008-5/43
income					
Health, Health Care Financing, Coverage and Reimbursement Policy	30921	R414-302	5YR	01/25/2008	2008-4/43
	30925	R414-303	5YR	01/25/2008	2008-4/44
	30652	R414-304	AMD	01/28/2008	2007-23/54
	30924	R414-304	5YR	01/25/2008	2008-4/44
income distribution					
Human Services, Child and Family Services	30720	R512-20	NSC	01/07/2008	Not Printed
	30716	R512-20	REP	01/07/2008	2007-23/58
income tax					
Tax Commission, Auditing	30916	R865-9I-37	AMD	03/14/2008	2008-3/63
	30849	R865-9I-53	AMD	02/25/2008	2008-1/36
income withholding fees					
Human Services, Recovery Services	31163	R527-302	AMD	06/25/2008	2008-10/120
	31160	R527-302	5YR	04/21/2008	2008-10/147
independent foster care adolescent					
Health, Health Care Financing, Coverage and Reimbursement Policy	30925	R414-303	5YR	01/25/2008	2008-4/44
industrial waste					
Environmental Quality, Water Quality	30639	R317-1-4	AMD	02/04/2008	2007-22/52
	30637	R317-13	NEW	02/04/2008	2007-22/61
infectious waste					
Environmental Quality, Air Quality	30702	R307-222	AMD	02/08/2008	2007-23/36
	30967	R307-222	5YR	02/08/2008	2008-5/44
	30833	R307-222-1	NSC	02/08/2008	Not Printed
informal adjudicative proceedings					
Labor Commission, Industrial Accidents	31251	R612-9-1	NSC	05/05/2008	Not Printed
injury prevention					
Health, Administration	31280	R380-210-6	NSC	05/05/2008	Not Printed
inspections					
Agriculture and Food, Plant Industry	31006	R68-5	5YR	02/15/2008	2008-5/39
	30611	R68-7	AMD	01/07/2008	2007-22/11
Environmental Quality, Radiation Control	31170	R313-12-1	NSC	05/05/2008	Not Printed
	30774	R313-12-111	AMD	04/11/2008	2007-24/8
	30774	R313-12-111	CPR	04/11/2008	2008-5/34

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instructional materials					
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	31035	R277-469	5YR	03/03/2008	2008-7/62
insurance					
Insurance, Administration	31131	R590-154	5YR	04/09/2008	2008-9/54
	30508	R590-175	AMD	02/08/2008	2007-20/24
	30897	R590-218	5YR	01/11/2008	2008-3/80
	31525	R590-219	5YR	06/04/2008	2008-13/150
	31523	R590-222	5YR	06/02/2008	2008-12/58
Labor Commission, Industrial Accidents	31229	R612-5	5YR	04/28/2008	2008-10/149
insurance fee					
Insurance, Administration	30890	R590-157	5YR	01/10/2008	2008-3/79
insurance law					
Insurance, Administration	31059	R590-91	AMD	05/29/2008	2008-7/35
	31132	R590-94	5YR	04/09/2008	2008-9/53
	31030	R590-164	AMD	05/08/2008	2008-6/10
	31077	R590-191	AMD	05/29/2008	2008-8/27
insurance reserves and nonforfeitures					
Insurance, Administration	31552	R590-223	5YR	06/12/2008	2008-13/151
interpreters					
Public Service Commission, Administration	31375	R746-510	NSC	05/05/2008	Not Printed
interstate					
Human Services, Recovery Services	30978	R527-305	5YR	02/12/2008	2008-5/58
	31025	R527-305	AMD	04/21/2008	2008-6/8
interstate compacts					
Workforce Services, Unemployment Insurance	31075	R994-106-106	AMD	05/30/2008	2008-8/48
intrastate driver license waivers					
Public Safety, Driver License	31116	R708-34	NSC	05/05/2008	Not Printed
job creation					
Governor, Economic Development	30788	R357-2	NEW	01/30/2008	2007-24/9
	30859	R357-2-7	NSC	01/30/2008	Not Printed
jobs					
Governor, Economic Development	31153	R357-3	NEW	06/18/2008	2008-9/37
juvenile courts					
Education, Administration	30884	R277-709	5YR	01/08/2008	2008-3/75
kinship					
Human Services, Child and Family Services	31589	R512-500	EMR	06/18/2008	Not Printed
labor					
Labor Commission, Antidiscrimination and Labor, Labor	31247	R610-1	NSC	05/05/2008	Not Printed

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	31245	R610-2	NSC	05/05/2008	Not Printed
	30942	R610-2-6	AMD	03/24/2008	2008-4/19
	31243	R610-3	NSC	05/05/2008	Not Printed
	30876	R610-3-4	EMR	01/03/2008	2008-3/70
	30941	R610-3-4	AMD	03/24/2008	2008-4/20
	31148	R610-3-10	AMD	06/13/2008	2008-9/50
Labor Commission, Safety	31233	R616-1	5YR	04/28/2008	2008-10/150
	31249	R616-1	NSC	05/05/2008	Not Printed
labor commission					
Labor Commission, Administration	31232	R600-1	5YR	04/28/2008	2008-10/148
	31237	R600-1	NSC	05/05/2008	Not Printed
landfills					
Environmental Quality, Air Quality	30965	R307-220	5YR	02/08/2008	2008-5/43
landscape architects					
Commerce, Occupational and Professional Licensing	31074	R156-53	5YR	03/24/2008	2008-8/52
language proficiency					
Regents (Board Of), Administration	31490	R765-136	5YR	05/27/2008	2008-12/63
	31326	R765-136	NSC	05/05/2008	Not Printed
law					
Public Safety, Fire Marshal	30919	R710-9-6	AMD	03/10/2008	2008-3/52
law enforcement					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	30929	R722-320	NSC	05/14/2008	Not Printed
	31434	R722-320	5YR	05/14/2008	2008-11/127
lead-based paint					
Environmental Quality, Air Quality	30973	R307-840	5YR	02/08/2008	2008-5/47
	30708	R307-840	AMD	02/08/2008	2007-23/48
LEAP					
Regents (Board Of), Administration	31405	R765-606	5YR	05/09/2008	2008-11/129
leases					
Natural Resources, Forestry, Fire and State Lands	31270	R652-30-500	NSC	05/05/2008	Not Printed
liberties					
Natural Resources, Administration	30875	R634-1	NSC	01/25/2008	Not Printed
	30923	R634-1	5YR	01/25/2008	2008-4/47
license					
Natural Resources, Wildlife Resources	31399	R657-45	5YR	05/08/2008	2008-11/127
	31050	R657-45-2	AMD	05/08/2008	2008-7/49
license plates					
Tax Commission, Motor Vehicle	30844	R873-22M-34	AMD	02/25/2008	2008-1/38

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licensing					
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	30655	R156-1-102a	AMD	01/08/2008	2007-23/3
	30935	R156-3a-303	AMD	03/27/2008	2008-4/5
	30715	R156-26a	AMD	03/31/2008	2007-23/4
	30715	R156-26a	CPR	03/31/2008	2008-4/35
	31156	R156-31b	AMD	06/23/2008	2008-10/34
	31094	R156-31b	5YR	04/01/2008	2008-8/51
	30654	R156-38a	AMD	01/07/2008	2007-23/14
	31176	R156-38a-105a	NSC	05/05/2008	Not Printed
	31178	R156-40-302e	NSC	05/05/2008	Not Printed
	30853	R156-47b	AMD	02/21/2008	2008-2/4
	31180	R156-49	NSC	05/05/2008	Not Printed
	31073	R156-49	5YR	03/24/2008	2008-8/52
	31074	R156-53	5YR	03/24/2008	2008-8/52
	31292	R156-55a	AMD	06/24/2008	2008-10/42
	30892	R156-55a	AMD	03/11/2008	2008-3/3
	31181	R156-55d	NSC	05/05/2008	Not Printed
	30574	R156-56	AMD	01/01/2008	2007-21/38
	31139	R156-56	AMD	07/01/2008	2008-9/23
	30573	R156-56-420	AMD	01/01/2008	2007-21/57
	31142	R156-56-701	AMD	07/01/2008	2008-9/30
	30915	R156-61	AMD	05/08/2008	2008-3/6
	30915	R156-61	CPR	05/08/2008	2008-7/55
	31182	R156-63	NSC	05/05/2008	Not Printed
	31183	R156-67	NSC	05/05/2008	Not Printed
	31083	R156-68	5YR	03/27/2008	2008-8/53
	31185	R156-68	NSC	05/05/2008	Not Printed
	31136	R156-69	AMD	06/09/2008	2008-9/35
	30694	R156-76	AMD	01/08/2008	2007-23/17
Human Services, Administration, Administrative Services, Licensing	31017	R501-16	5YR	02/22/2008	2008-6/25
	31026	R501-17	5YR	02/27/2008	2008-6/25
Labor Commission, Antidiscrimination and Labor, Labor	31239	R610-4	NSC	05/05/2008	Not Printed
Natural Resources, Wildlife Resources	31224	R657-27-11	NSC	05/05/2008	Not Printed
Public Safety, Driver License	31113	R708-18-1	NSC	05/05/2008	Not Printed
Sports Authority (Utah), Pete Suazo Utah Athletic Commission	31028	R859-1	AMD	05/01/2008	2008-6/15
	31172	R859-1-102	NSC	06/18/2008	Not Printed
	31029	R859-1-302	AMD	05/01/2008	2008-6/16
liens					
Commerce, Occupational and Professional Licensing	30654	R156-38a	AMD	01/07/2008	2007-23/14
	31176	R156-38a-105a	NSC	05/05/2008	Not Printed
liquefied petroleum gas					
Public Safety, Fire Marshal	30862	R710-6	AMD	02/21/2008	2008-2/22

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loans Environmental Quality, Water Quality	31103	R317-101	5YR	04/02/2008	2008-9/53
LTCO Human Services, Aging and Adult Services	31379	R510-200-3	NSC	05/05/2008	Not Printed
MACT Environmental Quality, Air Quality	30430	R307-214	AMD	01/11/2008	2007-19/12
	30895	R307-214	5YR	01/11/2008	2008-3/77
maps Natural Resources, Water Rights	31130	R655-5	5YR	04/08/2008	2008-9/54
market trading program Environmental Quality, Air Quality	30970	R307-250	5YR	02/08/2008	2008-5/46
marketing Commerce, Consumer Protection	31214	R152-15-2	NSC	05/05/2008	Not Printed
massage therapy Commerce, Occupational and Professional Licensing	30853	R156-47b	AMD	02/21/2008	2008-2/4
match requirement Human Services, Administration	30773	R495-861	AMD	01/30/2008	2007-24/18
Medicaid Health, Health Care Financing	30981	R410-14-17	EMR	02/15/2008	2008-5/36
	31129	R410-14-17	AMD	06/09/2008	2008-9/38
Health, Health Care Financing, Coverage and Reimbursement Policy	31424	R414-5	5YR	05/13/2008	2008-11/125
	31169	R414-6	5YR	04/21/2008	2008-10/145
	30653	R414-21	R&R	01/10/2008	2007-23/50
	31046	R414-27	NSC	03/25/2008	Not Printed
	30920	R414-27	5YR	01/17/2008	2008-4/42
	31135	R414-40	R&R	06/23/2008	2008-9/39
	31452	R414-51	5YR	05/19/2008	2008-12/53
	30775	R414-52	AMD	02/01/2008	2007-24/12
	31453	R414-52	5YR	05/19/2008	2008-12/54
	30776	R414-53	AMD	02/01/2008	2007-24/13
	31528	R414-53	5YR	06/05/2008	2008-13/148
	30378	R414-71	CPR	03/31/2008	2008-3/66
	30378	R414-71	AMD	03/31/2008	2007-18/40
	30936	R414-301	5YR	01/31/2008	2008-4/43
	30937	R414-305	5YR	01/31/2008	2008-4/45
	30945	R414-305	AMD	04/01/2008	2008-4/9
	30938	R414-308	5YR	01/31/2008	2008-4/46
	30927	R414-308-7	AMD	04/01/2008	2008-4/16
	31356	R414-310	AMD	07/01/2008	2008-10/66
	31358	R414-320	AMD	07/01/2008	2008-10/68
	30917	R414-510	AMD	03/10/2008	2008-3/30

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medical incinerator					
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	30967	R307-222	5YR	02/08/2008	2008-5/44
	30833	R307-222-1	NSC	02/08/2008	Not Printed
medical malpractice					
Commerce, Occupational and Professional Licensing	31055	R156-78A	NSC	03/26/2008	Not Printed
medical practitioner					
Labor Commission, Industrial Accidents	31234	R612-2	5YR	04/28/2008	2008-10/148
	31333	R612-2-5	AMD	07/01/2008	2008-10/130
medical transportation					
Health, Health Care Financing, Coverage and Reimbursement Policy	30922	R414-306	5YR	01/25/2008	2008-4/45
medication treatment					
Human Services, Substance Abuse and Mental Health, State Hospital	31449	R525-3	5YR	05/19/2008	2008-12/56
mercury					
Environmental Quality, Air Quality	30969	R307-224	5YR	02/08/2008	2008-5/45
	30704	R307-224-2	AMD	02/08/2008	2007-23/39
minerals reclamation					
Natural Resources, Oil, Gas and Mining; Non-Coal	31510	R647-1	5YR	06/02/2008	2008-12/59
	31205	R647-1-106	NSC	05/05/2008	Not Printed
	31511	R647-2	5YR	06/02/2008	2008-12/59
	31512	R647-3	5YR	06/02/2008	2008-12/60
	31513	R647-4	5YR	06/02/2008	2008-12/60
	31514	R647-5	5YR	06/02/2008	2008-12/61
	31206	R647-5	NSC	05/05/2008	Not Printed
minimum standards					
Natural Resources, Forestry, Fire and State Lands	31109	R652-122-100	NSC	05/01/2008	Not Printed
mining					
Labor Commission, Safety	31233	R616-1	5YR	04/28/2008	2008-10/150
	31249	R616-1	NSC	05/05/2008	Not Printed
minors					
Labor Commission, Antidiscrimination and Labor, Labor	31247	R610-1	NSC	05/05/2008	Not Printed
	31149	R610-1-4	AMD	06/13/2008	2008-9/48
	31245	R610-2	NSC	05/05/2008	Not Printed
	30942	R610-2-6	AMD	03/24/2008	2008-4/19
	31243	R610-3	NSC	05/05/2008	Not Printed
	30876	R610-3-4	EMR	01/03/2008	2008-3/70
	30941	R610-3-4	AMD	03/24/2008	2008-4/20
	31148	R610-3-10	AMD	06/13/2008	2008-9/50

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monitoring					
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	30699	R307-170-7	AMD	02/08/2008	2007-23/29
motor vehicle record					
Public Safety, Driver License	31119	R708-36-1	NSC	05/05/2008	Not Printed
	31123	R708-44-4	NSC	05/05/2008	Not Printed
motor vehicles					
Commerce, Administration	31354	R151-14-3	NSC	05/05/2008	Not Printed
Commerce, Consumer Protection	31215	R152-20	NSC	05/05/2008	Not Printed
Environmental Quality, Air Quality	30889	R307-121-3	NSC	01/30/2008	Not Printed
Tax Commission, Motor Vehicle	30844	R873-22M-34	AMD	02/25/2008	2008-1/38
motorcycle rider training schools					
Public Safety, Driver License	31115	R708-30-14	NSC	05/05/2008	Not Printed
motorcycles					
Commerce, Administration	31355	R151-35-3	NSC	05/05/2008	Not Printed
municipal landfills					
Environmental Quality, Air Quality	30701	R307-221	AMD	02/08/2008	2007-23/32
	30966	R307-221	5YR	02/08/2008	2008-5/44
	30832	R307-221-2	NSC	02/08/2008	Not Printed
municipal waste incinerator					
Environmental Quality, Air Quality	30703	R307-223	AMD	02/08/2008	2007-23/38
	30968	R307-223	5YR	02/08/2008	2008-5/45
mutual water corporations					
Public Service Commission, Administration	31095	R746-331	5YR	04/01/2008	2008-8/55
nail technicians					
Commerce, Occupational and Professional Licensing	30953	R156-11a	AMD	04/10/2008	2008-5/5
	31174	R156-11a-601	NSC	05/05/2008	Not Printed
new hire registry					
Workforce Services, Unemployment Insurance	31549	R994-315	5YR	06/10/2008	2008-13/152
newborn screening					
Health, Community and Family Health Services, Children with Special Health Care Needs	31350	R398-1	AMD	06/25/2008	2008-10/60
notice of commencement					
Commerce, Occupational and Professional Licensing	31177	R156-38b-703	NSC	05/05/2008	Not Printed
notice of completion					
Commerce, Occupational and Professional Licensing	31177	R156-38b-703	NSC	05/05/2008	Not Printed
nurses					
Commerce, Occupational and Professional Licensing	31156	R156-31b	AMD	06/23/2008	2008-10/34
	31094	R156-31b	5YR	04/01/2008	2008-8/51

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nutrition					
Education, Administration	30848	R277-719	NEW	02/07/2008	2008-1/12
occupational licensing					
Commerce, Occupational and Professional Licensing	31288	R156-1	AMD	06/23/2008	2008-10/30
	30655	R156-1-102a	AMD	01/08/2008	2007-23/3
	31179	R156-46b	NSC	05/05/2008	Not Printed
	31292	R156-55a	AMD	06/24/2008	2008-10/42
	30892	R156-55a	AMD	03/11/2008	2008-3/3
off road vehicles					
Commerce, Administration	31355	R151-35-3	NSC	05/05/2008	Not Printed
off-premise					
Human Services, Substance Abuse and Mental Health	31353	R523-24-13	NSC	05/05/2008	Not Printed
oil and gas law					
Natural Resources, Oil, Gas and Mining; Oil and Gas	31207	R649-10-3	NSC	05/05/2008	Not Printed
ombudsman					
Human Services, Aging and Adult Services	31379	R510-200-3	NSC	05/05/2008	Not Printed
open burning					
Environmental Quality, Air Quality	30963	R307-202	5YR	02/08/2008	2008-5/42
operating permits					
Environmental Quality, Air Quality	30700	R307-215	REP	02/08/2008	2007-23/31
	30706	R307-417	AMD	02/08/2008	2007-23/43
optometry					
Health, Health Care Financing, Coverage and Reimbursement Policy	30775	R414-52	AMD	02/01/2008	2007-24/12
	31453	R414-52	5YR	05/19/2008	2008-12/54
orders					
Environmental Quality, Radiation Control	31171	R313-17	NSC	05/05/2008	Not Printed
orthodontia					
Health, Health Care Financing, Coverage and Reimbursement Policy	31452	R414-51	5YR	05/19/2008	2008-12/53
osteopathic physician					
Commerce, Occupational and Professional Licensing	31083	R156-68	5YR	03/27/2008	2008-8/53
	31185	R156-68	NSC	05/05/2008	Not Printed
osteopaths					
Commerce, Occupational and Professional Licensing	31083	R156-68	5YR	03/27/2008	2008-8/53
	31185	R156-68	NSC	05/05/2008	Not Printed
overtime					
Human Resource Management, Administration	30778	R477-8-5	AMD	01/22/2008	2007-24/16

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paint					
Environmental Quality, Air Quality	30973	R307-840	5YR	02/08/2008	2008-5/47
	30708	R307-840	AMD	02/08/2008	2007-23/48
parking facilities					
Administrative Services, Facilities Construction and Management	31063	R23-13	5YR	03/17/2008	2008-8/50
Regents (Board Of), University of Utah, Parking and Transportation Services	30712	R810-1	AMD	03/06/2008	2007-23/65
	30722	R810-2	AMD	03/06/2008	2007-23/67
	30727	R810-3	REP	03/06/2008	2007-24/21
	30728	R810-4	REP	03/06/2008	2007-24/22
	30779	R810-5	AMD	03/06/2008	2007-24/23
	30809	R810-6	AMD	03/06/2008	2008-1/26
	30831	R810-7	REP	03/06/2008	2008-1/27
	30834	R810-8	AMD	03/06/2008	2008-1/28
	30836	R810-9	AMD	03/06/2008	2008-1/29
	30839	R810-10	AMD	03/06/2008	2008-1/30
	30840	R810-11	AMD	03/06/2008	2008-1/31
	30843	R810-12	NEW	03/06/2008	2008-1/32
parks					
Natural Resources, Parks and Recreation	30900	R651-205-17	AMD	03/10/2008	2008-3/36
	30621	R651-611	AMD	01/01/2008	2007-22/80
	30898	R651-611	AMD	03/10/2008	2008-3/39
	31012	R651-612	NSC	03/10/2008	Not Printed
	30901	R651-612	AMD	03/10/2008	2008-3/42
	31601	R651-630	5YR	06/20/2008	Not Printed
parole					
Pardons (Board Of), Administration	30949	R671-403	5YR	02/04/2008	2008-5/59
patient rights					
Human Services, Substance Abuse and Mental Health, State Hospital	31450	R525-2	5YR	05/19/2008	2008-12/55
patient safety					
Health, Administration	31286	R380-200	NSC	05/05/2008	Not Printed
	31280	R380-210-6	NSC	05/05/2008	Not Printed
paying standards					
Public Service Commission, Administration	31092	R746-342	5YR	04/01/2008	2008-8/56
PCN					
Health, Health Care Financing, Coverage and Reimbursement Policy	31358	R414-320	AMD	07/01/2008	2008-10/68
peer review					
Commerce, Occupational and Professional Licensing	30715	R156-26a	AMD	03/31/2008	2007-23/4
	30715	R156-26a	CPR	03/31/2008	2008-4/35
penalties					
Labor Commission, Industrial Accidents	31251	R612-9-1	NSC	05/05/2008	Not Printed

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per diem allowance					
Administrative Services, Finance	31317	R25-5	5YR	04/29/2008	2008-10/143
per diem allowances					
Administrative Services, Finance	31319	R25-7	5YR	04/29/2008	2008-10/144
	31320	R25-7	AMD	07/01/2008	2008-10/4
permit					
Natural Resources, Wildlife Resources	31399	R657-45	5YR	05/08/2008	2008-11/127
	31050	R657-45-2	AMD	05/08/2008	2008-7/49
permits					
Environmental Quality, Air Quality	30709	R307-401-14	AMD	02/08/2008	2007-23/42
Natural Resources, Forestry, Fire and State Lands	31112	R652-120	NSC	05/01/2008	Not Printed
Natural Resources, Wildlife Resources	31400	R657-42	5YR	05/08/2008	2008-11/126
	31049	R657-42-8	AMD	05/08/2008	2008-7/48
permitting authority					
Environmental Quality, Air Quality	30700	R307-215	REP	02/08/2008	2007-23/31
	30706	R307-417	AMD	02/08/2008	2007-23/43
persistently dangerous schools					
Education, Administration	31036	R277-483	5YR	03/03/2008	2008-7/62
personal property					
Tax Commission, Property Tax	31274	R884-24P-62	NSC	06/23/2008	Not Printed
	30931	R884-24P-62	AMD	03/28/2008	2008-4/30
personnel management					
Human Resource Management, Administration	31211	R477-13	NSC	06/19/2008	Not Printed
petroleum					
Environmental Quality, Environmental Response and Remediation	31486	R311-200	NSC	06/18/2008	Not Printed
	31487	R311-201	NSC	06/18/2008	Not Printed
	31488	R311-210	NSC	06/18/2008	Not Printed
physically handicapped persons					
Commerce, Administration	31346	R151-3-1	NSC	05/05/2008	Not Printed
physicians					
Commerce, Occupational and Professional Licensing	31183	R156-67	NSC	05/05/2008	Not Printed
PM10					
Environmental Quality, Air Quality	30971	R307-310	5YR	02/08/2008	2008-5/46
	30705	R307-310-2	AMD	02/08/2008	2007-23/40
point-system					
Public Safety, Driver License	31106	R708-3-2	NSC	05/05/2008	Not Printed
pools					
Health, Epidemiology and Laboratory Services, Environmental Services	31097	R392-302	AMD	05/22/2008	2008-8/6

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post-conviction					
Administrative Services, Finance	31363	R25-14	EMR	05/05/2008	2008-10/140
postsecondary proprietary school					
Commerce, Consumer Protection	31218	R152-34-10	NSC	05/05/2008	Not Printed
POTW					
Environmental Quality, Water Quality	30636	R317-14	NEW	02/04/2008	2007-22/62
powersport vehicles					
Commerce, Administration	31355	R151-35-3	NSC	05/05/2008	Not Printed
preenterprise					
Regents (Board Of), Administration	31515	R765-555	5YR	06/02/2008	2008-12/64
preliminary notice					
Commerce, Occupational and Professional Licensing	31177	R156-38b-703	NSC	05/05/2008	Not Printed
prelitigation					
Commerce, Occupational and Professional Licensing	31055	R156-78A	NSC	03/26/2008	Not Printed
primary care					
Health, Health Care Financing, Coverage and Reimbursement Policy	31356	R414-310	AMD	07/01/2008	2008-10/66
privacy					
Health, Administration	31455	R380-250	5YR	05/19/2008	2008-12/52
	31484	R495-881	5YR	05/27/2008	2008-12/55
Public Safety, Driver License	31119	R708-36-1	NSC	05/05/2008	Not Printed
private schools					
Education, Administration	31040	R277-747	5YR	03/03/2008	2008-7/64
private security officers					
Commerce, Occupational and Professional Licensing	31182	R156-63	NSC	05/05/2008	Not Printed
procedures					
Public Service Commission, Administration	31618	R746-340	5YR	06/24/2008	Not Printed
procurement					
Capitol Preservation Board (State), Administration	30591	R131-1	AMD	02/29/2008	2007-21/11
	30590	R131-4	R&R	02/29/2008	2007-21/13
professional					
Education, Administration	30976	R277-515-3	NSC	02/27/2008	Not Printed
professional competency					
Education, Administration	30944	R277-502	AMD	03/24/2008	2008-4/6
	31038	R277-508	5YR	03/03/2008	2008-7/63
professional education					
Education, Administration	30878	R277-518	5YR	01/08/2008	2008-3/72

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professional engineers					
Commerce, Occupational and Professional Licensing	31175	R156-22-305	NSC	05/05/2008	Not Printed
professional geologists					
Commerce, Occupational and Professional Licensing	30694	R156-76	AMD	01/08/2008	2007-23/17
professional land surveyors					
Commerce, Occupational and Professional Licensing	31175	R156-22-305	NSC	05/05/2008	Not Printed
program benefits					
Health, Health Care Financing, Coverage and Reimbursement Policy	30922	R414-306	5YR	01/25/2008	2008-4/45
prohibited items and devices					
Human Services, Substance Abuse and Mental Health	31089	R523-1	5YR	03/31/2008	2008-8/53
	30767	R523-1	NSC	03/31/2008	Not Printed
Human Services, Substance Abuse and Mental Health, State Hospital	31031	R525-6	NEW	05/01/2008	2008-6/7
promotions					
Agriculture and Food, Marketing and Development	31007	R65-2	5YR	02/15/2008	2008-5/38
	31008	R65-5	5YR	02/15/2008	2008-5/38
proof					
Natural Resources, Water Rights	31130	R655-5	5YR	04/08/2008	2008-9/54
property claims					
Treasurer, Unclaimed Property	30596	R966-1-2	AMD	01/07/2008	2007-22/87
property tax					
Tax Commission, Property Tax	31274	R884-24P-62	NSC	06/23/2008	Not Printed
	30931	R884-24P-62	AMD	03/28/2008	2008-4/30
property transactions					
Administrative Services, Facilities Construction and Management	31607	R23-22	EMR	06/25/2008	Not Printed
PSD					
Environmental Quality, Air Quality	30431	R307-405	AMD	01/11/2008	2007-19/15
psychologists					
Commerce, Occupational and Professional Licensing	30915	R156-61	AMD	05/08/2008	2008-3/6
	30915	R156-61	CPR	05/08/2008	2008-7/55
public assistance programs					
Health, Health Care Financing, Coverage and Reimbursement Policy	30938	R414-308	5YR	01/31/2008	2008-4/46
	30927	R414-308-7	AMD	04/01/2008	2008-4/16
Human Services, Recovery Services	30982	R527-928	AMD	04/07/2008	2008-5/26
public buildings					
Administrative Services, Facilities Construction and Management	31064	R23-14	5YR	03/17/2008	2008-8/50
Capitol Preservation Board (State), Administration	30590	R131-4	R&R	02/29/2008	2007-21/13

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public hearings					
Environmental Quality, Radiation Control	31171	R313-17	NSC	05/05/2008	Not Printed
public information					
Administrative Services, Administration	31343	R13-2	NSC	05/05/2008	Not Printed
public petitions					
Natural Resources, Forestry, Fire and State Lands	31268	R652-7	NSC	05/05/2008	Not Printed
public records					
Career Service Review Board, Administration	31473	R137-2	5YR	05/21/2008	2008-12/50
	31345	R151-2	NSC	05/05/2008	Not Printed
	31284	R380-20	NSC	05/05/2008	Not Printed
Natural Resources, Oil, Gas and Mining; Administration	31202	R642-100	NSC	05/05/2008	Not Printed
	31203	R642-200	NSC	05/05/2008	Not Printed
Natural Resources, Forestry, Fire and State Lands	31259	R652-6	NSC	05/05/2008	Not Printed
Natural Resources, Wildlife Resources	31225	R657-29	NSC	05/05/2008	Not Printed
public schools					
Education, Administration	31518	R277-436	5YR	06/02/2008	2008-12/51
	31519	R277-460	5YR	06/02/2008	2008-12/51
public utilities					
Public Service Commission, Administration	31373	R746-100	NSC	05/05/2008	Not Printed
	31372	R746-101-4	NSC	05/05/2008	Not Printed
	31620	R746-110	5YR	06/24/2008	Not Printed
	31369	R746-110	NSC	05/05/2008	Not Printed
	31044	R746-330	5YR	03/07/2008	2008-7/66
	31095	R746-331	5YR	04/01/2008	2008-8/55
	31091	R746-332	5YR	04/01/2008	2008-8/55
	31092	R746-342	5YR	04/01/2008	2008-8/56
	31045	R746-347	5YR	03/07/2008	2008-7/66
	31374	R746-349-3	NSC	05/05/2008	Not Printed
	31371	R746-400-7	NSC	05/05/2008	Not Printed
	31093	R746-402	5YR	04/01/2008	2008-8/56
	31101	R746-405	5YR	04/01/2008	2008-8/57
quality improvement					
Health, Administration	31286	R380-200	NSC	05/05/2008	Not Printed
	31280	R380-210-6	NSC	05/05/2008	Not Printed
quarantine					
Agriculture and Food, Plant Industry	31125	R68-14	5YR	04/04/2008	2008-9/52
	31543	R68-16	5YR	06/09/2008	2008-13/147
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	31001	R162-8-4	AMD	04/07/2008	2008-5/10
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Natural Resources, Oil, Gas and Mining; Coal	30932	R645-100-200	AMD	03/26/2008	2008-4/23
	31204	R645-100-500	NSC	05/05/2008	Not Printed
	31509	R645-102	5YR	06/02/2008	2008-12/58
	30934	R645-300-100	AMD	03/26/2008	2008-4/24
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	30841	R865-19S-121	AMD	02/25/2008	2008-1/37
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Natural Resources, Wildlife Resources	31051	R657-53	AMD	05/08/2008	2008-7/50
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Commerce, Real Estate	31002	R162-207-6	AMD	04/07/2008	2008-5/12
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	31282	R380-5	NSC	05/05/2008	Not Printed
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	31620	R746-110	5YR	06/24/2008	Not Printed
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	31619	R746-240	5YR	06/24/2008	Not Printed
	31091	R746-332	5YR	04/01/2008	2008-8/55
	31092	R746-342	5YR	04/01/2008	2008-8/56
	31371	R746-400-7	NSC	05/05/2008	Not Printed
	31093	R746-402	5YR	04/01/2008	2008-8/56
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	30859	R357-2-7	NSC	01/30/2008	Not Printed
rural economic development					
Governor, Economic Development	30788	R357-2	NEW	01/30/2008	2007-24/9
	30859	R357-2-7	NSC	01/30/2008	Not Printed
safety					
Environmental Quality, Radiation Control	30865	R313-15	AMD	03/17/2008	2008-2/10
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	31102	R614-1-4	AMD	05/22/2008	2008-8/30
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Human Services, Substance Abuse and Mental Health, State Hospital	31031	R525-6	NEW	05/01/2008	2008-6/7
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Administrative Services, Facilities Construction and Management	31064	R23-14	5YR	03/17/2008	2008-8/50
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Commerce, Occupational and Professional Licensing	31182	R156-63	NSC	05/05/2008	Not Printed
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Human Services, Substance Abuse and Mental Health	31351	R523-23-13	NSC	05/05/2008	Not Printed
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Public Service Commission, Administration	31044	R746-330	5YR	03/07/2008	2008-7/66
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Human Services, Services for People with Disabilities	30877	R539-1-8	AMD	04/01/2008	2008-3/32
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Human Services, Administration	30773	R495-861	AMD	01/30/2008	2007-24/18
Human Services, Child and Family Services	30721	R512-50	NSC	01/07/2008	Not Printed
	30718	R512-50	REP	01/07/2008	2007-23/60
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Natural Resources, Geological Survey	30902	R638-2-6	AMD	03/10/2008	2008-3/35
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	30992	R315-303	5YR	02/14/2008	2008-5/49
	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	2008-5/51
	30995	R315-308	5YR	02/14/2008	2008-5/52
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	30989	R315-315	5YR	02/14/2008	2008-5/55
	30988	R315-316	5YR	02/14/2008	2008-5/56
	30984	R315-317	5YR	02/14/2008	2008-5/57
	30987	R315-318	5YR	02/14/2008	2008-5/57
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Health, Epidemiology and Laboratory Services, Environmental Services	31097	R392-302	AMD	05/22/2008	2008-8/6
species of concern					
Natural Resources, Wildlife Resources	31226	R657-48-7	NSC	05/05/2008	Not Printed
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Public Service Commission, Administration	31375	R746-510	NSC	05/05/2008	Not Printed
standards					
Education, Administration	30976	R277-515-3	NSC	02/27/2008	Not Printed
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Administrative Services, Finance	31317	R25-5	5YR	04/29/2008	2008-10/143
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	31320	R25-7	AMD	07/01/2008	2008-10/4
	31321	R25-8	AMD	07/01/2008	2008-10/7
state hospital					
Human Services, Substance Abuse and Mental Health, State Hospital	31031	R525-6	NEW	05/01/2008	2008-6/7
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Administrative Services, Fleet Operations	31137	R27-3	AMD	06/17/2008	2008-9/3
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Treasurer, Unclaimed Property	30596	R966-1-2	AMD	01/07/2008	2007-22/87
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students at risk Education, Administration	31518	R277-436	5YR	06/02/2008	2008-12/51
substance abuse Human Services, Substance Abuse and Mental Health	31351	R523-23-13	NSC	05/05/2008	Not Printed
substance abuse prevention Education, Administration	31519	R277-460	5YR	06/02/2008	2008-12/51
suggestions Human Services, Substance Abuse and Mental Health, State Hospital	31451	R525-7	5YR	05/19/2008	2008-12/57
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supervision Commerce, Occupational and Professional Licensing	31288	R156-1	AMD	06/23/2008	2008-10/30
	30655	R156-1-102a	AMD	01/08/2008	2007-23/3
supported employment Human Services, Services for People with Disabilities	31084	R539-9	AMD	05/22/2008	2008-8/26
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tanning beds Health, Epidemiology and Laboratory Services, Environmental Services	30612	R392-700	CPR	05/16/2008	2008-7/58
	30612	R392-700	NEW	05/16/2008	2007-22/65
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Tax Commission, Auditing	31272	R865-19S-99	NSC	06/23/2008	Not Printed
	30841	R865-19S-121	AMD	02/25/2008	2008-1/37
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Tax Commission, Auditing	30916	R865-9I-37	AMD	03/14/2008	2008-3/63
	30849	R865-9I-53	AMD	02/25/2008	2008-1/36
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Tax Commission, Administration	30688	R861-1A-20	AMD	01/11/2008	2007-23/68
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	30838	R861-1A-40	AMD	02/25/2008	2008-1/32
	30835	R861-1A-42	AMD	02/25/2008	2008-1/33
	30780	R861-1A-43	AMD	01/25/2008	2007-24/24
Tax Commission, Auditing	30913	R865-6F-28	AMD	03/14/2008	2008-3/61
	30842	R865-6F-37	AMD	02/25/2008	2008-1/35
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	30931	R884-24P-62	AMD	03/28/2008	2008-4/30
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Human Services, Recovery Services	31162	R527-475	AMD	06/25/2008	2008-10/121
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teachers					
Education, Administration	31038	R277-508	5YR	03/03/2008	2008-7/63
	31521	R686-101	5YR	06/02/2008	2008-12/62
	31522	R686-102	5YR	06/02/2008	2008-12/62
telecommunications					
Public Service Commission, Administration	31619	R746-240	5YR	06/24/2008	Not Printed
	31618	R746-340	5YR	06/24/2008	Not Printed
	31092	R746-342	5YR	04/01/2008	2008-8/56
	31045	R746-347	5YR	03/07/2008	2008-7/66
	31374	R746-349-3	NSC	05/05/2008	Not Printed
telecommuting					
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Public Service Commission, Administration	31619	R746-240	5YR	06/24/2008	Not Printed
terminally ill					
Corrections, Administration	30803	R251-114	NEW	03/11/2008	2008-1/6
time					
Labor Commission, Adjudication	31250	R602-1	NSC	05/05/2008	Not Printed
Labor Commission, Antidiscrimination and Labor, Antidiscrimination	31241	R606-1	NSC	05/05/2008	Not Printed
	31242	R606-2	NSC	05/05/2008	Not Printed
Labor Commission, Antidiscrimination and Labor, Fair Housing	31240	R608-1	NSC	05/05/2008	Not Printed
Labor Commission, Antidiscrimination and Labor, Labor	31247	R610-1	NSC	05/05/2008	Not Printed
	31149	R610-1-4	AMD	06/13/2008	2008-9/48
	31245	R610-2	NSC	05/05/2008	Not Printed
	30942	R610-2-6	AMD	03/24/2008	2008-4/19
	31243	R610-3	NSC	05/05/2008	Not Printed
	30876	R610-3-4	EMR	01/03/2008	2008-3/70
	30941	R610-3-4	AMD	03/24/2008	2008-4/20
	31148	R610-3-10	AMD	06/13/2008	2008-9/50
Labor Commission, Industrial Accidents	31235	R612-1	NSC	05/05/2008	Not Printed
towing					
Transportation, Motor Carrier	30785	R909-19	AMD	02/12/2008	2007-24/26
traffic violations					
Public Safety, Driver License	31106	R708-3-2	NSC	05/05/2008	Not Printed
training					
Human Services, Substance Abuse and Mental Health	31353	R523-24-13	NSC	05/05/2008	Not Printed
Public Service Commission, Administration	31375	R746-510	NSC	05/05/2008	Not Printed
transportation					
Administrative Services, Finance	31319	R25-7	5YR	04/29/2008	2008-10/144
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transportation conformity					
Environmental Quality, Air Quality	30971	R307-310	5YR	02/08/2008	2008-5/46
	30705	R307-310-2	AMD	02/08/2008	2007-23/40
transportation law					
Administrative Services, Facilities Construction and Management	31063	R23-13	5YR	03/17/2008	2008-8/50
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Transportation, Motor Carrier	30783	R909-1-1	AMD	02/15/2008	2007-24/25
	30785	R909-19	AMD	02/12/2008	2007-24/26
ultraviolet light safety					
Health, Epidemiology and Laboratory Services, Environmental Services	30612	R392-700	CPR	05/16/2008	2008-7/58
	30612	R392-700	NEW	05/16/2008	2007-22/65
unarmed combat					
Sports Authority (Utah), Pete Suazo Utah Athletic Commission	31028	R859-1	AMD	05/01/2008	2008-6/15
	31029	R859-1-302	AMD	05/01/2008	2008-6/16
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Public Safety, Criminal Investigations and Technical Services, Criminal Identification	30929	R722-320	NSC	05/14/2008	Not Printed
	31434	R722-320	5YR	05/14/2008	2008-11/127
underground storage tanks					
Environmental Quality, Environmental Response and Remediation	31486	R311-200	NSC	06/18/2008	Not Printed
	31487	R311-201	NSC	06/18/2008	Not Printed
	31488	R311-210	NSC	06/18/2008	Not Printed
unemployment compensation					
Workforce Services, Unemployment Insurance	31075	R994-106-106	AMD	05/30/2008	2008-8/48
	31467	R994-201	5YR	05/20/2008	2008-12/64
	31468	R994-202	5YR	05/20/2008	2008-12/65
	31469	R994-208	5YR	05/20/2008	2008-12/65
	31547	R994-306	5YR	06/10/2008	2008-13/151
	31548	R994-307	5YR	06/10/2008	2008-13/152
	30771	R994-508	AMD	02/15/2008	2007-24/30
	31546	R994-508	5YR	06/10/2008	2008-13/153
	31020	R994-508-117	NSC	03/11/2008	Not Printed
	31071	R994-508-118	NSC	04/14/2008	Not Printed
uninsured employers					
Labor Commission, Industrial Accidents	31251	R612-9-1	NSC	05/05/2008	Not Printed
units					
Environmental Quality, Radiation Control	31170	R313-12-1	NSC	05/05/2008	Not Printed
	30774	R313-12-111	AMD	04/11/2008	2007-24/8
	30774	R313-12-111	CPR	04/11/2008	2008-5/34

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used oil					
Environmental Quality, Solid and Hazardous Waste	30907	R315-15-1	AMD	03/13/2008	2008-3/16
	30908	R315-15-10	AMD	03/13/2008	2008-3/19
	30909	R315-15-11	AMD	03/13/2008	2008-3/21
	30910	R315-15-12	AMD	03/13/2008	2008-3/23
	30911	R315-15-17	AMD	03/13/2008	2008-3/29
Utah Housing Opportunity Restricted Account					
Commerce, Real Estate	31000	R162-12	NEW	04/07/2008	2008-5/11
utility regulation					
Public Service Commission, Administration	31101	R746-405	5YR	04/01/2008	2008-8/57
variances					
Environmental Quality, Air Quality	30960	R307-102	5YR	02/08/2008	2008-5/40
	31462	R307-102	NSC	06/18/2008	Not Printed
vehicle replacement					
Administrative Services, Fleet Operations	30618	R27-4	AMD	03/06/2008	2007-22/9
vending machines					
Education, Administration	30848	R277-719	NEW	02/07/2008	2008-1/12
viatical					
Insurance, Administration	31523	R590-222	5YR	06/02/2008	2008-12/58
victim compensation					
Crime Victim Reparations, Administration	31322	R270-1	NSC	05/05/2008	Not Printed
	30593	R270-1-11	AMD	01/02/2008	2007-22/33
	31013	R270-1-22	AMD	05/19/2008	2008-6/3
victims of crime					
Crime Victim Reparations, Administration	31322	R270-1	NSC	05/05/2008	Not Printed
victims of crimes					
Crime Victim Reparations, Administration	30593	R270-1-11	AMD	01/02/2008	2007-22/33
	31013	R270-1-22	AMD	05/19/2008	2008-6/3
violations					
Natural Resources, Wildlife Resources	31223	R657-26	NSC	05/05/2008	Not Printed
visitors					
Human Services, Substance Abuse and Mental Health, State Hospital	31447	R525-4	5YR	05/19/2008	2008-12/56
vocational education					
Education, Rehabilitation	31042	R280-200	5YR	03/03/2008	2008-7/65
wages					
Labor Commission, Antidiscrimination and Labor, Labor	31247	R610-1	NSC	05/05/2008	Not Printed
	31149	R610-1-4	AMD	06/13/2008	2008-9/48
	31245	R610-2	NSC	05/05/2008	Not Printed
	30942	R610-2-6	AMD	03/24/2008	2008-4/19

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	31243	R610-3	NSC	05/05/2008	Not Printed
	30876	R610-3-4	EMR	01/03/2008	2008-3/70
	30941	R610-3-4	AMD	03/24/2008	2008-4/20
	31148	R610-3-10	AMD	06/13/2008	2008-9/50
Workforce Services, Unemployment Insurance	31469	R994-208	5YR	05/20/2008	2008-12/65
waste disposal					
Environmental Quality, Radiation Control	30865	R313-15	AMD	03/17/2008	2008-2/10
Environmental Quality, Solid and Hazardous Waste	30990	R315-301	5YR	02/14/2008	2008-5/48
	30986	R315-302	5YR	02/14/2008	2008-5/49
	30992	R315-303	5YR	02/14/2008	2008-5/49
	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	2008-5/51
	30995	R315-308	5YR	02/14/2008	2008-5/52
	30994	R315-309	5YR	02/14/2008	2008-5/52
	30996	R315-310	5YR	02/14/2008	2008-5/53
	30983	R315-311	5YR	02/14/2008	2008-5/53
	30997	R315-312	5YR	02/14/2008	2008-5/54
	30999	R315-314	5YR	02/14/2008	2008-5/55
	30989	R315-315	5YR	02/14/2008	2008-5/55
	30988	R315-316	5YR	02/14/2008	2008-5/56
	30984	R315-317	5YR	02/14/2008	2008-5/57
	30987	R315-318	5YR	02/14/2008	2008-5/57
Environmental Quality, Water Quality	30639	R317-1-4	AMD	02/04/2008	2007-22/52
	30637	R317-13	NEW	02/04/2008	2007-22/61
waste to energy plant					
Environmental Quality, Air Quality	30703	R307-223	AMD	02/08/2008	2007-23/38
	30968	R307-223	5YR	02/08/2008	2008-5/45
wastewater					
Environmental Quality, Water Quality	30638	R317-3-11	AMD	02/04/2008	2007-22/57
	30636	R317-14	NEW	02/04/2008	2007-22/62
	31103	R317-101	5YR	04/02/2008	2008-9/53
water					
Public Service Commission, Administration	31044	R746-330	5YR	03/07/2008	2008-7/66
	31095	R746-331	5YR	04/01/2008	2008-8/55
	31091	R746-332	5YR	04/01/2008	2008-8/55
water funding					
Natural Resources, Water Resources	30855	R653-2	NEW	02/25/2008	2008-2/20
	30940	R653-2	NSC	02/25/2008	Not Printed
water pollution					
Environmental Quality, Water Quality	30639	R317-1-4	AMD	02/04/2008	2007-22/52
	30638	R317-3-11	AMD	02/04/2008	2007-22/57
	30948	R317-9	5YR	02/01/2008	2008-4/42

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	30637	R317-13	NEW	02/04/2008	2007-22/61
water quality					
Environmental Quality, Water Quality	30638	R317-3-11	AMD	02/04/2008	2007-22/57
	31103	R317-101	5YR	04/02/2008	2008-9/53
Public Service Commission, Administration	31044	R746-330	5YR	03/07/2008	2008-7/66
water rights					
Natural Resources, Water Rights	31130	R655-5	5YR	04/08/2008	2008-9/54
waterslides					
Health, Epidemiology and Laboratory Services, Environmental Services	31097	R392-302	AMD	05/22/2008	2008-8/6
weapons					
Human Services, Substance Abuse and Mental Health, State Hospital	31031	R525-6	NEW	05/01/2008	2008-6/7
	31348	R525-6	NSC	05/01/2008	Not Printed
Natural Resources, Parks and Recreation	31012	R651-612	NSC	03/10/2008	Not Printed
weed control					
Agriculture and Food, Plant Industry	31544	R68-9	5YR	06/09/2008	2008-13/147
white-collar contests					
Sports Authority (Utah), Pete Suazo Utah Athletic Commission	31028	R859-1	AMD	05/01/2008	2008-6/15
	31029	R859-1-302	AMD	05/01/2008	2008-6/16
wildland fire fund					
Natural Resources, Forestry, Fire and State Lands	31108	R652-121	NSC	05/01/2008	Not Printed
wildland urban interface					
Natural Resources, Forestry, Fire and State Lands	31109	R652-122-100	NSC	05/01/2008	Not Printed
wildlife					
Natural Resources, Wildlife Resources	31219	R657-2	NSC	05/05/2008	Not Printed
	31047	R657-3	5YR	03/11/2008	2008-7/65
	31220	R657-3	NSC	05/05/2008	Not Printed
	31053	R657-3	AMD	05/08/2008	2008-7/45
	30829	R657-5	AMD	02/07/2008	2008-1/18
	30777	R657-12	AMD	01/22/2008	2007-24/19
	31221	R657-12-1	NSC	05/05/2008	Not Printed
	30676	R657-13	AMD	01/07/2008	2007-23/61
	31048	R657-13-3	AMD	05/08/2008	2008-7/47
	30904	R657-13-4	AMD	03/10/2008	2008-3/43
	31222	R657-22-1	NSC	05/05/2008	Not Printed
	30828	R657-23	AMD	02/07/2008	2008-1/25
	30955	R657-23-5	AMD	04/07/2008	2008-5/31
	31223	R657-26	NSC	05/05/2008	Not Printed
	31224	R657-27-11	NSC	05/05/2008	Not Printed
	30906	R657-33	AMD	03/10/2008	2008-3/44
	31398	R657-34	5YR	05/08/2008	2008-11/125

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	31401	R657-37	5YR	05/08/2008	2008-11/126
	31400	R657-42	5YR	05/08/2008	2008-11/126
	31049	R657-42-8	AMD	05/08/2008	2008-7/48
	31051	R657-53	AMD	05/08/2008	2008-7/50
	31228	R657-53	NSC	05/05/2008	Not Printed
	31508	R657-53	5YR	06/02/2008	2008-12/61
	30903	R657-58	NEW	03/10/2008	2008-3/47
	31052	R657-58	NSC	03/26/2008	Not Printed
	31625	R657-59	EMR	06/27/2008	Not Printed
	31624	R657-60	EMR	06/27/2008	Not Printed
wildlife law					
Natural Resources, Wildlife Resources	30777	R657-12	AMD	01/22/2008	2007-24/19
	31221	R657-12-1	NSC	05/05/2008	Not Printed
	30676	R657-13	AMD	01/07/2008	2007-23/61
	31048	R657-13-3	AMD	05/08/2008	2008-7/47
	30904	R657-13-4	AMD	03/10/2008	2008-3/43
	31222	R657-22-1	NSC	05/05/2008	Not Printed
	31224	R657-27-11	NSC	05/05/2008	Not Printed
	30903	R657-58	NEW	03/10/2008	2008-3/47
	31052	R657-58	NSC	03/26/2008	Not Printed
	31625	R657-59	EMR	06/27/2008	Not Printed
	31624	R657-60	EMR	06/27/2008	Not Printed
witness fees					
Labor Commission, Adjudication	31250	R602-1	NSC	05/05/2008	Not Printed
workers' compensation					
Labor Commission, Adjudication	31236	R602-2-1	NSC	05/05/2008	Not Printed
	30811	R602-2-4	AMD	02/07/2008	2008-1/14
	31238	R602-3	NSC	05/05/2008	Not Printed
	30810	R602-3-3	AMD	02/07/2008	2008-1/16
Labor Commission, Industrial Accidents	31235	R612-1	NSC	05/05/2008	Not Printed
	31234	R612-2	5YR	04/28/2008	2008-10/148
	31333	R612-2-5	AMD	07/01/2008	2008-10/130
	31230	R612-3	5YR	04/28/2008	2008-10/149
	30594	R612-4-2	AMD	01/01/2008	2007-22/76
	31229	R612-5	5YR	04/28/2008	2008-10/149
	31231	R612-7	5YR	04/28/2008	2008-10/150
	31251	R612-9-1	NSC	05/05/2008	Not Printed
	31252	R612-10	NSC	05/05/2008	Not Printed
working toward employment					
Workforce Services, Employment Development	31034	R986-400-406	AMD	05/01/2008	2008-6/20
youth					
Human Services, Administration, Administrative Services, Licensing	31017	R501-16	5YR	02/22/2008	2008-6/25

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zoological animals					
Natural Resources, Wildlife Resources	31047	R657-3	5YR	03/11/2008	2008-7/65
	31220	R657-3	NSC	05/05/2008	Not Printed
	31053	R657-3	AMD	05/08/2008	2008-7/45