

# UTAH STATE BULLETIN

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

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

Division of Administrative Rules, Salt Lake City 84114

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# SPECIAL NOTICES

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## Governor's Executive Order 2008-0008: Creating the Great Salt Lake Advisory Council

### EXECUTIVE ORDER

#### Creating the Great Salt Lake Advisory Council

**WHEREAS** the Great Salt Lake provides unique and critically important habitat for millions of migrating birds and other wildlife;

**WHEREAS** the Great Salt Lake provides significant mineral resources vital to the economic well-being of our state as well as providing for the employment of thousands of Utahns;

**WHEREAS** the Great Salt Lake hosts numerous recreational activities such as birding, hunting, sailing, camping, hiking, and unparalleled opportunities for solitude;

**WHEREAS** the population surrounding and dependent upon the Great Salt Lake will continue to increase in upcoming years,

**WHEREAS** the State of Utah seeks to make certain that the future of the Great Salt Lake is planned for in a way that preserves the fragile ecosystem of the Great Salt Lake while ensuring that important resources can continue to be utilized from the lake and that recreational opportunities for Utahns be preserved and enhanced;

**NOW, THEREFORE**, I, Jon M. Huntsman, Jr., Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and laws of the State of Utah do hereby order the following:

1. There is created the Great Salt Lake Advisory Council:
  - a. Consisting of members who are appointed by and serve at the pleasure of the Governor;
  - b. The Utah Department of Natural Resources and the Utah Department of Environmental Quality will provide staff and budgetary support;
  - c. The Office of State Planning Coordinator will provide staff and budgetary support and facilitate the cooperation of all state and federal entities on behalf of this Council;
  - d. The Council may seek expert assistance through recruitment of a Volunteer technical advisory committee;
  - e. The Council may seek expert assistance for facilitation and guidance on management of other great water bodies through state agency contracts where funds are available;
  - f. The Council may conduct hearings in counties adjacent to the Great Salt Lake as deemed appropriate.
2. The Council shall:
  - a. Develop a vision for the future of the Great Salt Lake;
  - b. Review the role of the State of Utah with regard to the management and protection of the Great Salt Lake;
  - c. Review shared and independent responsibilities of state and federal governmental agencies, public interests, uses and pressures on the natural resource;
  - d. Consider management structures used for other internationally significant water bodies such as the Chesapeake Bay, Great Lakes, and Puget Sound;
  - e. Make policy recommendations concerning the long-term viability of the entire Great Salt Lake ecosystem while taking into account the need to balance ecological, economic, recreational, private property and other concerns regarding the Great Salt Lake ecosystem in its entirety;
  - f. Recommend a membership for any permanent entity;

- g. Recommend how a permanent entity might be staffed and funded;
- 3. Members of the Great Salt Lake Advisory Council serve without compensation.
- 4. Under current Utah law, the Council will not have subpoena power of similar or investigative authority.

**IN WITNESS, WHEREOF**, I have hereunto set my hand and cause to be affixed the Great Seal of the State of Utah. Done at the State Capitol in Salt Lake City, Utah, this 25th day of August, 2008.

(State Seal)

**Jon M. Huntsman, Jr.**  
**Governor**

**Attest:**

**Gary R. Herbert**  
**Lieutenant Governor**

2008/0008

**End of the Special Notices Section**



## NOTICES OF PROPOSED RULES

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A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between August 2, 2008, 12:00 a.m., and August 15, 2008, 11:59 p.m. are included in this, the September 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 October 1, 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 December 30, 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.

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

**Administrative Services, Fleet  
Operations  
R27-7  
Safety and Loss Prevention of State  
Vehicles**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 31793

FILED: 08/06/2008, 11:02

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule amendment updates the criteria for determining driver eligibility, revises the role of the Accident Review Committee (ARC) and establishes a Driver Eligibility Board.

**SUMMARY OF THE RULE OR CHANGE:** This rule amendment revises the requirements for driver eligibility, updates the definition and responsibilities of the ARC, and replaces the Driving Privilege Review Board with the Driver Eligibility Board.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 63A-9-401(1)(d)(iii)

**ANTICIPATED COST OR SAVINGS TO:**

- ❖ **THE STATE BUDGET:** This amendment updates policy and definitions. There will be no fiscal impact on the state budget.
- ❖ **LOCAL GOVERNMENTS:** This amendment updates policy and definitions. There will be no fiscal impact on local government.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** This amendment updates policy and definitions. There will be no fiscal impact on small businesses.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** This amendment updates policy and definitions. There will be no compliance cost for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There will be no fiscal impact on businesses. Kimberly Hood, Executive Director

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

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

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

Brian Fay at the above address, by phone at 801-538-3502, by FAX at 801-538-1773, or by Internet E-mail at bfay@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 10/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/31/2008

AUTHORIZED BY: Margaret Chambers, Director

**R27. Administrative Services, Fleet Operations.****R27-7. Safety and Loss Prevention of State Vehicles.****R27-7-1. Authority.**

(1) This rule is established pursuant to Subsection ~~63A-9-401(1)(d)(iii)~~ ~~63A-9-401(1)(e)(iii)~~ which requires the Division of Fleet Operations (DFO) to make rules establishing requirements for fleet safety and loss prevention programs.

**R27-7-2. Accident Reporting and Liability.**

(1) In the event of an accident involving a state vehicle, either the driver of the vehicle or the employing agency shall notify DFO, the Division of Risk Management, and the agency's management, within 24 hours of the occurrence of the accident ~~[-DFO, Risk Management and the agency's management].~~

**R27-7-3. Driver Eligibility ~~Loss of Authority~~ to Operate a State Vehicle.**

(1) The authority to operate a state vehicle is subject to withdrawal, suspension or revocation.

(2) The authority to operate a state vehicle shall be automatically withdrawn, suspended or revoked in the event that an authorized driver's license is not in a valid status ~~denied, cancelled, disqualified, suspended or revoked.~~

(a) The authority to operate a state vehicle shall, at a minimum, be withdrawn, suspended or revoked for the period of denial, cancellation, disqualification, suspension or revocation of the authorized driver's license.

(b) The authority to operate a state vehicle shall not be reinstated until such time as the individual provides proof that his or her driver license has been reinstated or DFO verifies the license has been reinstated.

~~[-(c) The employing agency may petition the Driving Privilege Review Board (DPRB) to extend the period for which the authority to operate a state vehicle is withdrawn, suspended or revoked beyond the period for which the authorized driver's license is denied, cancelled, disqualified, suspended or revoked.~~

~~-(d) The DPRB may extend the period for which the authority to operate a state vehicle is withdrawn, suspended or revoked, beyond the period for which the driver's license is denied, cancelled, disqualified, suspended, if the evidence regarding the circumstances surrounding the denial, cancellation, disqualification, suspension or revocation of the authorized driver's license and driving history indicates that it is in the best interest of the state to extend the period for which the authority to operate a state vehicle is withdrawn, suspended or revoked.~~

](3) The authority to operate a state vehicle shall be suspended or revoked for up to three years by the Driver Eligibility Board for any of the following reasons ~~grounds~~:

(a) The authorized driver, while acting within the scope of employment, has been involved in 3 or more preventable accidents during a three (3) ~~five (5)~~ year period; or

(b) The authorized driver ~~has 4 or more moving violations within a 12 month period~~, ~~while acting within the scope of employment, has received 5 or more citations for violating motor vehicle laws during a five (5) year period~~; or

(c) The authorized driver, has been convicted of any of the following Utah "ACD" codes:

- ~~(i) A33 - Violation of controlled substance laws; or~~
- ~~(ii) B23 - Driving while denied; or~~
- ~~(iii) B25 - Driving on revocation; or~~
- ~~(iv) B26 - Driving while suspended; or~~
- ~~(v) M84 - Reckless driving; or~~
- ~~(vi) S95 - Speed contest(racing) on road open to traffic prior to 5/1/2006; or~~
- ~~(vii) S95 - Speed contest (racing)(1st 60 days-2ndw/1 3 yrs 90 days); or~~
- ~~(viii) U01 - Fleeing or evading police or roadblock; or~~
- ~~(ix) U05 - Using a motor vehicle to aid and abet a felon; or~~
- ~~(x) U31 - Violation resulting in fatal accident; or~~
- ~~(xi) MEC - Driving under the influence of drugs metabolite (MEC); or~~
- ~~(xii) A35 - Possession of open alcohol container - send as A type record if amended from DUI - otherwise FTA/FTC only; or~~
- ~~(xiii) B02 - Hit and run/fatal; or~~
- ~~(xiv) B03 - Hit and run - injury; or~~
- ~~(xv) B04 - Hit and run - property damage/regular operator; or~~
- ~~(xvi) ARD - Alcohol Restricted Driver; or~~
- ~~(xvii) A08 - DUI of alcohol with BAC at or over .08; or~~
- ~~(xviii) A08 - Driving under the influence alcohol and drugs; or~~
- ~~(xix) A08 - Driving under the influence w/impaired; or~~
- ~~(xx) A08 - Driving under the influence w/personal injury; or~~
- ~~(xxi) A08 - Driving under the influence w/minor in vehicle; or~~
- ~~(xxii) A08 - Driving under the influence in a CMV; or~~
- ~~(xxiii) A25 - Impaired Driving; or~~
- ~~(xxiv) A41 - Any Violation of ignition interlock device under 41-6a-518; or~~
- ~~(xxv) A50 - Motor vehicle used in the commission of a felony involving the manufacturing, distributing or dispen a controlled substance; or~~
- ~~(xxvi) ACL - Violation alcohol conditional license; or~~
- ~~(xxvii) B01 - Hit&Run/failure to stop render aid/property dmg/comm only; or~~
- ~~(xxviii) B14 - Failure to reveal identity after fatal accident - commercial only; or~~
- ~~(xxix) B23 - Driving while denied/CMV; or~~
- ~~(xxx) B24 - Driving CMV while disqualified/CMV; or~~
- ~~(xxxii) B25 - Driving on revocation/CMV; or~~
- ~~(xxxii) B26 - Driving while suspended/CMV; or~~
- ~~(xxxiii) IID - Ignition interlock device violation - (result in 1 yr revocation); or~~
- ~~(xxxiv) M8A - Alcohol related reckless driving; or~~
- ~~(xxxv) U03 - Felony with a vehicle (joy riding) criminal class required; or~~
- ~~(xxxvi) U07 - Vehicular homicide/ regular or CMV; or~~
- ~~(xxxvii) U08 - Vehicular manslaughter/CMV; or~~
- ~~(xxxviii) USV - Shooting gun from a vehicle/Criminal class required(felonly only); or~~
- ~~(xxxix) U09 - Negligent homicide while operating a CMV; or~~
- ~~(xl) UIV - Throwing incendiary device f/vehicle/criminal class required; or~~
- ~~(xli) U10 - Causing a fatality through the negligent operation of a CMV~~

(d) The authorized driver has 150 or more points on his or her Utah driver's license record

~~(e)~~(e) The unauthorized use, misuse, abuse or neglect of a state vehicle as validated by the Agency; or

~~(f)~~(f) On the basis of citizen complaints validated by the agency, the authorized driver, while acting within the scope of employment has been found, pursuant to 63A-9-501, to have misused or illegally operated a vehicle three (3) times during a three (3) year period.

~~(4)~~ The employing agency shall impose a period for which the authority to operate a state vehicle will be withdrawn, suspended or revoked under the circumstances described in R27-7-3(3)(a),(b) or (c), on the basis of an investigation of the circumstances surrounding each accident and the authorized driver's driving history.

~~(5)~~(4) The withdrawal of authority to operate a state vehicle imposed by the Driver Eligibility Board shall be in addition to agency-imposed discipline, corrective or remedial action, if any.

~~(6)~~ The authorized driver petition the DPRB to review the withdrawal, suspension or revocation of the authority to operate a state vehicle imposed by the employing agency pursuant to R-27-7-3(3) and (4).

~~(7)~~ Any determination made by the employing agency with regard to the withdrawal, suspension or revocation of the authority to operate a state vehicle, pursuant to R27-7-3(3) and (4) shall remain in effect until such time as a review by the DPRB can be conducted, and a decision rendered.

(5) Drivers declared ineligible to operate a state vehicle by the Driver Eligibility Board may appeal to the Director of the Department of Administrative Services (DAS) or his/her designee. Any appeal to the Executive Director of DAS or his/her designee must be made in writing within 30 days from the date the Driver Eligibility Board declared a state driver ineligible to operate a vehicle.

(6) Effective Date

(a) Phase in - current state employees shall be subjected to R27-7-3(3) as of the effective date of the rules as published by the Division of Administrative Rules.

(b) State employees hired after the effective date of this administrative rule will be subject to the Driver Eligibility standards in R27-7-3(3) for three years previous to the hire date.

#### **R27-7-4. Accident Review Committee (ARC).**

(1) Each agency leasing vehicles from the Division of Fleet Operations shall establish and maintain an Accident Review Committee (ARC). Each agency ARC shall conduct at least quarterly reviews of all accidents~~[or complaints]~~ involving state vehicles under the possession or control of their respective agencies.

(2) The purpose of the ARC is to reduce the number of accidents~~and complaints]~~ involving drivers of vehicles being used in the course of conducting state business.

(3) After DFO has made an initial determination regarding the status of an accident the agency ~~[The]~~ARC shall determine, through a review process, whether an accident was either preventable or non-preventable, using standards published~~[established]~~ by the National Safety Council.

(4) Each agency ARC shall, within one (1) calendar month following the last day of the quarter (March, June, September, December),~~[five (5) business days of reviewing an accident,]~~ provide to DFO, in writing, its determination and recommended actions, if any, as well as all evidence used to arrive at its determination as to whether the accident was preventable or non-preventable.

(5) If an agency ARC does not send the quarterly accident reviews as specified in R27-7-4(4), the status of the accident will be reviewed by the Driver Eligibility Board on behalf of the agency ARC. The Driver Eligibility Board's decision about the status any vehicle accident will be final. The Driver Eligibility Board may recommend disciplinary actions for agency drivers to the agency when it is acting on behalf of the agency ARC.

#### **R27-7-5. Accident Review Committee Guidelines.**

(1) The ARC shall have no less than three (3) voting members. The members shall be from different areas in the agency.

(2) An accident shall be classified as preventable if any of the following factors are involved:

- (a) Driving too fast for conditions;
- (b) Failure to observe clearance;
- (c) Failure to yield;
- (d) Failure to properly lock the vehicle;
- (e) Following too closely;
- (f) Improper care of the vehicle;
- (g) Improper backing;
- (h) Improper parking;
- (i) Improper turn or lane change;
- (j) Reckless Driving as defined in Utah Code 41-6-45;
- (k) Unsafe driving practices, including but not limited to: the use

of electronic equipment or cellular phone while driving, smoking while driving, personal grooming, u-turn, driving with an animal(s) loose in the vehicle.

(3) An accident shall be classified as non-preventable when:

- (a) The state vehicle is struck while properly parked;
- (b) The state vehicle is vandalized while parked at an authorized

location;

(c) The state vehicle is an emergency vehicle, and

(i) At the time of the accident the operator was in the line of duty and operating the vehicle in accordance with their respective agency's applicable policies, guidelines or regulations; and

(ii) Damage to the vehicle occurred during the chase or apprehension of people engaged in or potentially engaged in unlawful activities; or

(iii) Damage to the vehicle occurred in the course of responding to an emergency in order to save or protect the lives, property, health, welfare and safety of the public. ]

~~—(4) The ARC shall notify DFO of their findings, as to whether the accident in question was preventable or non-preventable, regarding each accident case reviewed.]~~

#### **R27-7-6. Effects of ARC Accident Classification.**

(1) In the event that an accident is determined by the ARC to be preventable, the ARC shall impose and enforce the following:

(a) The authorized driver shall be required to attend a Division of Risk Management-approved driver safety program after being involved in the first preventable accident;

(b) The driver shall be required to attend, at their own expense, a state certified or nationally recognized defensive driving course after being involved in a second preventable accident;

~~—(c) The driver may have his or her authority to operate a state vehicle suspended or revoked, if he or she is involved in a third preventable accident within five calendar years of being involved in the first preventable accident.~~

~~—(3) An employee whose authority to operate a state vehicle has been suspended or revoked pursuant to R27-7-3(3) and (4), may petition the DPRB for a review of the agency ARC's determination.~~

~~The suspension of state driving privileges shall continue until such time as a formal hearing before the DPRB can be held, and a decision rendered. The provisions of the DPRB's decision, including the revocation of the driver's authority to drive a vehicle in the conduct of state business, will govern from that time forward].~~

#### **R27-7-7. Driver Eligibility [Driving Privilege Review] Board.**

(1) ~~The [Driving Privilege Review Board (DPRB)]~~ Driver Eligibility Board (DEB) shall have ~~at least 4 [no more than 3]~~ voting members. ~~Members of the Board shall include a representative from the Division of Risk Management, the Division of Fleet Operations, the Department of Human Resource Management and, a representative of the employee's agency. Each member of the Board will be assigned by the Executive Director of the Department of Administrative Services. [The Department of Administrative Services, the Division of Risk Management and the agency whose employee is the subject matter of the case pending before the DPRB shall each have a voting member.]~~

~~(2) The Driver Eligibility Board shall meet at least quarterly.~~

~~(3) The employing agency supervisor and the state driver being reviewed shall be notified of the Driver Eligibility Board's meeting place, date and time. Each state employee reviewed by the Driver Eligibility Board will be given the opportunity to speak to the Board and/or answer questions during the meeting if he or she chooses to attend the Board meeting.~~

~~[—(2) Agency actions that involve the withdrawal, suspension or revocation of the authority to operate a state vehicle are subject to review by the DPRB.~~

~~—(3) The DPRB shall, upon receipt of the petition for review from the authorized driver, pursuant to R27-7-6(3), schedule a review and render a decision on whether to uphold the agency's decision regarding the withdrawal, suspension or revocation of the authority to operate a state vehicle, or impose a different penalty.~~

~~—(4) The DPRB shall, upon receipt of an employing agency's petition, pursuant to R27-7-3(2)(e), schedule a review and render a decision on whether to extend the period for which the authority to operate a state vehicle is withdrawn, beyond the period for which the authorized driver's license is denied, cancelled, disqualified, suspended or revoked.~~

~~—(5) The employing agency, and the authorized driver shall be notified of the hearing date, the reason for the hearing, the substance of the charges, as well as their respective right to respond to the petition, rebut the evidence presented and present evidence in their respective behalf at the hearing.~~

~~—(6) The DPRB shall render a decision that will be forwarded to the agency for enforcement. In making its decision, the DPRB may consider factors, including but not limited to, the severity of injuries, the extent of damages, the authorized driver's culpability and willfulness.~~

~~] (4)[(7)] The Driver Eligibility Board [DPRB] may impose an ineligible status from a single day up to three years. [a range of penalties from no action to a withdrawal, suspension or revocation of the authority to operate a state vehicle for an indefinite period.] In no case shall the ineligible status [withdrawal, suspension or revocation of the authority] to operate a state vehicle be less than the period [of withdrawal, suspension or revocation of the privilege to drive] imposed by the courts or the employing agency. ]~~

~~—(8) An employee whose authority to operate a state vehicle has been withdrawn, suspended or revoked may petition the DPRB for reinstatement of the authority on the basis of changed circumstances.~~

~~The employee shall provide proof of the change in circumstances that would justify the reinstatement of authority.]~~

**KEY: accidents, incidents, tickets, ARC**

**Date of Enactment or Last Substantive Amendment:** ~~[July 8, 2003]~~2008

**Notice of Continuation:** January 20, 2006

**Authorizing, and Implemented or Interpreted Law:** 63A-9-401(1)(d)(iii)~~[63A-9-401(1)(e)(viii)]~~

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## Agriculture and Food, Plant Industry R68-7-8 Certification Procedures

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31800

FILED: 08/11/2008, 07:59

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This amendment will exempt noncommercial applicators from certain record keeping information requirements and outline what is required in record keeping.

**SUMMARY OF THE RULE OR CHANGE:** The change is a result of pesticide products used by public health agencies (Mosquito Abatement Districts) changing from general-use to restricted-use status. Currently Mosquito Abatement Noncommercial applicators are licensed but are not required to keep records unless using a restricted-used pesticide. These noncommercial applicators engaged in public-health-related activities and are exempt from recording the name and address of property owners, but are required to document a detailed description of treatment areas by using such means as GPS coordinates or other locality descriptions for record keeping purposes.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 4-14-6

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** There is no additional cost to the state associated with the proposed rule changes because they only affect records that are required by noncommercial applicators. This amendment clarifies the record keeping requirements, so no money is attached to this change.

❖ **LOCAL GOVERNMENTS:** There is no additional cost to local government associated with the proposed rule changes because it only affects records that are required by noncommercial applicators. This amendment clarifies the record keeping requirements, so no money is attached to this change.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** Small businesses: There are no costs to the small businesses associated with the proposed rule changes because it only affects records that are required by noncommercial

applicators. This amendment clarifies the record keeping requirements, so no money is attached to this change.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There is no cost to individuals associated with the proposed rule changes because it only affects records that are required by noncommercial applicators. This amendment clarifies the record keeping requirement, so no money is attached to this change.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** Pesticide products used by public health agencies (Mosquito Abatement Districts) have changed from general use to restricted-use status. Currently Mosquito Abatement Non-commercial applicators are licensed but are not required to keep records unless they use restricted use status. This rule change will provide a way to keep such records. Leonard M. Blackham, Commissioner

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

AGRICULTURE AND FOOD

PLANT INDUSTRY

350 N REDWOOD RD

SALT LAKE CITY UT 84116-3034, or

at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

Kathleen Mathews, 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

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/01/2008.**

**THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2008**

**AUTHORIZED BY: Leonard M. Blackham, Commissioner**

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

**R68-7. Utah Pesticide Control Act.**

**R68-7-8. Certification Procedures.**

(A) Commercial Applicators.

(1) License Required. No person shall apply any pesticide for hire or compensation to the lands of another at any time without becoming certified and obtaining a commercial applicator's license and a pesticide applicator business license as described in 4-14-13 issued by the department, or working for a company which has already attained such business license.

(2) The pesticide applicator business fee will be determined by the number of commercial pesticide applicators employed by the business. The fee ranges are 1-4 commercial pesticide applicators, 2-5 commercial pesticide applicators and 10 or more commercial pesticide applicators.

Application for such licenses shall be made in writing on an approved form obtained from the department and shall include such

information as prescribed by the department. Each individual performing the physical act of applying pesticides for hire or compensation must be licensed. An applicator and business license fee determined by the department, pursuant to Subsection 4-2-2(2), shall be assessed at the time of certification and recertification.

(3) Written Examination. An applicant for a commercial pesticide license shall demonstrate competency and knowledge of pesticide applications by passing the appropriate written examinations. Examination and educational-material fees determined by the department, pursuant to Subsection 4-2-2(2), shall be assessed at the time of certification and recertification. Any person applying to become certified or recertified must demonstrate the ability to: (a) read and understand three or more sets of pesticide label directions from pesticide containers randomly chosen by division personnel, and (b) demonstrate competency and knowledge of mixing and applying pesticides in a safe way. All applicants for a commercial applicator license must pass the general examination and the examination(s) pertaining to the category(s) for which they desire to be licensed. Certification examinations shall be conducted by representatives of the commissioner by appointment. A score of 70 or above is required to pass any written examination. A score of less than 70 on the general standards or category examinations shall result in denial of certification of that test. A person must pass the general and at least one category examination before becoming certified. An applicant scoring less than 65% on any examination must wait three days before retesting on that examination. A person scoring from 65% to 69% may retake the test again the same day, schedule permitting.

(4) License Issuance. If the department finds the applicant qualified to apply pesticides in the classifications applied for and for which the prescribed fee(s) have been paid, the department shall issue a commercial applicator's license. The license shall expire December 31 of each year unless it has been revoked or suspended prior by the commissioner for cause, which may include any of the unlawful acts given in R68-7-11. If an application for a commercial license is denied the applicant shall be informed of the reason. The applicator is required to have their license in their immediate possession at all times when making a pesticide application. If the applicator requests a duplicate license from the Department of Agriculture and Food, a fee determined by the department pursuant to Subsection 4-2-2(2), must be paid before a replacement license will be issued. A pesticide applicator business license shall be required for each pesticide business location with applicators working in the state.

(5) Any new applicator or applicator business license licensing after November 1 will be licensed for the remainder of that year and the following calendar year.

(6) License Renewal, Recertification.

(a) A license will be renewed without examination if the renewal notice is received by the Utah Department of Agriculture and Food of prior to January 1 of any year.

(b) If the renewal notice is received after January 1 but before (March 1), individuals will be required to pay the late fee, and no re-examination will be required.

(c) If the renewal notice is received after March 1, individuals will be required to recertify according to the original pesticide-applicator certification procedures.

Each license shall expire on December 31 of the year of its issuance. Commercial applicators may voluntarily pay a triennial license fee in lieu of the annual license fee. Commercial applicators must recertify every three years, and be subject to re-examination at

any time. Information that may be required to insure a continuing level of competence and ability to use pesticides safely and properly due to changing technology, and to satisfy certification requirements as described herein, or meet any other requirements specified by the commissioner shall be added to this rule as often as necessary.

(d) Recertification options:

(i) Complete the original certification process of taking the required general and category test(s) and passing each required test with a score of 70% or above or;

(ii) Attend approved recertification courses and pass the required category examinations with a score of 70% or above or;

(iii) Participate in approved continuing education courses and accumulate 24 credits during the valid three years of certification.

(7) Records Maintained. Commercial applicators shall keep and maintain records of each pesticide application. These records must be recorded within 24 hours after the pesticide application is made. These application records must include the following information:

(a) Name and address of property owner;

(b) Location of treatment site, if different from (a);

(c) The month, day and year when the pesticide was applied;

(d) Brand name of pesticide, EPA registration number, rate of pesticide applied per unit area and total amount of pesticide used;

(e) Purpose of application;

(f) The name, address and license number of the certified applicator who applied the pesticide.

Such records shall be kept for a period of two years from the date of application of the pesticide and shall be available for inspection by the commissioner's designee at reasonable times. The commissioner's designee shall, upon request, be furnished a copy of such records by the commercial applicator.

(8) Exemption.

The provisions of this section relating to licenses and requirements for their issuance do not apply to a person applying pesticides for his neighbors provided he operates and maintains pesticide application equipment for his own use, is not engaged in the business of applying pesticides for hire or compensation, does not publicly represent himself as a pesticide applicator, and operates his pesticide application equipment only in the vicinity of his owned or rented property for the accommodation of his neighbors; provided, however, that when such persons use a restricted-use pesticide, they shall comply with the certification requirements specified herein.

(B) Non-Commercial Applicators.

(1) License Required. No non-commercial applicator shall use or demonstrate the use of any restricted-use pesticide without becoming certified and obtaining a non-commercial applicator's license issued by the department. Application for such license shall be made in writing on an approved form obtained from the department and shall include such information as is prescribed by the department. Each individual performing the physical act of applying restricted-use pesticides must be licensed.

(2) Written Examination. An applicant for a non-commercial pesticide license shall demonstrate to the department competency and knowledge of pesticides and their applications by passing the appropriate written examinations. Examination and educational-material fees determined by the department pursuant to Subsection 4-2-2(2), shall be assessed at the time an individual takes the general and category tests. All applicants for a non-commercial applicator license must successfully pass a general examination based upon standards applicable to all categories. After passing the general

examination, applicants must pass the examination(s) pertaining to the category(s) for which they desire to be licensed. Certification examinations shall be conducted by representatives of the commissioner by appointment. A score of 70 percent or above is required for passing any written examination. A score of less than 70 percent on the general or category examinations shall result in denial of certification in that category. A person must pass the general and at least one category examination before becoming certified. An applicator scoring less than 65 percent on any examination must wait three days before retesting on that examination. A person scoring from 65% to 69% may retake the test again the same day, schedule permitting. Any person applying to become certified or recertified must demonstrate the ability to: (a) read and understand three or more sets of pesticide label directions from pesticide containers randomly chosen by division personnel, and (b) demonstrate competency and knowledge of mixing and applying pesticides in a safe way.

(3) License Issuance. If the department finds the applicant qualified to apply pesticides in the classification(s) applied for, the department shall issue a non-commercial applicator's license limited to such activities and classifications applied for. A prescribed examination and educational material fees shall be required. The applicator is required to have his/her license in his/her immediate possession at all times when making a pesticide application.

If the applicator requests a duplicate license from the Department of Agriculture and Food, a fee as determined by the department pursuant to Subsection 4-2-2(2), must be paid before a replacement license will be issued. The license shall expire December 31, three calendar years after the issuance of the certification, unless it has been suspended or revoked by the commissioner for cause, which may include any of the unlawful acts given in R68-7-11. If an application for a non-commercial license is denied the applicant shall be informed of the reason.

(4) Any new applicator licensing after November 1 will be licensed for the remainder of that year and the following calendar year.

(5) License Renewal, Recertification. Non-commercial applicators must recertify every three years, and be subject to re-examination at any time. Information that may be required to insure a continuing level of competence and ability to use pesticides safely and properly due to changing technology, and to satisfying certification requirements as described herein, or any other requirements specified by the commissioner shall be added to this rule as often as necessary.

Recertification options are:

(a) Complete the original certification process of taking the required general and category test(s) and passing each required test with a score of 70% or above or;

(b) Attend approved recertification courses and pass the required category test(s) with a score of 70% or above or;

(c) Participate in approved continuing education courses and accumulate 24 credits during the valid three years of certification.

(6) Records Maintained. Non-commercial applicators shall keep and maintain records of each application of any restricted-use pesticides. These application records must be recorded within 24 hours after the pesticide application is made. These records must include the following information:

- (a) Name and address of property owner;
- (b) Location of treatment site, if different from (a);
- (c) The month, day and year when the pesticide was applied;

(d) Brand name of pesticide, EPA registration number, rate of pesticide applied per unit area, and total amount of pesticide used;

(e) Purpose of application;

(f) The name, address, and license number of the certified applicator who applied the pesticide.

Such records shall be kept for a period of two years from the date of application of the pesticide and shall be available for inspection by the commissioner's designee at reasonable times. The commissioner's designee shall, upon request, be furnished a copy of such records by the non-commercial applicator.

(7) Exemption. The provisions of this section shall not apply to persons conducting laboratory research involving restricted-use pesticides as drugs or medication during the course of their normal practice. Non-Commercial applicators engaged in public-health related activities are exempt from recording the name and address of property owners, but are required to document a detailed description of treatment areas by using such means as GPS coordinates or other locality descriptions for record keeping purposes.

(C) Private Applicators.

(1) License Required. No private applicator shall purchase, use or supervise the use of any restricted-use pesticide without a private applicator's license issued by the department. Issuance of such license shall be conditioned upon the applicator's complying with the certification requirements determined by the department as necessary to prevent unreasonable adverse effects on the environment, including injury to the applicator or other persons. Application for a license shall be made in writing on a designated form obtained from the department.

(2) Certification Methods. Any person applying to become licensed must demonstrate the ability to: (a) read and understand three or more sets of pesticide label directions[?] from pesticide containers randomly chosen by division personnel, and (b) demonstrate competency and knowledge of mixing and applying pesticides in a safe way. All first-time Private Applicators must successfully pass a written test. A score of 70 percent or above is required for passing any written test. A score of less than 70 percent will result in the denial of certification. A person must pass the general and at least one category examination before becoming certified. An applicator scoring less than 65% on any examination must wait three days before retesting on that examination. A person scoring from 65% to 69% may retake the test again the same day, schedule permitting.

(3) Emergency-Use Permit. A single restricted-use pesticide may be purchased and used by a non-certified person on a one-time-only basis if an emergency control situation is shown to exist. Before purchasing the product, the applicant shall participate in a discussion concerning safe use of the specific product with a representative of the Utah Department of Agriculture and Food. Following an adequate discussion of same, the Department of Agriculture and Food may issue the applicant a permit to purchase and use the product on a specific site on a one-time-only basis. The applicant shall be required to become certified before being authorized to further purchase and use restricted-use pesticides.

(4) License Issuance. If the department finds the applicant qualified to apply pesticides, the applicant shall be issued a private applicator's license. Examination and educational-material fees determined by the department pursuant to Subsection 4-2-2(2), shall be assessed at the time of certification and recertification. The license issued by the commissioner shall expire on December 31, three calendar years after issuance, unless the license has been

revoked or suspended by the commissioner. If an application for a private license is denied, the applicant shall be informed of the reason. If the applicator requests replacement from the Department of Agriculture and Food, a fee determined by the department pursuant to Subsection 4-2-2(2), must be paid before a replacement license will be issued.

(5) Any new applicator licensing after November 1 will be licensed for the remainder of that year and the following calendar year.

(6) License Renewal, Recertification. A person applying to recertify must demonstrate the ability to: (a) read and understand three or more sets of pesticide label directions[?] from pesticide containers randomly chosen by division personnel, and (b) demonstrate the mixing and application of pesticides in a safe way. All certified private applicators must recertify every three years, or more frequently if determined necessary by the department, by satisfying any of the following procedures or any other requirements specified by the department.

(a) Training Course. Completion of a training course approved by the Utah Department of Agriculture and Food which may require passing a written test with a score of 70% or above or;

(b) Self-Study Program. Successful completion of an approved written test. A passing score of 70 percent or above is required or;

(c) Written Examination. Successful completion of an approved written test. A score of 70 percent or above is required to pass or;

(d) Accumulate nine credits of approved continuing education during the valid three years of certification.

(D) Employees of Federal Agencies. Federal Government Employees wishing to be certified in Utah shall be required to qualify as non-commercial applicators by passing the appropriate examinations, unless such requirement is waived upon presentation of adequate evidence of certification in the appropriate categories from another state with comparable certification requirements. In the event a federal agency develops an applicator certification plan which meets the Utah certification standards, employees of that agency who become certified under that plan may qualify for certification in the State of Utah.

(E) Certification of Out-of-State Applicants.

When a pesticide applicator is certified under an approved state plan of another state and desires to apply pesticides in Utah, he/she shall make application to the department and shall include, along with the proper fee and any other details required by the Act or these rules, a true copy of his credentials as proof of certification in the person's state of residence and a letter from that state's department of agriculture stating that he/she has not been convicted of a violation of any pesticide law and is currently licensed as a pesticide applicator in that state. The department may upon review of the credentials, issue a Utah certification to the applicator in accordance with the use situations for which the applicator is certified in another state without requiring determination of competency; provided that the state having certified the applicator will similarly certify holders of Utah licenses or certificates and has entered into a reciprocal agreement with the State of Utah. Out-of-state pesticide applicators who operate in Utah will be subject to all Utah laws and rules.

**KEY: inspections, pesticides**

**Date of Enactment or Last Substantive Amendment: [January 7], 2008**

**Notice of Continuation: March 16, 2006**

**Authorizing, and Implemented or Interpreted Law: 4-14-6**

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## Commerce, Occupational and Professional Licensing **R156-1-109** Presiding Officers

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31803

FILED: 08/11/2008, 09:19

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Construction Services Commission are proposing amendments to change certain limited formal adjudicative proceedings to informal adjudicative proceedings with respect to licensed contractors who fail to replace a qualifier within the 60 days required by statute or who fail to maintain liability insurance as required by statute in Rule R156-46b. Many formal adjudicative proceedings with the potential result of revocation of license may involve substantial evidence presentation and weighing of evidence to determine if the case warrants the sanction of revocation of license. However, these two types of cases are all very simple fact patterns. That being the licensed contractor either has liability insurance or not or the contractor either has a qualifier on staff or not. The governing statute, Title 58, Chapter 55, provides contractors are obligated to maintain liability insurance and a qualifier. Division Bureau Managers are now successfully handling much more complicated factual reviews in informal adjudicative proceedings of new applications which result in denial of licensure for unqualified applicants than these cases present. Therefore, these proposed changes will not result in any detrimental effect on licensed contractors who are able to demonstrate that they are qualified and will not necessarily waste Division resources for a formal adjudicative proceeding when the case does not need that level of review and expense. As a result of the proposed amendments to Rule R156-46b, a related addition needs to be made in this rule to Subsection R156-1-109(4)(d)(ii). (DAR NOTE: The proposed amendment to Rule R156-46b is under DAR No. 31804 in this issue, September 1, 2008, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: In Subsection R156-1-109(4)(d)(ii), a reference to Subsections R156-46b-202(2)(e) and (f) is added.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 58-1-106(1)(a) and 58-1-501(4) and Section 58-1-308



## ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The Division anticipates no costs to the state budget as a result of these proposed amendments. The proposed amendments will allow the Division to more efficiently handle these two types of cases with respect to contractors in an informal setting without unnecessarily devoting resources to formal proceedings. Any savings realized will be absorbed in the Division's existing budget and will allow these resources to be directed to other functions needing attention.

❖ **LOCAL GOVERNMENTS:** The proposed amendments do not apply to local governments. The proposed amendments only apply to licensed contractors who fail to replace a qualifier within the 60 days required by statute or who fail to maintain liability insurance as required by statute.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** The proposed amendments only apply to licensed contractors who fail to replace a qualifier within the 60 days required by statute or who fail to maintain liability insurance as required by statute. Some of the licensed contractors who fail to comply with either of these two requirements may qualify as a "small business". No costs will be incurred by licensed contractors if they comply with all statutory requirements affecting their profession. The Division anticipates licensed contractors who fail to comply with either of these two requirements may realize a savings in time as a result of changing these two proceedings from formal to informal.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The proposed amendments only apply to licensed contractors who fail to replace a qualifier within the 60 days required by statute or who fail to maintain liability insurance as required by statute. No costs will be incurred by licensed contractors if they comply with all statutory requirements affecting their profession. The Division anticipates licensed contractors who fail to comply with either of these two requirements may realize a savings in time as a result of changing these two proceedings from formal to informal.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule filing changes the designation of license revocation proceedings for failure to maintain a qualifier and failure to maintain liability insurance from formal adjudicative proceedings to informal adjudicative proceedings. It is expected that this change would result in a cost savings to the industry as well as to the Division. No fiscal impact to other businesses is anticipated by this change in administrative procedures. Francine A. Giani, Executive Director

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

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

## DIRECT QUESTIONS REGARDING THIS RULE TO:

Dan S. Jones at the above address, by phone at 801-530-6720, by FAX at 801-530-6511, or by Internet E-mail at dansjones@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/01/2008

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 9/24/2008 at 9:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2008

AUTHORIZED BY: F. David Stanley, Director

**R156. Commerce, Occupational and Professional Licensing.  
R156-1. General Rules of the Division of Occupational and Professional Licensing.**

**R156-1-109. Presiding Officers.**

In accordance with Subsection 63G-4-103(1)(h), Sections 58-1-104, 58-1-106, 58-1-109, 58-1-202, 58-1-203, 58-55-103, and 58-55-201, except as otherwise specified in writing by the director, or for Title 58, Chapter 55, the Construction Services Commission, the designation of presiding officers is clarified or established as follows:

(1) The division regulatory and compliance officer is designated as the presiding officer for issuance of notices of agency action and for issuance of notices of hearing issued concurrently with a notice of agency action or issued in response to a request for agency action, provided that if the division regulatory and compliance officer is unable to so serve for any reason, a bureau manager designated by the regulatory and compliance officer is designated as the alternate presiding officer.

(2) Subsections 58-1-109(2) and 58-1-109(4) are clarified with regard to defaults as follows. Unless otherwise specified in writing by the director, or with regard to Title 58, Chapter 55, by the Construction Services Commission, the department administrative law judge is designated as the presiding officer for entering an order of default against a party, for conducting any further proceedings necessary to complete the adjudicative proceeding, and for issuing a recommended order to the director or commission, respectively, determining the discipline to be imposed, licensure action to be taken, relief to be granted, etc.

(3) Except as provided in Subsection (4) or otherwise specified in writing by the director, the presiding officer for adjudicative proceedings before the division are as follows:

(a) Director. The director shall be the presiding officer for:

(i) formal adjudicative proceedings described in Subsections R156-46b-201(1)(f) through (g), and R156-46b-201(2)(a) through (b), however resolved, including stipulated settlements and hearings; and

(ii) informal adjudicative proceedings described in Subsections R156-46b-202(1)(d), (h),(j), (m), (n), (p), and (q), and R156-46b-202(2)(a) through (d), however resolved, including memorandums of understanding and stipulated settlements.

(b) Bureau managers or program coordinators. Except for Title 58, Chapter 55, the bureau manager or program coordinator over the occupation or profession or program involved shall be the presiding officer for:

(i) formal adjudicative proceedings described in Subsections R156-46b-201(1)(a) through (c), provided that any evidentiary hearing requested shall be conducted by the appropriate board who shall be designated as the presiding officer to act as the fact finder at any evidentiary hearing and shall issue a recommended order to the division based upon the record developed at the hearing determining all issues pending before the division to the director for a final order, and R156-46b-201(1)(e). The authority of the presiding officer in formal adjudicative proceedings described in R156-46b-201(1)(e) shall be limited to approval of claims, conditional denial of claims, and final denial of claims based upon jurisdictional defects;

(ii) formal adjudicative proceedings described in Subsection R156-46b-201(1)(h), for purposes of determining whether a request for a board of appeal is properly filed as set forth in Subsections R156-56-105(1) through (4); and

(iii) informal adjudicative proceedings described in Subsections R156-46b-202(1)(a) through (c), (e), (g), (i), (k), and (o).

(iv) At the direction of a bureau manager or program coordinator, a licensing technician or program technician may sign an informal order in the name of the licensing technician or program technician provided the wording of the order has been approved in advance by the bureau manager or program coordinator and provided the caption "FOR THE BUREAU MANAGER" or "FOR THE PROGRAM COORDINATOR" immediately precedes the licensing technician's or program technician's signature.

(c) Contested Citation Hearing Officer. The regulatory and compliance officer or other contested citation hearing officer designated in writing by the director shall be the presiding officer for the adjudicative proceeding described in Subsection R156-46b-202(1)(l).

(d) Uniform Building Code Commission. The Uniform Building Code Commission shall be the presiding officer for the adjudicative proceeding described in Subsection R156-46b-202(1)(f) for convening a board of appeal under Subsection 58-56-8(3), for serving as fact finder at any evidentiary hearing associated with a board of appeal, and for entering the final order associated with a board of appeal. An administrative law judge shall perform the role specified in Subsection 58-1-109(2).

(e) Residence Lien Recovery Fund Advisory Board. The Residence Lien Recovery Fund Advisory Board shall be the presiding officer for adjudicative proceedings described in Subsection R156-46b-201(1)(e) and R156-46b-202(1)(g) that exceed the authority of the program coordinator, as delegated by the board, or are otherwise referred by the program coordinator to the board for action.

(4) Unless otherwise specified in writing by the Construction Services Commission, the presiding officers and process for adjudicative proceedings under Title 58, Chapter 55, are established or clarified as follows:

(a) Commission.

(i) The commission shall be the presiding officer for all adjudicative proceedings under Title 58, Chapter 55, except as otherwise delegated by the commission in writing or as otherwise provided in these rules; provided, however, that all orders adopted by the commission as a presiding officer shall require the concurrence of the director.

(ii) Unless otherwise specified in writing by the commission, the commission is designated as the presiding officer:

(A) for formal adjudicative proceedings described in Subsections R156-46b-201(1)(g) and R156-46b-201(2)(a) through (b), however resolved, including stipulated settlements and hearings;

(B) informal adjudicative proceedings described in Subsections R156-46b-202(1)(d), (m), (n), (p), and (q), and R156-46b-202(2)(a) and (c), however resolved, including memorandums of understanding and stipulated settlements;

(C) to serve as fact finder and adopt orders in formal evidentiary hearings associated with adjudicative proceedings involving persons licensed as or required to be licensed under Title 58, Chapter 55; and

(D) to review recommended orders of a board, an administrative law judge, or other designated presiding officer who acted as the fact finder in an evidentiary hearing involving a person licensed or required to be licensed under Title 58, Chapter 55, and to adopt an order of its own. In adopting its order, the commission may accept, modify or reject the recommended order.

(iii) If the commission is unable for any reason to act as the presiding officer as specified, it shall designate another presiding officer in writing to so act.

(iv) Orders of the commission shall address all issues before the commission and shall be based upon the record developed in an adjudicative proceeding conducted by the commission. In cases in which the commission has designated another presiding officer to conduct an adjudicative proceeding and submit a recommended order, the record to be reviewed by the commission shall consist of the findings of fact, conclusions of law, and recommended order submitted to the commission by the presiding officer based upon the evidence presented in the adjudicative proceeding before the presiding officer.

(v) The commission or its designee shall submit adopted orders to the director for the director's concurrence or rejection within 30 days after it receives a recommended order or adopts an order, whichever is earlier. An adopted order shall be deemed issued and constitute a final order upon the concurrence of the director.

(vi) If the director or his designee refuses to concur in an adopted order of the commission or its designee, the director or his designee shall return the order to the commission or its designee with the reasons set forth in writing for the nonconcurrence therein. The commission or its designee shall reconsider and resubmit an adopted order, whether or not modified, within 30 days of the date of the initial or subsequent return, provided that unless the director or his designee and the commission or its designee agree to an extension, any final order must be issued within 90 days of the date of the initial recommended order, or the adjudicative proceeding shall be dismissed. Provided the time frames in this subsection are followed, this subsection shall not preclude an informal resolution such as an executive session of the commission or its designee and the director or his designee to resolve the reasons for the director's refusal to concur in an adopted order.

(vii) The record of the adjudicative proceeding shall include recommended orders, adopted orders, refusals to concur in adopted orders, and final orders.

(viii) The final order issued by the commission and concurred in by the director may be appealed by filing a request for agency review with the executive director or his designee within the department.

(ix) The content of all orders shall comply with the requirements of Subsection 63G-4-203(1)(i) and Sections 63G-4-208 and 63G-4-209.

(b) Director. Unless otherwise specified in writing by the commission, the director is designated as the presiding officer for conducting informal adjudicative proceedings specified in R156-46b-202(2)(b).

(c) Administrative Law Judge. Unless otherwise specified in writing by the commission, the department administrative law judge is designated as the presiding officer to conduct formal adjudicative proceedings before the commission and its advisory boards, as specified in Subsection 58-1-109(2).

(d) Bureau Manager. Unless otherwise specified in writing by the commission, the responsible bureau manager is designated as the presiding officer for conducting:

(i) formal adjudicative proceedings specified in Subsections R156-46b-201(1)(a) through (c), provided that any evidentiary hearing requested shall be conducted by the appropriate board or commission who shall be designated as the presiding officer to act as the fact finder at any evidentiary hearing and to adopt orders as set forth in these rules; and

(ii) informal adjudicative proceedings specified in Subsections R156-46b-202(1)(a) through (c), (e), (i), and (o) and R156-46b-202(2)(e) and (f).

(iii) At the direction of a bureau manager, a licensing technician may sign an informal order in the name of the licensing technician provided the wording of the order has been approved in advance by the bureau manager and provided the caption "FOR THE BUREAU MANAGER" immediately precedes the licensing technician's signature.

(e) Plumbers Licensing Board. Except as set forth in Subsection (c) or as otherwise specified in writing by the commission, the Plumbers Licensing Board is designated as the presiding officer to serve as the fact finder and to issue recommended orders to the commission in formal evidentiary hearings associated with adjudicative proceedings involving persons licensed as or required to be licensed as plumbers.

(f) Electricians Licensing Board. Except as set forth in Subsection (c) or as otherwise specified in writing by the commission, the Electricians Licensing Board is designated as the presiding officer to serve as the fact finder and to issue recommended orders to the commission in formal evidentiary hearings associated with adjudicative proceedings involving persons licensed as or required to be licensed as electricians.

(g) Alarm System Security and Licensing Board. Except as set forth in Subsection (c) or as otherwise specified in writing by the commission, the Alarm System Security and Licensing Board is designated as the presiding officer to serve as the fact finder and to issue recommended orders to the commission in formal evidentiary hearings associated with adjudicative proceedings involving persons licensed as or required to be licensed as alarm companies or agents.

**KEY: diversion programs, licensing, occupational licensing, supervision**

**Date of Enactment or Last Substantive Amendment: ~~June 23, 2008~~**

**Notice of Continuation: March 1, 2007**

**Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-308; 58-1-501(4)**

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## Commerce, Occupational and Professional Licensing

# R156-46b

### Division Utah Administrative Procedures Act Rules

#### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31804

FILED: 08/11/2008, 09:23

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The Division and the Construction Services Commission are proposing amendments to change certain limited formal adjudicative proceedings to informal adjudicative proceedings with respect to licensed contractors who fail to replace a qualifier within the 60 days required by statute or who fail to maintain liability insurance as required by statute. Many formal adjudicative proceedings with the potential result of revocation of license may involve substantial evidence presentation and weighing of evidence to determine if the case warrants the sanction of revocation of license. However, these two types of cases are all very simple fact patterns. That being the licensed contractor either has liability insurance or not or the contractor either has a qualifier on staff or not. The governing statute, Title 58, Chapter 55, provides contractors are obligated to maintain liability insurance and a qualifier. Division Bureau Managers are now successfully handling much more complicated factual reviews in informal adjudicative proceedings of new applications which result in denial of licensure for unqualified applicants than these cases present. Therefore, these proposed changes will not result in any detrimental effect on licensed contractors who are able to demonstrate that they are qualified and will not necessarily waste Division resources for a formal adjudicative proceeding when the case does not need that level of review and expense.

**SUMMARY OF THE RULE OR CHANGE:** Throughout the rule, the term "rules" has been replaced with "rule" where applicable. In Sections R156-46b-201 and R156-46b-202, amendments are proposed to change the requirement from a formal adjudicative proceeding to an informal adjudicative proceeding for contractors who fail to replace a qualifier within the 60 days required by statute or who fail to maintain liability insurance as required by statute.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsections 63G-4-102(6) and 58-1-106(1)(a)

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** The Division anticipates no costs to the state budget as a result of these proposed amendments. The proposed amendments will allow the Division to more efficiently handle these two types of cases with respect to contractors in an informal setting without unnecessarily devoting resources to formal proceedings. Any savings

realized will be absorbed in the Division's existing budget and will allow these resources to be directed to other functions needing attention.

❖ LOCAL GOVERNMENTS: The proposed amendments do not apply to local governments. The proposed amendments only apply to licensed contractors who fail to replace a qualifier within the 60 days required by statute or who fail to maintain liability insurance as required by statute.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The proposed amendments only apply to licensed contractors who fail to replace a qualifier within the 60 days required by statute or who fail to maintain liability insurance as required by statute. Some of the licensed contractors who fail to comply with either of these two requirements may qualify as a "small business". No costs will be incurred by licensed contractors if they comply with all statutory requirements affecting their profession. The Division anticipates licensed contractors who fail to comply with either of these two requirements may realize a savings in time as a result of changing these two proceedings from formal to informal.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed contractors who fail to replace a qualifier within the 60 days required by statute or who fail to maintain liability insurance as required by statute. No costs will be incurred by licensed contractors if they comply with all statutory requirements affecting their profession. The Division anticipates licensed contractors who fail to comply with either of these two requirements may realize a savings in time as a result of changing these two proceedings from formal to informal.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing changes the designation of license revocation proceedings for failure to maintain a qualifier and failure to maintain liability insurance from formal adjudicative proceedings to informal adjudicative proceedings. It is expected that this change would result in a cost savings to the industry, as well as to the Division. No fiscal impact to other businesses is anticipated by this change in administrative procedures. Francine A. Giani, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dan S. Jones at the above address, by phone at 801-530-6720, by FAX at 801-530-6511, or by Internet E-mail at dansjones@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/01/2008

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 9/24/2008 at 9:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2008

AUTHORIZED BY: F. David Stanley, Director

**R156. Commerce, Occupational and Professional Licensing.**  
**R156-46b. Division Utah Administrative Procedures Act Rule[s].**

**R156-46b-101. Title.**

Th[ese] rule[s] ~~are~~ is known as the "Division Utah Administrative Procedures Act Rule[s]."

**R156-46b-103. Authority - Purpose.**

Th[ese] rule[s] ~~are~~ is adopted by the division under the authority of Title 63G, Chapter 4, Subsection 58-1-108(1), and Subsection 58-1-106(1)(a). The purposes of th[ese] rule[s] include:

- (a) classifying division adjudicative proceedings;
- (b) clarifying the identity of presiding officers at division adjudicative proceedings; and
- (c) defining procedures for division adjudicative proceedings which are consistent with the requirements of Titles 58 and 63G and Rule R151-46b.

**R156-46b-201. Formal Adjudicative Proceedings.**

(1) The following adjudicative proceedings initiated by a request for agency action are classified as formal adjudicative proceedings:

- (a) denial of application for renewal of licensure;
- (b) denial of application for reinstatement of licensure submitted pursuant to Subsection 58-1-308(5);
- (c) denial of application for reinstatement of licensure submitted pursuant to Subsection 58-1-308(6)(b);
- (d) special appeals board held in accordance with Section 58-1-402;
- (e) approval or denial of claims against the Residence Lien Recovery Fund created under Title 38, Chapter 11, in which the claimant is precluded from obtaining the required civil judgment or administrative order against the nonpaying party involved in the claim because the nonpaying party filed bankruptcy;
- (f) payment of approved claims against the Residence Lien Recovery Fund described in Subparagraph (e);
- (g) declaratory order determining the applicability of statute, rule or order to specified circumstances, when determined by the director to be conducted as a formal adjudicative proceeding; and
- (h) board of appeal held in accordance with Subsection 58-56-8(3).

(2) The following adjudicative proceedings initiated by a Notice of Agency Action are classified as formal adjudicative proceedings:

- (a) disciplinary proceedings which result in the following sanctions:
  - (i) revocation of licensure, except a proceeding requesting revocation of licensure for failure to maintain a qualifier under Subsections 58-55-304(6) and (7) or a proceeding requesting

revocation of licensure for failure to maintain liability insurance under Subsection 58-55-302(2)(b);

- (ii) suspension of licensure;
- (iii) restricted licensure;
- (iv) probationary licensure;
- (v) issuance of a cease and desist order except when imposed by citation or by an order in a contested citation hearing;
- (vi) administrative fine except when imposed by citation or by an order in a contested citation hearing; and
- (vii) issuance of a public reprimand; and
- (b) unilateral modification of a disciplinary order.

**R156-46b-202. Informal Adjudicative Proceedings.**

(1) The following adjudicative proceedings initiated by a request for agency action are classified as informal adjudicative proceedings:

- (a) approval of application for initial licensure, renewal or reinstatement of licensure, or relicensure;
- (b) denial of application for initial licensure or relicensure;
- (c) denial of application for reinstatement of licensure submitted pursuant to Subsection 58-1-308(6)(a);
- (d) denial of application for reinstatement of restricted, suspended, or probationary licensure during the term of the restriction, suspension, or probation;
- (e) approval or denial of application for inactive or emeritus licensure status;
- (f) board of appeal under Subsection 58-56-8(3);
- (g) approval or denial of claims against the Residence Lien Recovery Fund created under Title 38, Chapter 11, except those in which the claimant is precluded from obtaining the required civil judgment or administrative order against the nonpaying party involved in the claim because the nonpaying party filed bankruptcy;
- (h) payment of approved claims against the Residence Lien Recovery Fund described in Subparagraph (g);
- (i) approval or denial of request to surrender licensure;
- (j) approval or denial of request for entry into diversion program under Section 58-1-404;
- (k) matters relating to diversion program;
- (l) contested citation hearing held in accordance with Subsection 58-55-503(4)(b);
- (m) approval or denial of request for modification of disciplinary order;
- (n) declaratory order determining the applicability of statute, rule or order to specified circumstances, when determined by the director to be conducted as an informal adjudicative proceeding;
- (o) approval or denial of request for correction of procedural or clerical mistakes;
- (p) approval or denial of request for correction of other than procedural or clerical mistakes; and
- (q) all other requests for agency action permitted by statute or rule governing the Division not specifically classified as formal adjudicative proceedings in Subsection R156-46b-201(1).

(2) The following adjudicative proceedings initiated by a notice of agency action or request for agency action are classified as informal adjudicative proceedings:

- (a) disciplinary proceeding seeking exclusively the issuance of a private reprimand;
- (b) nondisciplinary proceeding which results in cancellation of licensure;
- (c) disciplinary sanctions imposed in a memorandum of understanding with an applicant for licensure; ~~and~~

- (d) termination of diversion agreements;
- (e) a proceeding requesting revocation of licensure for failure to maintain a qualifier under Subsections 58-55-304(6) and (7); and
- (f) a proceeding requesting revocation of licensure for failure to maintain liability insurance under Subsection 58-55-302(2)(b).

**KEY: administrative procedures, government hearings, occupational licensing**

**Date of Enactment or Last Substantive Amendment:** ~~[November 2, 2004]~~2008

**Notice of Continuation:** April 25, 2006

**Authorizing, and Implemented or Interpreted Law:** 63G-4-102(6); 58-1-106(1)(a)



Commerce, Occupational and  
Professional Licensing  
**R156-55a**  
Utah Construction Trades Licensing Act  
Rule

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 31802

FILED: 08/11/2008, 09:16

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Construction Services Commission are proposing amendments to this rule to update statute citations as a result of the governing statute, Title 58, Chapter 55, being amended by several bills during the 2008 Legislative Session (H.B. 401, H.B. 459, S.B. 228 and S.B. 295). Proposed amendments are also clarifying the scope of practice of different contractor license classifications and making changes to the rule with respect to continuing education for contractors. (DAR NOTES: H.B. 401 (2008) is found at Chapter 215, Laws of Utah 2008, and was effective 05/05/2008. H.B. 459 (2008) is found at Chapter 354, Laws of Utah 2008, and was effective 05/05/2008. S.B. 228 (2008) is found at Chapter 282, Laws of Utah, and was effective 05/05/2008. S.B. 295 (2008) is found at Chapter 377, Laws of Utah 2008, and was effective 05/05/2008.)

SUMMARY OF THE RULE OR CHANGE: Throughout the rule, statutory citations have been updated where needed. In Subsection R156-55a-102(4), an addition is being made to the definition of "incidental" to exclude performing any electrical or plumbing work unless it is included in the scope of work for a classification. In Subsections R156-55a-301(1), (4), and (5), additions are made to put into rule activities that have been excluded from licensure requirements by informal policy. In Subsection R156-55a-301(2), S220-Carpentry contractor: proposed amendment clarifies that incidental work includes the installation of tub liners and wall systems; S330-Landscaping contractor: proposed amendments clarify the scope of practice for this classification, clarify that landscape

contractors cannot do work requiring structural expertise and clarify that landscape contractors cannot run electrical or gas lines to any appliances; S400-Asphalt Paving contractor: proposed amendment clarifies that this classification can also pave the asphalt surfaces; S430-Metal Firebox and Fuel Burning Stove Installer: proposed amendment clarifies that the installation of venting and exhaust systems is allowed provided the installer is certified by the Rocky Mountain Gas Association (RMGA); S460-Wrecking and Demolition contractor: proposed amendment clarifies that this type of work requires licensure whether or not new construction is intended to be placed upon the property; and S500-Sports and Athletic Courts, Running Tracks, and Playground Installation contractor: proposed amendment clarifies that this classification includes the installation and attachment of equipment related to the area. Subsection R156-55a-302a(4) is a new paragraph added to require that a person taking a qualifying exam has completed the experience prior to taking the exam. This proposed amendment will help assure the security of the exams by allowing only persons who are actually qualified to take the examination. In Subsection R156-55a-302b(2), an addition is made to allow licensed professional engineers one year of credit towards the supervisory or managerial experience for their education when applying for the E100 General Engineering license classification. In Section R156-55a-303b, amendments are proposed in this section to clarify and further define the requirements for continuing education. The requirement to have course preapproved by the Commission is being deleted. The standards that a continuing education course must meet are being clarified. Amendments to this section will allow contractor associations to become a continuing education registry, which allows them to review and approve continuing education programs if the programs meet the requirements under the rule. Amendments also provide the guidelines necessary to be approved as a continuing education registry. While preapproval of a continuing education course is not required under the proposed amendments, some organizations want to be able to represent that courses have been preapproved. Amendments will allow for that preapproval when the course provider wants to submit the material in advance for review. In Section R156-55a-504, updated the name of the Southern California Crane and Hoisting Certification Program.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-55-101 and Subsections 58-1-106(1)(a), 58-1-202(1)(a), 58-55-308(1), 58-55-102(35), and 58-55-501(21)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Division will incur minimal costs of approximately \$200 to reprint the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.

❖ LOCAL GOVERNMENTS: The proposed amendments do not apply to local governments. The proposed amendments only apply to licensed contractors, applicants for licensure as a contractor, and contractor continuing education providers.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The proposed amendments only apply to licensed contractors, applicants for licensure as a contractor and contractor continuing education providers. Some of these classifications to whom the proposed amendments apply may be considered a "small business". The Division does not anticipate that any of the proposed amendments will result in any significant costs to comply. The deletion of preapproval of continuing education courses may result in minimal savings to course providers estimated to be less than \$50 savings per provider. The number of potential continuing education providers is unknown. The change that a licensed professional engineer can count some education towards the contractor experience requirement may result in earlier licensure to a limited number of applicant who may apply under the criteria. This may result in some financial benefit to these applicants but it is impossible to estimate the dollar value of that benefit. The proposed amendments may add efficiency to understanding the rule overall for all classifications to which the rule applies and the general public.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed contractors, applicants for licensure as a contractor, and contractor continuing education providers. The Division does not anticipate that the proposed amendments will result in any significant costs to comply.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing corrects statutory references, clarifies certain licensing exemptions, clarifies work included in various licensing classifications, requires an applicant taking an examination to certify completion of the experience requirement and clarifies and defines the continuing education requirement. No fiscal impact to businesses is anticipated from this filing beyond those discussed in the rule summary. Francine A. Gian, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dan S. Jones at the above address, by phone at 801-530-6720, by FAX at 801-530-6511, or by Internet E-mail at dansjones@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 10/01/2008

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 9/24/2008 at 9:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2008

AUTHORIZED BY: F. David Stanley, Director

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

**R156-55a. Utah Construction Trades Licensing Act Rule.**

**R156-55a-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 55, as defined or used in this rule:

(1) "Construction trades instructor", as used in Subsection 58-55-301(2)(o) is clarified to mean the education facility which is issued the license as a construction trades instructor. It does not mean individuals employed by the facility who may teach classes.

(2) "Construction trades instruction facility" means the facility which is granted the license as a construction trades instructor as specified in Subsection 58-55-301(2)(o) and as clarified in R156-55a-102(1).

(3) "Employee", as used in Subsections 58-55-102(12)(a) and 58-55-102(14), means a person providing labor services in the construction trades who works for a licensed contractor, or the substantial equivalent of a licensed contractor as determined by the Division, for compensation who has federal and state taxes withheld and workers' compensation and unemployment insurance provided by the person's employer.

(4) "Incidental", as used in Subsection 58-55-102(~~35~~36), means work which:

(a) can be safely and competently performed by the specialty contractor; and

(b) arises from and is directly related to work performed in the licensed specialty classification and does not exceed 10 percent of the overall contract and does not include performance of any electrical or plumbing work unless specifically included in the specialty classification description under Subsection R156-55a-301(2).

(5) "Maintenance" means the repair, replacement and refinishing of any component of an existing structure; but, does not include alteration or modification to the existing weight-bearing structural components.

(6) "Mechanical", as used in Subsections 58-55-102(18) and 58-55-102(29), means the work which may be performed by a S350 HVAC Contractor under Section R156-55a-301.

(7) "Personal property" means, as it relates to Title 58, Chapter 56, factory built housing and modular construction, a structure which is titled by the Motor Vehicles Division, state of Utah, and taxed as personal property.

(8) "Qualifier", as used in Title 58, Chapter 55 and this rule, means the individual who demonstrates competence for a contractor or construction trades instruction facility license by passing the examinations, completing the experience requirements or holding the individual licenses that are prerequisite requirements to obtain the contractor or construction trades instruction facility license.

(9) "School" means a Utah school district, applied technology college, or accredited college.

(10) "Unprofessional conduct" defined in Title 58, Chapters 1 and 55, is further defined in accordance with Section 58-1-203 in Section R156-55a-501.

**R156-55a-301. License Classifications - Scope of Practice.**

(1) In accordance with Subsection 58-55-301(2), the classifications of licensure are listed and described in this section. The construction trades or specialty contractor classifications listed are those determined to significantly impact the public health, safety, and welfare. A person who is ~~practicing a construction trade or specialty contractor classification which is not listed~~ engaged in work which is included in the items listed in Subsections R156-55a-301(4) and (4) is exempt from licensure in accordance with Subsection 58-55-305(1)(i).

(2) Licenses shall be issued in the following primary classifications and subclassifications:

E100 - General Engineering Contractor. A General Engineering contractor is a contractor licensed to perform work as defined in Subsection 58-55-102(19).

B100 - General Building Contractor. A General Building contractor is a contractor licensed to perform work as defined in Subsection 58-55-102(18) and pursuant to Subsection 58-55-102(18)(b) is clarified as follows: the General Building Contractor scope of practice does not include activities described in this Subsection under specialty classification S202 - Solar Photovoltaic Contractor unless the work is performed under the immediate supervision of an employee who holds a current certificate issued by the North American Board of Certified Energy Practitioners.

B200 - Modular Unit Installation Contractor. Set up or installation of modular units as defined in Subsection 58-56-3(11) and constructed in accordance with Section 58-56-13. The scope of the work permitted under this classification includes construction of the permanent or temporary foundations, placement of the modular unit on a permanent or temporary foundation, securing the units together if required and securing the modular units to the foundations. Work excluded from this classification includes installation of factory built housing and connection of required utilities.

R100 - Residential and Small Commercial Contractor. A Residential and Small Commercial contractor is a contractor licensed to perform work as defined in Subsection 58-55-102(~~28~~29) and pursuant to Subsection 58-55-102(~~28~~29) is clarified as follows: the Residential and Small Commercial Contractor scope of practice does not include activities described in this Subsection under specialty classification S202 - Solar Photovoltaic Contractor unless the work is performed under the immediate supervision of an employee who holds a current certificate issued by the North American Board of Certified Energy Practitioners.

R101 - Residential and Small Commercial Non Structural Remodeling and Repair. Remodeling and repair to any existing structure built for support, shelter and enclosure of persons, animals, chattels or movable property of any kind with the restriction that no change is made to the bearing portions of the existing structure, including footings, foundation and weight bearing walls; and the entire project is less than \$50,000 in total cost.

R200 - Factory Built Housing Contractor. Disconnection, setup, installation or removal of manufactured housing on a temporary or permanent basis. The scope of the work permitted under this classification includes placement of the manufactured housing on a permanent or temporary foundation, securing the units

together if required, securing the manufactured housing to the foundation, and connection of the utilities from the near proximity, such as a meter, to the manufactured housing unit and construction of foundations of less than four feet six inches in height. Work excluded from this classification includes site preparation or finishing, excavation of the ground in the area where a foundation is to be constructed, back filling and grading around the foundation, construction of foundations of more than four feet six inches in height and construction of utility services from the utility source to and including the meter or meters if required or if not required to the near proximity of the manufactured housing unit from which they are connected to the unit.

I101 - General Engineering Trades Instruction Facility. A General Engineering Trades Instruction Facility is a construction trades instruction facility authorized to teach the construction trades and is subject to the scope of practice defined in Subsection 58-55-102(19).

I102 - General Building Trades Instruction Facility. A General Building Trades Instruction Facility is a construction trades instruction facility authorized to teach the construction trades and is subject to the scope of practice defined in Subsections 58-55-102(18) or 58-55-102(~~19~~29).

I103 - Electrical Trades Instruction Facility. An Electrical Trades Instruction Facility is a construction trades instruction facility authorized to teach the electrical trades and subject to the scope of practice defined in Subsection R156-55a-301(S200).

I104 - Plumbing Trades Instruction Facility. A Plumbing Trades Instruction Facility is a construction trades instruction facility authorized to teach the plumbing trades and subject to the scope of practice defined in Subsection R156-55a-301(S210).

I105 - Mechanical Trades Instruction Facility. A Mechanical Trades Instruction Facility is a construction trades instruction facility authorized to teach the mechanical trades and subject to the scope of practice defined in Subsection R156-55a-301(S350).

I105 - Mechanical Trades Instructor. A Mechanical Trades Instructor is a construction trades instructor authorized to teach the mechanical trades and subject to the scope of practice defined in Subsection R156-55a-301(S350).

S200 - General Electrical Contractor. Fabrication, construction, and/or installation of generators, transformers, conduits, raceways, panels, switch gear, electrical wires, fixtures, appliances, or apparatus which utilizes electrical energy.

S201 - Residential Electrical Contractor. Fabrication, construction, and/or installation of services, disconnecting means, grounding devices, panels, conductors, load centers, lighting and plug circuits, appliances and fixtures in any residential unit, normally requiring non-metallic sheathed cable, including multiple units up to and including a four-plex, but excluding any work generally recognized in the industry as commercial or industrial.

S202 - Solar Photovoltaic Contractor. Fabrication, construction, installation, and repair of photovoltaic cell panels and related components including battery storage systems, distribution panels, switch gear, electrical wires, inverters, and other electrical apparatus for solar photovoltaic systems. Work excluded from this classification includes work on any alternating current system or system component.

S210 - General Plumbing Contractor. Fabrication and/or installation of material and fixtures to create and maintain sanitary conditions in buildings, by providing a permanent means for a supply of safe and pure water, a means for the timely and complete removal from the premises of all used or contaminated water, fluid

and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, and provision of a safe and adequate supply of gases for lighting, heating, and industrial purposes. Work permitted under this classification shall include the furnishing of materials, fixtures and labor to extend service from a building out to the main water, sewer or gas pipeline.

S211 - Boiler Installation Contractor. Fabrication and/or installation of fire-tube and water-tube power boilers and hot water heating boilers, including all fittings and piping, valves, gauges, pumps, radiators, converters, fuel oil tanks, fuel lines, chimney flues, heat insulation and all other devices, apparatus, and equipment related thereto.

S212 - Irrigation Sprinkling Contractor. Layout, fabrication, and/or installation of water distribution system for artificial watering or irrigation.

S213 - Industrial Piping Contractor. Fabrication and/or installation of pipes and piping for the conveyance or transmission of steam, gases, chemicals, and other substances including excavating, trenching, and back-filling related to such work.

S214 - Water Conditioning Equipment Contractor. Fabrication and/or installation of water conditioning equipment and only such pipe and fittings as are necessary for connecting the water conditioning equipment to the water supply system within the premises.

S215 - Solar Thermal Systems Contractor. Construction, repair and/or installation of solar thermal systems up to the system shut off valve or where the system interfaces with any other plumbing system.

S216 - Residential Sewer Connection and Septic Tank Contractor. Construction of residential sewer lines including connection to the public sewer line, and excavation and grading related thereto. Excavation, installation and grading of residential septic tanks and their drainage.

S217 - Residential Plumbing Contractor. Fabrication and/or installation of material and fixtures to create and maintain sanitary conditions in residential building, including multiple units up to and including a four-plex by providing a permanent means for a supply of safe and pure water, a means for the timely and complete removal from the premises of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, and provision of a safe and adequate supply of gases for lighting and heating purposes. Work permitted under this classification shall include the furnishing of materials, fixtures and labor to extend service from a residential building out to the main water, sewer or gas pipeline. Excluded is any new construction and service work generally recognized in the industry as commercial or industrial.

S220 - Carpentry Contractor. Fabrication for structural and finish purposes in a structure or building using wood, wood products, metal studs, vinyl materials, or other wood/plastic/metal composites as is by custom and usage accepted in the building industry as carpentry. Incidental work includes the installation of tub liners and wall systems.

S221 - Cabinet, Millwork and Countertop Installation Contractor. On-site construction and/or installation of milled wood products or countertops.

S222 - Overhead and Garage Door Contractor. The installation of overhead and garage doors and door openers.

S230 - Siding Contractor. Fabrication, construction, and/or installation of siding.



S231 - Raingutter Installation Contractor. On-site fabrication and/or installation of raingutters and drains, roof flashings, gravel stops and metal ridges.

S240 - Glass and Glazing Contractor. Fabrication, construction, installation, and/or removal of all types and sizes of glass, mirrors, substitutes for glass, glass-holding members, frames, hardware, and other incidental related work.

S250 - Insulation Contractor. Installation of any insulating media in buildings and structures for the sole purpose of temperature control, sound control or fireproofing, but shall not include mechanical insulation of pipes, ducts or conduits.

S260 - General Concrete Contractor. Fabrication, construction, mixing, batching, and/or installation of concrete and related concrete products along with the placing and setting of screeds for pavement for flatwork, the construction of forms, placing and erection of steel bars for reinforcing and application of plaster and other cement-related products.

S261 - Concrete Form Setting and Shoring Contractor. Fabrication, construction, and/or installation of forms and shoring material; but, does not include the placement of concrete, finishing of concrete or embedded items such as metal reinforcement bars or mesh.

S262 - Gunitite and Pressure Grouting Contractor. Installation of a concrete product either injected or sprayed under pressure.

S263 - Cementitious Coating Systems Resurfacing and Sealing Contractor. Fabrication, construction, mixing, batching and installation of cementitious coating systems or sealants limited to the resurfacing or sealing of existing surfaces, including the preparation or patching of the surface to be covered or sealed.

S270 - General Drywall and Plastering Contractor. Fabrication, construction, and installation of drywall, gypsum, wallboard panels and assemblies. Preparation of drywall or plaster surfaces for suitable painting or finishing. Application to surfaces of coatings made of plaster, including the preparation of the surface and the provision of a base. This does not include applying stucco to lathe, plaster and other surfaces. Exempted is the plastering of foundations.

S272 - Ceiling Grid Systems, Ceiling Tile and Panel Systems Contractor. Fabrication and/or installation of wood, mineral, fiber, and other types of ceiling tile and panels and the grid systems required for placement.

S273 - Light-weight Metal and Non-bearing Wall Partitions Contractor. Fabrication and/or installation of light-weight metal and other non-bearing wall partitions.

S280 - General Roofing Contractor. Application and/or installation of asphalt, pitch, tar, felt, flax, shakes, shingles, roof tile, slate, and any other material or materials, or any combination of any thereof which use and custom has established as usable for, or which are now used as, water-proof, weatherproof, or watertight seal or membranes for roofs and surfaces; and roof conversion. Incidental work includes the installation of roof clamp ring to the roof drain.

S290 - General Masonry Contractor. Construction by cutting, and/or laying of all of the following brick, block, or forms: architectural, industrial, and refractory brick, all brick substitutes, clay and concrete blocks, terra-cotta, thin set or structural quarry tile, glazed structural tile, gypsum tile, glass block, clay tile, copings, natural stone, plastic refractories, and castables and any incidental works, including the installation of shower pans, as required in construction of the masonry work.

S291 - Stone Masonry Contractor. Construction using natural or artificial stone, either rough or cut and dressed, laid at random,

with or without mortar. Incidental work includes the installation of shower pans.

S292 - Terrazzo Contractor. Construction by fabrication, grinding, and polishing of terrazzo by the setting of chips of marble, stone, or other material in an irregular pattern with the use of cement, polyester, epoxy or other common binders. Incidental work includes the installation of shower pans.

S293 - Marble, Tile and Ceramic Contractor. Preparation, fabrication, construction, and installation of artificial marble, burned clay tile, ceramic, encaustic, falence, quarry, semi-vitreous, and other tile, excluding hollow or structural partition tile. Incidental work includes the installation of shower pans.

S294 - Cultured Marble Contractor. Preparation, fabrication and installation of slab and sheet manmade synthetic products including cultured marble, onyx, granite, onice, corian, and corian type products. Incidental work includes the installation of shower pans.

S300 - General Painting Contractor. Preparation of surface and/or the application of all paints, varnishes, shellacs, stains, waxes and other coatings or pigments.

S310 - Excavation and Grading Contractor. Moving of the earth's surface or placing earthen materials on the earth's surface, by use of hand or power machinery and tools, including explosives, in any operation of cut, fill, excavation, grading, trenching, backfilling, or combination thereof as they are generally practiced in the construction trade.

S320 - Steel Erection Contractor. Construction by fabrication, placing, and tying or welding of steel reinforcing bars or erecting structural steel shapes, plates of any profile, perimeter or cross-section that are used to reinforce concrete or as structural members, including riveting, welding, and rigging.

S321 - Steel Reinforcing Contractor. Fabricating, placing, tying, or mechanically welding of reinforcing bars of any profile that are used to reinforce concrete buildings or structures.

S322 - Metal Building Erection Contractor. Erection of pre-fabricated metal structures including concrete foundation and footings, grading, and surface preparation.

S323 - Structural Stud Erection Contractor. Fabrication and installation of metal structural studs and bearing walls.

S330 - Landscaping Contractor.

(a) ~~[G]~~grading and preparing land for architectural, horticultural, ~~[and the]~~ or decorative treatment[-];

(b) arrangement, and planting of gardens, lawns, shrubs, vines, bushes, trees, ~~[and]~~ or other decorative vegetation[-];

(c) ~~[E]~~construction of small decorative pools, tanks, ~~[and]~~ ~~[and]~~ fountains~~[-H]~~, hothouses, ~~[and]~~ greenhouses, ~~[retaining walls]~~, fences, walks, garden lighting of 50 volts or less, ~~[and]~~ or sprinkler systems;

(d) construction of retaining walls except retaining walls which are intended to hold vehicles, structures, equipment or other non natural fill materials within the area located within a 45 degree angle from the base of the retaining wall to the level of where the additional weight bearing vehicles, structures, equipment or other non natural fill materials are located; or

(e) p[-P]atio areas [when they are an incidental part of the prime contract]except that:

(i) no decking designed to support humans or structures shall be included; and

(ii) no concrete work designed to support structures to be placed upon the patio shall be included.

(f) This classification does not include running electrical or gas lines to any appliance.

S340 - Sheet Metal Contractor. Layout, fabrication, and installation of air handling and ventilating systems. All architectural sheet metal such as cornices, marquees, metal soffits, gutters, flashings, and skylights and skydomes including both plastic and fiberglass.

S350 - HVAC Contractor. Fabrication and installation of complete warm air heating and air conditioning systems, and complete ventilating systems.

S351 - Refrigerated Air Conditioning Contractor. Fabrication and installation of air conditioning ventilating systems to control air temperatures below 50 degrees.

S352 - Evaporative Cooling Contractor. Fabrication and installation of devices, machinery, and units to cool the air temperature employing evaporation of liquid.

S353 - Warm Air Heating Contractor. Layout, fabrication, and installation of such sheet metal, gas piping, and furnace equipment as necessary for a complete warm air heating and ventilating system.

S360 - Refrigeration Contractor. Construction and/or installation of refrigeration equipment including, but not limited to, built-in refrigerators, refrigerated rooms, insulated refrigerated spaces and equipment related thereto; but, the scope of permitted work does not include the installation of gas fuel or electric power services other than connection of electrical devices to a junction box provided for that device and electrical control circuitry not exceeding 50 volts.

S370 - Fire Suppression Systems Contractor. Layout, fabrication, and installation of fire protection systems using water, steam, gas, or chemicals. When a potable sanitary water supply system is used as the source of supply, connection to the water system must be accomplished by a licensed journeyman plumber. Excluded from this classification are persons engaged in the installation of fire suppression systems in hoods above cooking appliances.

S380 - Swimming Pool and Spa Contractor. On-site fabrication, construction and installation of swimming pools, prefabricated pools, spas, and tubs.

S390 - Sewer and Waste Water Pipeline Contractor. Construction of sewer lines, sewage disposal and sewage drain facilities including excavation and grading with respect thereto, and the construction of sewage disposal plants and appurtenances thereto.

S400 - Asphalt Paving Contractor. Construction of asphalt highways, roadways, driveways, parking lots or other asphalt surfaces, which will include but will not be limited to, asphalt overlay, chip seal, fog seal and rejuvenation, micro surfacing, plant mix sealcoat, slurry seal, and the removal of asphalt surfaces by milling. Also included is the excavation, grading, compacting and laying of fill or base-related thereto. Also included in painting on asphalt surfaces including striping, directional and other types of symbols or words.

S410 - Pipeline and Conduit Contractor. Fabrication, construction, and installation of pipes, conduit or cables for the conveyance and transmission from one station to another of such products as water, steam, gases, chemicals, slurries, data or communications. Included are the excavation, grading, cabling, horizontal boring, grading, and backfilling necessary for construction of the system.

S420 - General Fencing, Ornamental Iron and Guardrail Contractor. Fabrication, construction, and installation of fences, guardrails, handrails, and barriers.

S421 - Residential Fencing Contractor. Fabrication and installation of residential fencing up to and including a height of six feet.

S430 - Metal Firebox and Fuel Burning Stove Installer. Fabrication, construction, and installation of metal fireboxes, fireplaces, and wood or coal-burning stoves, including the installation of venting and exhaust systems, provided the individual performing the installation is RMGA certified.

S440 - Sign Installation Contractor. Installation of signs and graphic displays which require installation permits or permission as issued by state or local governmental jurisdictions. Signs and graphic displays shall include signs of all types, both lighted and unlighted, permanent highway marker signs, illuminated awnings, electronic message centers, sculptures or graphic representations including logos and trademarks intended to identify or advertise the user or his product, building trim or lighting with neon or decorative fixtures, or any other animated, moving or stationary device used for advertising or identification purposes. Signs and graphic displays must be fabricated, installed and erected in accordance with professionally engineered specifications and wiring in accordance with the National Electrical Code.

S441 - Non Electrical Outdoor Advertising Sign Contractor. Installation of signs and graphic displays which require installation permits or permission as issued by state and local governmental jurisdictions. Signs and graphics shall include outdoor advertising signs which do not have electrical lighting or other electrical requirements, and in accordance with professionally engineered specifications.

S450 - Mechanical Insulation Contractor. Fabrication, application and installation of insulation materials to pipes, ducts and conduits.

S460 - Wrecking and Demolition Contractor. The raising, cribbing, underpinning, moving, and removal of building and structures [~~so that alterations, additions, repairs, and new structures may be built~~].

S470 - Petroleum Systems Contractor. Installation of above and below ground petroleum and petro-chemical storage tanks, piping, dispensing equipment, monitoring equipment and associated petroleum and petro-chemical equipment including excavation, backfilling, concrete and asphalt.

S480 - Piers and Foundations Contractor. The excavation, drilling, compacting, pumping, sealing and other work necessary to construct, alter or repair piers, piles, footings and foundations placed in the earth's subsurface to prevent structural settling and to provide an adequate capacity to sustain or transmit the structural load to the soil or rock below.

S490 - Wood Flooring Contractor. Installation of wood flooring including prefinished and unfinished material, sanding, staining and finishing of new and existing wood flooring. Underlayments, non-structural subfloors and other incidental related work.

S491 - Laminate Floor Installation Contractor. Installation of laminate floors including underlayments, non-structural subfloors and other incidental related work, but does not include the installation of solid wood flooring.

S500 - Sports and Athletic Courts, Running Tracks, and Playground Installation Contractor. Installation of sports and athletic courts including but not limited to tennis courts, racquetball courts, handball courts, basketball courts, running tracks, playgrounds, or any combination. Includes nonstructural floor subsurfaces, nonstructural wall surfaces, perimeter walls and perimeter fencing. Includes the installation and attachment of equipment such as poles, basketball standards or other equipment.

S600 - General Stucco Contractor. Applying stucco to lathe, plaster and other surfaces.

S700 - Specialty License Contractor.

(a) A specialty license is a license that confines the scope of the allowable contracting work to a specialized area of construction which the Division grants on a case-by-case basis.

(b) When applying for a specialty license, an applicant, if requested, shall submit to the Division the following:

(i) a detailed statement of the type and scope of contracting work that the applicant proposes to perform; and

(ii) any brochures, catalogs, photographs, diagrams, or other material to further clarify the scope of the work that the applicant proposes to perform.

(c) A contractor issued a specialty license shall confine the contractor's activities to the field and scope of operations as outlined by the Division.

(3)(a) Any person holding a S215 Solar Systems Contractor license before the effective date of this rule may obtain a S202 Solar Photovoltaic Contractor license by submitting an affidavit demonstrating two years of experience that meets the requirements of R156-55a-302b no later than March 31, 2010.

(b) Any person holding a S271 Plastering and Stucco Contractor license before the effective date of this rule shall be issued a S270 General Drywall and Plastering Contractor license.

(c) Any person holding a S274 Drywall Contractor license before the effective date of this rule shall be issued a S270 General Drywall and Plastering Contractor license.

(d) Any person holding a S271 Plastering and Stucco Contractor license or an S270 General Drywall, Stucco and Plastering Contractor license before the effective date of this rule may obtain a S600 General Stucco Contractor license by submitting an affidavit demonstrating two years of experience that meets the requirements of R156-55a-302b no later than March 31, 2010.

(e) Any person holding any of the following licenses before the effective date of this rule shall be issued a S280 General Roofing Contractor license:

(i) S281 Single Ply and Specialty Coating Contractor;

(ii) S282 Build-up Roofing Contractor;

(iii) S283 Shingle and Shake Roofing Contractor;

(iv) S284 Tile Roofing Contractor; and

(v) S285 Metal Roofing Contractor.

(4) The following activities are determined to not significantly impact the public health, safety and welfare and therefore do not require a contractors license:

(a) sandblasting;

(b) pumping services;

(c) tree stump or tree removal;

(d) installation within a building of communication cables including phone and cable television;

(e) installation of low voltage electrical as described in R156-55b-102(1);

(f) construction of utility sheds, gazebos or other similar items which are personal property and not attached;

(g) building and window washing, including power washing;

(h) central vacuum systems installation;

(i) concrete cutting;

(j) interior decorating;

(k) wall paper hanging;

(l) drapery and blind installation;

(m) welding on personal property which is not attached;

(n) chimney sweepers other than repairing masonry;

(o) carpet and vinyl floor installation; and

(p) artificial turf installation.

(5) The following activities are those determined to not significantly impact the public health, safety and welfare beyond the regulations by other agencies and therefore do not require a contractors license:

(a) lead removal regulated by the Department of Environmental Quality;

(b) asbestos removal regulated by the Department of Environmental Quality;

(c) elevator installation and maintenance regulated by the Labor Commission; and

(d) fire alarm installation regulated by the Fire Marshal.

#### **R156-55a-302a. Qualifications for Licensure - Examinations.**

(1) In accordance with Subsection 58-55-302(1)(c), the qualifier for an applicant for licensure as a contractor or the qualifier for an applicant for licensure as a construction trades instruction facility shall pass the following examinations:

(a) the Utah Contractor Business - Law Examination; and

(b) an approved trade classification specific examination, where required in Subsection (2).

(2) An approved trade classification specific examination is required for the following contractor license classifications:

E100 - General Engineering Contractor

B100 - General Building Contractor

B200 - Modular Unit Installation Contractor

R100 - Residential and Small Commercial Contractor

R101 - Residential and Small Commercial Non Structural

Remodeling and Repair Contractor

I101 - General Engineering Trades Instruction Facility

I102 - General Building Trades Instruction Facility

I105 - Mechanical Trades Instruction Facility

S212 - Irrigation Sprinkling Contractor

S213 - Industrial Piping Contractor

S215 - Solar Thermal Systems Contractor

S216 - Residential Sewer Connection and Septic Tank

Contractor

S220 - Carpentry Contractor

S222 - Overhead and Garage Door Contractor

S230 - Siding Contractor

S240 - Glass and Glazing Contractor

S250 - Insulation Contractor

S260 - General Concrete Contractor

S270 - General Drywall and Plastering Contractor

S280 - General Roofing Contractor

S290 - General Masonry Contractor

S293 - Marble, Tile and Ceramic Contractor

S300 - General Painting Contractor

S310 - Excavation and Grading Contractor

S320 - Steel Erection Contractor

S321 - Steel Reinforcing Contractor

S330 - Landscaping Contractor

S340 - Sheet Metal Contractor  
 S350 - HVAC Contractor  
 S351 - Refrigerated Air Conditioning Contractor  
 S353 - Warm Air Heating Contractor  
 S360 - Refrigeration Contractor  
 S370 - Fire Suppression Systems Contractor  
 S380 - Swimming Pool and Spa Contractor  
 S390 - Sewer and Waste Water Pipeline Contractor  
 S410 - Pipeline and Conduit Contractor  
 S440 - Sign Installation Contractor  
 S450 - Mechanical Insulation Contractor  
 S490 - Wood Flooring Contractor  
 S600 - General Stucco Contractor

(3) The passing score for each examination is 70%.

(4) Qualifications to sit for examination.

(a) An applicant applying to take any examination specified in this Section must sign an affidavit verifying that an applicant has completed the experience required under Subsection R156-55a-302b.

(4) "Approved trade classification specific examination" means a trade classification specific examination:

(a) given, currently or in the past, by the Division's contractor examination provider; or

(b) given by another state if the Division has determined the examination to be substantially equivalent.

(5) An applicant for licensure who fails an examination may retake the failed examination as follows:

(a) no sooner than 30 days following any failure up to three failures; and

(b) no sooner than six months following any failure thereafter.

**R156-55a-302b. Qualifications for Licensure - Experience Requirements.**

In accordance with Subsection 58-55-302(1)(e)(ii), the minimum experience requirements are established as follows:

(1) Requirements for all license classifications:

(a) All experience shall be directly supervised by the applicant's employer.

(b) All experience shall be directly related to the scope of practice set forth in Section R156-55a-301 of the classification the applicant is applying for, as determined by the Division.

(c) One year of work experience means 2000 hours.

(d) No more than 2000 hours of experience during any 12 month period may be claimed.

(e) Except as described in paragraph (2)(c), experience obtained under the supervision of a construction trades instructor as a part of an educational program is not qualifying experience for a contractor's license.

(2) Requirements for E100 General Engineering, B100 General Building, R100 Residential and Small Commercial Building license classifications:

(a) In addition to the requirements of paragraph (1), an applicant for an R100, B100 or E100 license shall have within the past 10 years a minimum of four years experience as an employee of a contractor licensed in the license classification applied for, or the substantial equivalent of a contractor licensed in that license classification as determined by the Division.

(b) Two of the required four years of experience shall be in a supervisory or managerial position.

(c) A person holding a four year bachelors degree or a two year associates degree in Construction Management may have one year

of experience credited towards the supervisory or managerial experience requirement.

(d) A person holding a Utah professional engineer license may be credited with satisfying one year toward the supervisory or managerial experience required for E100 contractor license.

(3) Requirements for S220 Carpentry, S280 General Roofing, S290 General Masonry, S320 Steel Erection, S350 Heating Ventilating and Air Conditioning, S360 Refrigeration and S370 Fire Suppression Systems license classifications:

In addition to the requirements of paragraph (1), an applicant shall have within the past 10 years a minimum of four years of experience as an employee of a contractor licensed in the license classification applied for, or the substantial equivalent of a contractor licensed in that license classification as determined by the Division.

(4) Requirements for I101 General Engineering Trades Instruction Facility, I102 General Building Trades Instruction Facility, I103 Electrical Trades Instruction Facility, I104 Plumbing Trades Instruction Facility, I105 Mechanical Trades Instruction Facility license classifications:

An applicant for construction trades instruction facility license shall have the same experience that is required for the license classifications for the construction trade they will instruct.

(5) Requirements for other license classifications:

Except as set forth in paragraph (6), in addition to the requirements of paragraph (1), an applicant for contractor license classification not listed above shall have within the past 10 years a minimum of two years of experience as an employee of a contractor licensed in the license classification applied for, or the substantial equivalent of a contractor licensed in that license classification as determined by the Division.

(6) Requirements for S202 Solar Photovoltaic Contractor. In addition to the requirements of paragraphs (1) and (5), an applicant shall hold a current certificate by the North American Board of Certified Energy Practitioners.

**R156-55a-303b. Continuing Education - Standards.**

(1) Required Hours. Pursuant to Subsection 58-55-501(21), each licensee shall complete a total of six hours of continuing education every during each two year[s] license term except that for the renewal term ending November 30, 2009, the continuing education must be completed between July 1, 2007 and November 30, 2009. A minimum of three hours shall be core education. The remaining three hours are to be professional education. Additional core education hours beyond the required amount may be substituted for professional education hours.

(a) "Core continuing education" is defined as construction codes, construction laws, OSHA 10 or OSHA 30 safety training, governmental regulations pertaining to the construction trades and employee verification and payment practices.

(b) "Professional continuing education" is defined as substantive subjects dealing with the practice of the construction trades, including land development, land use, planning and zoning, energy conservation, professional development, arbitration practices, estimating, finance and bookkeeping, marketing techniques, servicing clients, personal and property protection for the licensee and the licensee's clients and similar topics.

(c) The following course subject matter is not acceptable as core education or professional education hours: mechanical office and business skills, such as typing, speed reading, memory improvement and report writing; physical well-being or personal

development, such as personal motivation, stress management, time management, dress for success, or similar subjects; presentations by a supplier or a supplier representative to promote a particular product or line of products; and meetings held in conjunction with the general business of the licensee or employer.

(d) ~~The [Commission, in conjunction with the ]Division[;]~~ may defer or waive the continuing education requirements as provided in Section R156-1-308d~~[of a licensee if:~~

~~— (i) a serious illness or other circumstances limit the licensee's ability to complete the continuing education requirements, such as governmental, educational or ecclesiastical assignments; or~~

~~— (ii) the licensee is a secondary or post secondary education construction instructor.~~

~~— (e) The Division may grant a licensee an extension of time within which to comply with this rule as the Division considers appropriate.~~

~~(2) Prior Approval of Continuing Education Courses. A provider of continuing education shall submit a request to the Division for approval of the course.~~

~~— (a) The provider shall not teach the course until the provider has received approval from the Division.~~

~~— (b) The Commission, in concurrence with the Division Director, will determine whether the subject matter of a course is acceptable for continuing education credit].~~

~~([3]2) [In determining whether to approve a course for core education or professional education, the Commission and the Division Director may consider whether the course meets the additional standards in this Subsection (3) as follows]A continuing education course shall meet the following standards:~~

~~(a) Time. [A]Each hour of continuing education course credit shall consist of 50 minutes [blocks]of education in the form of seminars, lectures, conferences, training sessions or distance learning modules. [Each 50 minute block shall constitute one hour of continuing education.]The remaining ten minutes is to allow for breaks.~~

~~(b) Provider. The course provider shall meet the requirements of this Section and shall be one of the following:~~

~~(i) a recognized accredited college or university;~~

~~(ii) a state or federal agency;~~

~~(iii) a professional association or organization involved in the construction trades; or~~

~~(iv) [any other]a commercial continuing education provider providing a program related to the construction trades[-, if approved by the Commission with the concurrence of the Division Director].~~

~~(c) Content. The content of the course shall be relevant to the practice of the construction trades and consistent with the laws and rules of this state.~~

~~(d) Objectives. The learning objectives of the course shall be reasonably and clearly stated.~~

~~(e) Teaching Methods. [The teaching methods shall be clearly stated and appropriate]The course shall be presented in a competent, well organized and sequential manner consistent with the stated purpose and objective of the program.~~

~~(f) Faculty. [The faculty shall be qualified both in experience and in teaching expertise]The course shall be prepared and presented by individuals who are qualified by education, training and experience.~~

~~(g) Distance learning. A course may be recognized for continuing education that is provided via Internet or through home study courses provided the course verifies registration and~~

participation in the course by means of a test which demonstrates that the participant has learned the material presented.

~~([g]h) Documentation. [Certificate of completion meeting the requirements of Subsection (5) shall be provided by the provider to the attendees]The course provider shall have a competent method of registration of individuals who actually completed the course, shall maintain records of attendance that are available for review by the Division and shall provide individuals completing the course a certificate which contains the following information:~~

~~— (i) the date of the course;~~

~~— (ii) the name of the course provider;~~

~~— (iii) the name of the instructor;~~

~~— (iv) the course title;~~

~~— (v) the hours of continuing education credit and type of credit (core or professional);~~

~~— (vi) the attendee's name; and~~

~~— (v) the signature of the course provider.~~

~~([4]3) On a random basis, the Division may assign monitors at no charge to attend a course for the purpose of evaluating the course and the instructor. [~~

~~(5) Certificates of completion provided to the Division by the licensee shall include the following information:~~

~~— (a) the licensee's name, license number, and date of course;~~

~~— (b) the name of the course provider, course title, hours of credit and type of credit; and~~

~~— (c) the signatures of the course instructor and the licensee.]~~

~~([6]4) Each licensee shall maintain adequate documentation as proof of compliance with this section, such as certificates of completion, course handouts and materials. The licensee shall retain this proof for a period of three years from the end of the renewal period for which the continuing education is due.~~

~~([7]5) Licensees who lecture in[an accredited] continuing education courses meeting these requirements shall receive two hours of continuing education for each hour spent lecturing. However, no lecturing or teaching credit is available for participation in a panel discussion.~~

~~([8]6) The continuing education requirement for electricians as established in Section R156-55b-304, which is completed by an electrical contractor, shall satisfy the continuing education requirement for contractors as established in Subsection 58-55-501(21) and implemented herein.~~

~~([9]7) Licensees who obtain an initial license after March 31st of the renewal year shall not be required to meet the continuing education requirement for that renewal cycle.~~

~~(8) A continuing education registry qualified under Subsection R156-55a-303b(9) may approve continuing education programs sponsored by or submitted to the continuing education registry for approval under this rule.~~

~~(9) Continuing Education Registry. To obtain approval as a continuing education registry, an organization shall:~~

~~— (a) be a professional association whose membership primarily consists of licensed contractors;~~

~~— (b) be organized and in good standing according to the laws of the state;~~

~~— (c) enter into a written agreement with the Division under which the organization agrees to:~~

~~— (i) review and approve only those programs which meet the standards set forth under this Section;~~

~~— (ii) publish and disseminate to their members or other contractors on request, listings of continuing education programs~~

which they have approved which meet the standards for continuing education credit under this rule:

(iii) maintain accurate records of qualified continuing education approved and provide a list of such continuing education programs to the Division; and

(iv) make records of approved continuing education programs available for audit by representatives of the Division.

(d) Fees. A continuing education registry may charge a reasonable fee to continuing education providers for services provided for review and approval of continuing education programs.

#### **R156-55a-504. Crane Operator Certifications.**

In accordance with Subsection 58-55-504(2)(a) one of the following certifications is required to operate a crane on commercial construction projects:

(1) a certification issued by the National Commission for the Certification of Crane Operators; or

(2) a certification issued by the Operating Engineers Certification Program formerly known as the Southern California Crane and Hoisting Certification Program.

**KEY: contractors, occupational licensing, licensing**

**Date of Enactment or Last Substantive Amendment: [June 24, ]2008**

**Notice of Continuation: November 8, 2006**

**Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-55-101; 58-55-308(1); 58-55-102(35); 58-55-501(21)**

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## Commerce, Occupational and Professional Licensing **R156-55b** Electricians Licensing Rules

### NOTICE OF PROPOSED RULE (Amendment)

DAR FILE No.: 31801  
FILED: 08/11/2008, 09:11

#### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and the Electricians Licensing Board are proposing amendments to this rule to update statutory citations as a result of the governing statute, Title 58, Chapter 55, being amended by several bills during the 2008 Legislative Session (H.B. 401, H.B. 459, S.B. 228 and S.B. 295). The proposed amendments are also clarifying definitions, education and experience requirements, work experience for residential journeyman and journeyman electricians, examination requirements, continuing education, conduct of apprentice and supervising electrician and unprofessional conduct. (DAR NOTES: H.B. 401 (2008) is found at Chapter 215, Laws of Utah 2008, and was effective 05/05/2008. H.B. 459 (2008) is found at Chapter 354, Laws of Utah 2008, and was effective 05/05/2008. S.B. 228 (2008) is found at Chapter 282, Laws of Utah, and was effective 05/05/2008. S.B. 295 (2008) is found

at Chapter 377, Laws of Utah 2008, and was effective 05/05/2008.)

SUMMARY OF THE RULE OR CHANGE: Throughout the rule, statutory citations have been updated where needed. Also throughout the rule the term "rules" has been replaced with "rule" where applicable. In Section R156-55b-102, the installation of a disconnecting means or outlet has never been allowed under minor electrical work. However, for clarification this amendment is being added to the rule. Unlicensed persons can assist in large wire pulls. The size of the wire for the large wire pull needed to be defined and has been defined as wire conduit of two inches or larger. Section R156-55b-302b now renumbered as Section R156-55b-302a with respect to education and experience requirements: under the existing rule, the electrical curriculum of study is approved by the Utah Board of Regents. The Board of Regents, however, is not approving the curriculum of study for the state applied technology colleges. Under the proposed amendments the curriculum of study for a residential journeyman electrician or a journeyman electrician consists of the 2008-2009 edition of the curriculum of study for the Independent Electrical Contractors or the 2007-2008 edition of the curriculum of study for the National Joint Apprenticeship Training Committee for the International Brotherhood of Electrical Workers or an equivalent curriculum which is approved by the Board. Currently the trade schools are giving students competency tests. The students are required to take the competency test after completing a semester of school and passing the test is required before a student can move forward with schooling. Provisions for this competency testing is added to the rule. Section R156-55b-302c now renumbered as Section R156-55b-302b with respect to work experience for residential journeyman and journeyman electricians: amendments are made in this section to change the required work experience hours from approximate hours to minimum hours required. Section R156-55b-302a which is now renumbered as Section R156-55b-302c with respect to examination requirements: under the existing rule an applicant is allowed with prior approval to take the licensing examination twice with at least 30 days between the part of the examination failed. An applicant is given six months to complete the licensing examinations. An applicant who fails the examination twice is to meet with the Board. The Board then outlines a remedial program of education or work experience. The proposed amendments to this section would allow an applicant to take the licensing examination three times with at least 25 days between each test failure. The practical section of the examination is given once a month and often is given just days prior to the 30-day waiting period. The proposed amendment would allow an applicant to retake the practical section of the examination without having to wait approximately 60 days before taking the test again. If an applicant does not pass all sections of the examination within three attempts or within six months, whichever occurs first, the applicant's application for licensure would be denied. Section R156-55b-304 regarding continuing education: added that continuing education courses and instructors shall be approved by the Electricians Licensing Board. Section R156-55b-401 regarding conduct of apprentice and supervising electrician. Minor amendments are made to this section to

further clarify responsibilities. Section R156-55b-501 regarding unprofessional conduct: updated the wording with respect to the failure of an electrical contractor to certify an electrician's work experience hours and added as unprofessional conduct the failure of a licensee to provide proof of completed continuing education within 30 days of the Division's request.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 58-1-106(1)(a), 58-1-202(1)(a), and 58-55-308(1)

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: Adds the 2008-2009 edition of the curriculum of study for the Independent Electrical Contractors and the 2007-2008 edition of the curriculum of study for the National Joint Apprenticeship Training Committee for the International Brotherhood of Electrical Workers

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The Division will incur minimal costs of approximately \$100 to reprint the rule once the proposed amendments are made effective. The Division will also incur costs of approximately \$5,600 to purchase two sets of the study curriculum documents which are incorporated by reference in the rule, one for the Division and one for the Division of Administrative Rules as required by statute. Costs incurred will be absorbed in the Division's current budget.

❖ LOCAL GOVERNMENTS: The proposed amendments do not apply to local governments. Proposed amendments only apply to licensed electricians and applicants for licensure as an electrician.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: The proposed amendments only apply to licensed electricians and applicants for licensure as an electrician. Some of these classifications to whom the proposed amendments apply may be considered a "small business". Employers often assist their employees with the cost of becoming licensed as a journeyman electrician and many of these employers have fewer than 50 employees. Instead of the ability to test two times, under the proposed amendments an applicant would be able to test a third time. The cost for the testing, depending on the number of test sections taken, would range from \$72 to \$432 per applicant. An applicant who fails the examination after three times may submit a new application which includes a fee of \$110. The number of applicants submitting a new application or the number of applicants needing to retake sections of the licensing examination is not known to the Division. However, the numbers should be reduced due to an applicant's ability to take the examination one additional time. Currently those applicants who fail the examination after two attempts are required by the Board to attend a semester of school as remedial education. With the proposed amendments, the remedial education provision is removed thus potentially saving an applicant both time and money at an average of \$454 for a semester of school. It should also be noted that if any person wants to purchase a copy of the study curriculum documents which are incorporated by reference in the rule, a set of the documents from each agency costs approximately \$1,400.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments only apply to licensed electricians and applicants for licensure as an electrician. Instead of the ability to test two times, under the proposed amendments an applicant would be able to test a third time. The cost for the testing, depending on the number of test sections taken, would range from \$72 to \$432 per applicant. An applicant who fails the examination after three times may submit a new application which includes a fee of \$110. However, the numbers should be reduced due to an applicant's ability to take the examination one additional time. Currently those applicants who fail the examination after two attempts are required by the Board to attend a semester of school as remedial education. With the proposed amendments, the remedial education provision is removed thus potentially saving an applicant both time and money at an average of \$454 for a semester of school. It should also be noted that if any person wants to purchase a copy of the study curriculum documents which are incorporated by reference in the rule, a set of the documents from each agency costs approximately \$1,400.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing corrects statutory references, clarifies certain licensing exemptions, clarifies the language in various provisions, reorganizes the numbering of the education, experience and examination provisions to coincide with the umbrella statute, permits applicants to take a required examination a maximum of three times and makes it unprofessional conduct to fail to provide proof of completed continuing education within 30 days of a request. No fiscal impact to businesses is anticipated from this filing beyond those discussed in the rule summary. Francine A. Giani, Executive Director

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Dennis Meservy at the above address, by phone at 801-530-6375, by FAX at 801-530-6511, or by Internet E-mail at dmeservy@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 10/01/2008

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 9/24/2008 at 9:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2008

AUTHORIZED BY: F. David Stanley, Director

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

### **R156-55b. Electricians Licensing Rule[s].**

#### **R156-55b-101. Title.**

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

#### **R156-55b-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 55, as used in Title 58, Chapter 55 or th[ese]is rule[s]:

(1) "Electrical work" as used in Subsection 58-55-102(13)(a) and in th[ese]is rule[s] means installation, fabrication or assembly of equipment or systems included in "Premises Wiring" as defined in the edition of the National Electrical Code, as identified in Subsection R156-56-701(1)(b) which is hereby adopted and incorporated by reference. Electrical work includes installation of raceway systems used for any electrical purpose, and installation of field-assembled systems such as ice and snow melting, pipe-tracing, manufactured wiring systems, and the like. Electrical work does not include installation of factory-assembled appliances or machinery that are not part of the premises wiring unless wiring interconnections external to the equipment are required in the field, and does not include cable-type wiring that does not pose a hazard from a shock or fire initiation standpoint as defined in the National Electrical Code. Wiring covered by the National Electrical Code that does not pose a hazard as described above includes Class 2 wiring as defined in Article 725, Power-Limited circuits as defined in Article 760 and wiring methods covered by Chapter 8. ~~All [O]ther wiring[~~, including wiring under 50 volts~~]~~ is subject to licensing requirements.

(2) "Minor electrical work incidental to a mechanical or service installation" as used in Subsection 58-55-305(1)(n) means the electrical work involved in installation, replacement or repair of appliances or machinery that utilize electrical power. ~~[These installations do]~~Minor electrical work does not include modification or repair of "Premises Wiring" as defined in the National Electrical Code, and does not include installation of a disconnecting means or outlet. Electrical work is minor and incidental only when wiring is extended no more than ten feet in length from an outlet or disconnect provided specifically for the piece of equipment.

(3) "Residential project" as used in Subsection 58-55-302(3)(~~h~~j)(ii) pertains to supervision and means electrical work performed in residential dwellings [under four] of up to three stories and will include single and multi family dwellings[~~, apartment complexes, condominium complexes and plated subdivisions~~].

(4) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 55, is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-55b-501.

(5) "Work commonly done by unskilled labor" as used in Subsection 58-55-102(13)(b)(iii) means work such as digging, sweeping, hammering, carrying, drilling holes, or other tasks that do not directly involve the installation of raceways, conductors, cables, wiring devices, overcurrent devices, or distribution equipment. ~~[Tasks such as handling]~~Unlicensed persons may handle wire on large wire pulls involving conduit of two inches or larger or assist[ing] in moving heavy electrical equipment ~~[may utilize unlicensed persons]~~when the task is performed in the immediate presence of and supervised by properly licensed ~~[persons]~~master,

journeyman, residential master or residential journeyman electricians acting within the scope of their licenses. ~~[Tasks that are normally performed by the skilled labor of other trades, such as operating heavy equipment, driving, forming and pouring concrete, welding and erecting structural steel shall not be considered part of the electrical trade.]~~

#### **R156-55b-103. Authority.**

Th[ese]is rule[s-are] is adopted by the division under the authority of Subsection 58-1-106(1)(a) to enable the division to administer Title 58, Chapter 55.

#### **R156-55b-302**[b]**a. Qualifications for Licensure - Education and Experience Requirements.**

(1) In accordance with Subsection 58-55-302(3)(~~g~~i)(i), the approved electrical training program for licensure as a residential journeyman electrician consists of:

(a) the 2008-2009 edition of the curriculum of study for the Independent Electrical Contractors or the 2007-2008 edition of the curriculum of study for the National Joint Apprenticeship Training Committee for the International Brotherhood of Electrical Workers, which are hereby incorporated by reference, or an equivalent approved by the Board~~[a curriculum of electrical study approved by the Utah Board of Regents or other curriculum that is deemed substantially equivalent];~~ and

(b) at least two years of work experience as a licensed apprentice consistent with Section R156-55b-302(e)~~b~~.

(2) In accordance with Subsection 58-55-302(3)(~~f~~h)(i), the approved four year planned training program for licensure as a journeyman electrician consists of:

(a) the 2008-2009 edition of the curriculum of study for the Independent Electrical Contractors or the 2007-2008 edition of the curriculum of study for the National Joint Apprenticeship Training Committee for the International Brotherhood of Electrical Workers, which are hereby incorporated by reference, or an equivalent approved by the Board~~[a curriculum of electrical study approved by the Utah Board of Regents or other curriculum that is deemed substantially equivalent];~~ and

(b) at least four years of work experience as a licensed apprentice consistent with Section R156-55b-302(e)~~b~~.

(3) ~~[In accordance with Subsections 58-55-302(3)(d)(i), an approved course of study for a graduate of an electrical trade school is a curriculum of electrical study approved by the Utah Board of Regents or other curriculum that is deemed substantially equivalent.]~~A semester of school shall include at least 81 hours of classroom instruction time. A student shall attend a minimum of 72 hours to receive credit for the semester.

(4) ~~[It shall be the responsibility of the applicant to provide adequate documentation to establish equivalency.]~~A competency exam shall be given to each student at the end of each semester with the exception of the fourth year second semester. A student, to continue to the next semester, shall achieve a score of 75% or higher on the competency exam. A student who scores below 75% may retake the test one time.

(5) ~~[In accordance with Subsection 58-55-302(3)(d)(i), an approved college or university shall be accredited by the Engineering Accreditation Commission/Accreditation Board for Engineering and Technology or the Canadian Engineering Accrediting Board.]~~The applicant shall pass each class with a minimum score of 75%.



(6) Competency test results shall be provided to the Board at the Board meeting immediately following the semester in a format approved by the Board.

(7) An applicant for a master electrician license, applying pursuant to Subsection 58-55-302(3)(f)(i) shall be a graduate of an electrical program accredited by the Engineering Accreditation Commission/Accreditation Board for Engineering and Technology (EAC/ABET).

(8) An applicant shall provide documentation that all education and experience meets the requirements of this rule.

**R156-55b-302[e]b. Qualifications for Licensure - Work Experience - Residential Journeyman and Journeyman Electricians.**

(1) In [accordance with]order to satisfy Subsections 58-55-302(3)[(d), (e), (f) and (g)](h) and (i), an applicant for a license as a residential journeyman electrician or journeyman electrician shall document the following on-the-job work experience:[the practical electrical experience, course of study, practical experience, planned training program, or electrical training program shall include on-the-job work experience in the following categories and approximate hours:]

(a) Residential Journeyman Electrician:[approximately 3000-4800 hours residential journeyman electrician; 4000-6400 hours journeyman electrician in raceways, boxes and fittings, wire and cable to include conduit, wireways, cableways and other raceways and associated fittings, individual conductors and multiconductor cables, and nonmetallic sheathed cable;]

(i) at least 600 hours in boxes and fittings, conduit, wireways and cableways and associated fittings;

(ii) at least 3000 hours in wire and cable, individual conductors and multi-conductors cables, and non-metallic sheathed cable;

(iii) at least 300 hours in distribution and utilization equipment, transformers, control panels, disconnects, motor starters, lighting fixtures, heaters, appliances, motor and other distribution or utilization equipment; and

(iv) at least 300 hours in specialized work including grounding, wiring of systems for sound, data, communication, alarms, automated systems, generators, batteries and computer equipment.

(b) Journeyman electrician:[approximately 600-1200 hours residential journeyman electrician; 800-1600 hours journeyman electrician in wire and cable to include individual conductors and multi-conductor cables;]

(i) at least 4000 hours in raceways, boxes and fittings, conduit, wireways, cableways and other raceways and associated fittings, and non-metallic sheathed cable;

(ii) at least 800 hours in wire and cable, individual conductors and multi-conductor cables;

(iii) at least 400 hours in distribution and utilization equipment including transformers, panel boards, switchboards, control panels, disconnects, motor starters, lighting fixtures, heaters, appliances, motors and other distribution and utilization equipment; and

(iv) at least 400 hours in specialized work including grounding, wiring of systems for sound, data, communication, alarms, automated systems, generators, batteries and computer equipment.

[—(e) approximately 300-900 hours residential journeyman electrician; 400-1200 hours journeyman electrician in distribution and utilization equipment to include transformers, panel boards, switchboards, control panels, disconnects, motor starters, lighting fixtures, heaters, appliances, motors, and other distribution and utilizations equipment; and

—(d) approximately 300-900 hours residential journeyman electrician; 400-1200 hours journeyman electrician in specialized work to include grounding, wiring of systems for sound, data, communications, alarms, automated systems, generators, batteries, computer equipment, etc.

] (2) [Each year of work experience shall include at least 2000 hours and may be obtained in one or more years.—]No more than [one year]2000 hours of work experience may be credited for each 12 month period.

(3) No credit will be given for work experience performed illegally.

**R156-55b-302[a]c. Qualifications for Licensure - Examination Requirements.**

(1) In accordance with Subsection 58-55-302(1)(c)(i), an applicant for licensure under this rule shall pass the appropriate examinations which are approved by the Board[the following examinations], each of which shall consist[ing] of a theory [section]part, a code [section]part and a practical [section]part as follows[; are approved by the division in collaboration with the board]:

(a) Utah Electrical Licensing Examination for Master Electricians;

(b) Utah Electrical Licensing Examination for Master Residential Electricians;

(c) Utah Electrical Licensing Examination for Journeyman Electricians; and

(d) Utah Electrical Licensing Examination for Residential Journeyman Electricians.

(2) Upon completing the requirements for licensure set forth in Sections R156-55b-302a and R156-55b-302b, the applicant shall obtain approval from the Division permitting the applicant to take the examination.

[(2)3] The minimum passing score for each section of the examination is as follows:

—(a) [t]he applicant [must]shall obtain a "pass" grade on the practical [section]part of the examination. [; and

—(b) the applicant must obtain] a score of at least 75% on [both ]the theory [section]part and a score of at least 75% on the code [section]part of the examination.

(4) If an applicant fails one or more of the parts of the examination, the applicant shall retake the part or parts of the examination failed no more than two additional times, with at least 25 days between tests.

(5) If an applicant does not pass the failed part of the examination upon the second retake or within six months of initially being approved to test, whichever occurs first, as provided in Subsection (4), the application shall be denied.

[—(3) If an applicant passes any one section of the examination and fails any one or more of the other sections, he is only required to retake the section of the examination failed. There must be a minimum of 30 days between the first test and the retake of any failed section. Test approval letters expire six months from the date of issue. Reapplication for licensure is required to obtain a new test authorization letter.

(4) Admission to the examination is permitted in the form of a letter from the Division after the applicant has completed all requirements for licensure set forth in Sections R156-55b-302b and R156-55b-302c.

~~—(5) An examinee who fails any section of the Utah Electricians Licensing Examination two times shall not be permitted to retake the examination until:~~

~~—(a) the examinee meets with the board and the board outlines a required remedial program of education or experience of up to one year in length which must be completed before the examinee may again take the examination; and~~

~~—(b) upon successful completion of the required remedial program of education or experience, the examinee shall apply to the Division to retake the failed portion of the examination a maximum of two times with at least 30 days between tests. Failure to pass all required portions of the examination upon retake shall result in denial of their application for licensure. An applicant continuing to seek licensure must reapply for licensure by filing a new application with the required fee and may do so only after completing additional remedial education and experience as determined by the Division and the Board.~~

]

#### **R156-55b-303. Renewal Cycle - Procedures.**

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 55 is established by rule in Section R156-1-308a.

(2) Renewal procedures shall be in accordance with Section R156-1-308[a].

#### **R156-55b-304. Continuing Education.**

(1) In accordance with Subsections 58-1-203(1)(g) and 58-1-308(3)(b), there is created a continuing education requirement as a condition for renewal or reinstatement of master, journeyman, residential master, residential journeyman and apprentice electrician licenses issued under Title 58, Chapter 55.

(2) Continuing education shall consist of 16 hours of course work in each preceding two year period of licensure or expiration of licensure.

(3) A minimum of eight hours shall be on the current edition of the National Electrical Code, as identified in Subsection R156-56-701(1)(b).

(4) The licensee is responsible for maintaining competent records of completed qualified continuing education for a period of four years after the close of the two year renewal period to which the records pertain.

(5) The standards for qualified continuing education are as follows:

(a) courses and instructors shall be approved by the Electricians Licensing Board;

(b) the content must be relevant to the electrical trade and consistent with the laws and rules of this state;

(b)c) an instructor must either be currently teaching or have taught courses related to the electrical trade within the preceding two years for one of the following:

(i) a trade school, college or university whose electrical program is approved in accordance with Subsections R156-55b-302[b]a(1)(a) and (f)3];

(ii) a professional association or organization representing licensed electricians whose program objectives relate to the electrical trade;

(iii) the licensing agency of another state;

(iv) a federal or other Utah agency or another state's agency;

(v) the Division's Building Codes Education program.

(6) Electricians Licensing Board members, acting in their official capacity as a board member, may attend any continuing

education course at no charge, at any time, [for no credit,] to monitor the quality of instruction.

#### **R156-55b-401. [Scope of Practice] Conduct of Apprentice and Supervising Electrician.**

~~[—In accordance with Subsection 58-55-308(1), the following shall apply:~~

] (1) It shall be the responsibility of the journeyman, residential journeyman, master or residential master electrician who is licensed by the division to insure that the work installed by [himself, as well as by] any apprentice under his supervision, is properly installed. Proper and safe installations shall be the responsibility of the supervising party or parties.

(2) An apprentice [in a planned training program as set forth in Subsection 58-55-302(3)(f)(i)] may be supervised as a fourth year apprentice in the fifth and sixth year of apprenticeship. [; however, in] In the seventh and succeeding years of apprenticeship, he shall be under immediate supervision as set forth in Subsection 58-55-302(3)(h)j(i).

(3) All other apprentices shall be under immediate supervision as set forth in Subsection 58-55-302(3)(h)j.

(4) For the purposes of Subsections 58-55-102([27]28), 58-55-501([47]12) and 58-55-302(3)(h)j, one of the following shall apply: [apprentices and the licensed electricians responsible for their supervision shall be employees of the same contractor, or the employers of the supervising employees shall have a contractual responsibility for the performance of both the supervised and supervising employees. Employees of licensed professional employer organizations who provide workers under a contract with an electrical contractor shall be considered to be the employees of the electrical contractor for the purposes of this rule.]

(a) the supervisor and apprentice employees are employees of the same electrical contractor;

(b) the supervisor and apprentice employees providing work or supervision of work for another electrical contractor are considered as employees of the electrical contractor on the project; or

(c) the employees of a licensed professional organization who provide workers under a contract with an electrical contractor are considered as employees of the electrical contractor with regard to the work performed on the project.

#### **R156-55b-501. Unprofessional Conduct.**

"Unprofessional conduct" includes:

(1) failure of a licensee to carry a copy of [their]a current license at all times when performing electrical work;[and]

(2) failure of an electrical contractor to certify an [apprentice's]electrician's hours and breakdown of work experience by category when requested by an [apprentice that]electrician who is or has been an employee; and

(3) failure of a licensee to provide proof of completed continuing education within 30 days of the Division's request.

**KEY: occupational licensing, licensing, contractors, electricians**  
**Date of Enactment or Last Substantive Amendment: [June 1, 2006]2008**

**Notice of Continuation: November 8, 2006**

**Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-55-308(1)**

◆ ————— ◆

Education, Administration  
**R277-418**  
 School Professional Development Days  
 Pilot Program

**NOTICE OF PROPOSED RULE**

(Repeal)  
 DAR FILE NO.: 31828  
 FILED: 08/14/2008, 15:44

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is repealed because the pilot program was completed and was not continued by the Legislature.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed 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. There was no specific funding associated with the program or rule.
- ❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. There was no funding attached to this program.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated costs or savings to small businesses and persons other than businesses. There was no state funding attached to this program.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The state pilot program has been discontinued.

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 10/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2008

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

**R277. Education, Administration.**

~~**[R277-418. School Professional Development Days Pilot Program.**~~

~~**R277-418-1. Definitions.**~~

- ~~— A. "Board" means the Utah State Board of Education.~~
- ~~— B. "Criterion Reference Test (CRT)" means a test to measure performance against a specific standard. The meaning of the scores is not tied to the performance of other students.~~
- ~~— C. "Local school committee" means a committee developed by each applicant school designated by the school principal. The committee has the responsibility of designing the professional development days plan. The committee may include administrators, teachers, parents and classified employees, as appropriate. All or part of a school community council, under Section 53A-1a-108, may be designated as the local school committee.~~
- ~~— D. "School community council" means a committee composed of school employees and parents as defined under Section 53A-1a-108(3).~~

~~**R277-418-2. Authority and Purpose.**~~

- ~~— A. This rule is authorized under Utah Constitution Article X, Section 3 which gives general control and supervision of the public school system to the Board, by Section 53A-3-702(4) which directs the Board to make rules to implement a professional development pilot program, and by 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 implement the pilot program and distribute funds consistent with Section 53A-3-702.~~

~~**R277-418-3. Program Requirements and Timeline.**~~

- ~~— A. A School desiring and approved by its local board to develop a pilot program which allows the school to use a maximum of 22 hours of the 990 hours of student instructional time required under R277-419 for professional development days shall submit a proposed schedule of activities and school schedule variances to the school community council for recommendation to the local board by June 30 prior to the affected school year.~~
- ~~— B. Following community council review and recommendation, a local school committee shall submit the plan to the local board by July 15.~~
- ~~— C. A local board shall submit school plans accepted by the local board to the Board by July 20.~~
- ~~— D. The Board shall review and approve or deny plans submitted by local boards by August 10. Local boards shall include signatures of approval by community council chairs, principals and local board presidents on school plans submitted to the Board.~~

~~**R277-418-4. Plan Components and Accountability.**~~

- ~~— A. All plans shall include components/information consistent with the criteria under Section 53A-3-702(2) and:~~
  - ~~(1) expected results expressed in terms of measurable student achievement outcomes with timelines for outcomes including:~~

~~—(a) specific evaluation criteria to be used and personnel (by name, if available) employed or assigned by the district/charter school to measure the effect of the change;~~  
~~—(b) student achievement test scores on related CRTs;~~  
~~—(c) formative assessment scores or qualitative data, or both.~~  
~~—(2) an assessment/evaluation of the program shall be provided by each participating school to the local board.~~  
~~—B. School assessments shall include a parent comment and evaluation component.~~  
~~—C. Pilot program evaluations shall be submitted to the local school board by June 30 of each year of participation in the pilot program.~~

**R277-418-5. Board Review and Accountability.**

~~—A. The Board may accept or approve all programs submitted by local boards that satisfy all components/requirements of Section 53A-3-702 and this rule.~~  
~~—B. The Board may allow schools that submit complete and satisfactory program evaluations to submit abbreviated plans for the 2005-06 school year.~~  
~~—C. The Board may review and audit schools, hours and programs, following adequate notice to the school and the local board, and may require additional assessment or information from the school or local board.~~  
~~—D. The Board shall report to the Education Interim Committee as required in Section 53A-3-702(5).~~

**KEY: professional development days**

**Date of Enactment or Last Substantive Amendment: July 16, 2004**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-3-702(4); 53A-1-402(1)(b)]**



Education, Administration

**R277-436**

**Gang Prevention and Intervention Programs in the Schools**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 31829

FILED: 08/14/2008, 15:45

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide maximum funding for gang prevention programs that serve students. The amendments are based upon recommendations by the State Gang Prevention Intervention Steering Committee.

SUMMARY OF THE RULE OR CHANGE: Amendments require a 10 percent cap on the amount of funds Local Education Agencies (LEAs) can use for program administration oversight, professional development, and technical services; and additional clarifications.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 53A-1-402(1)(e)(i) 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 funding to schools/school districts will continue in the same manner.
- ❖ LOCAL GOVERNMENTS: There may be some costs to schools/school districts for administrative oversight, professional development, and technical services because of the 10 percent cap for these purposes. Schools/school districts will absorb any costs with existing staff and within existing budgets. Possible increased costs are too speculative to determine.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated costs or savings to small businesses and persons other than businesses. This program is specific to public education.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be some costs to schools/school districts for compliance with this rule for program administration. Schools/school districts will absorb any costs with existing staff and within existing budgets.

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 10/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2008

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

**R277. Education, Administration.**

**R277-436. Gang Prevention and Intervention Programs in the Schools.**

**R277-436-2. Authority and Purpose.**

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and authority over public education in the Board, by Section 53A-1-40[~~4~~]2(1)(e)(i) which

directs the Board to adopt rules and minimum standards mandating school productivity and cost effective measures, Section 53A-15-601 which appropriates funds to be used for Gang Prevention and Intervention Programs in the Schools, allows the Board to develop an application process, and to distribute funds, 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 establish standards and procedures for distributing funding for gang prevention and intervention programs in the schools.

### **R277-436-3. Application and Distribution of Funds.**

A. Awards shall be made to individual schools and funds allocated to school districts to distribute to designated schools.

B. School districts may submit a single district-wide application for one or more schools within the district. The application shall:

- (1) provide for distribution of funds to individual schools;
- (2) require individual schools included within the application to satisfy criteria designated in law and rule; and
- (3) provide explanations of program variation from school to school, if any.

C. School districts may utilize up to ten percent of their funding under the rule for the following specific purposes:

- (1) administrative oversight;
- (2) professional development for licensed and non-licensed employees who work directly in gang prevention/intervention activities; and
- (3) professional and technical services.

~~[C]D.~~ Applications shall be provided by the USOE.

~~[D]E.~~ Schools shall submit applications to the Director of Services for At Risk Students or designee who shall make final funding recommendations to the USOE Finance Committee by June 30 of the year prior to the fiscal year in which the money is available.

~~[E]F.~~ Applicants shall provide evidence and intent of their ability to supply the required school contribution percentage as designated in 53A-15-601(5).

~~[F]G.~~ In kind services shall be provided consistent with Section 53A-15-601(5) and R277-436-1G.

~~[G]H.~~ Awards per school shall be based on funds available and specific funding limits ~~[shall]may~~ be prescribed in the application provided by the USOE.

~~[H]I.~~ Schools may submit joint applications.

~~[I]J.~~ Priority shall be given to applications reflecting interagency and intra-agency collaboration.

~~[J]K.~~ Projects receiving funding shall be notified by July 1.

~~[K]L.~~ Schools or joint school applications that were funded and complied with all requirements of law and rule may reapply in subsequent years using an abbreviated application form provided by the USOE At-Risk Director or designee.

~~[L]M.~~ The USOE may retain up to five percent of the annual legislative appropriation for the following specific purposes:

- (1) an amount not to exceed 2.5 percent for:
  - (a) site visits; and
  - (b) inservice professional development, as determined and guided by the USOE.
- (2) an amount not to exceed 2.5 percent for:
  - (a) administrative oversight; and
  - (b) statewide coordination training.

### **R277-436-6. Waivers.**

The Superintendent may grant a written request for a waiver of a requirement or deadline which a district finds unduly restrictive. [~~The waiver shall be consistent with the Utah Public Education Strategic Plan, January 1992, pages 17 and 21, or the express purpose of this rule.~~]

**KEY: public schools, disciplinary problems, students at risk, gangs**

**Date of Enactment or Last Substantive Amendment: [~~April 15, 1999]2008~~**

**Notice of Continuation: June 4, 2003**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(4); 53A-15-601; 53A-1-401(3)**



## Education, Administration **R277-464** Highly Impacted Schools

### NOTICE OF PROPOSED RULE

(Amendment)  
DAR FILE No.: 31830  
FILED: 08/14/2008, 15:45

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide increased oversight and procedural changes and additions.

SUMMARY OF THE RULE OR CHANGE: The changes to this rule include: 1) new language providing for increased oversight of highly impacted schools funds applications; 2) reallocation of funds from operating highly impacted schools within a school district to fund a newly designated highly impacted schools and to allow for changes in the designation of a highly impacted school; 3) application by a school/school district for a variance from the rule; and 4) increased Utah State Office of Education oversight, monitoring, final evaluation, and review for program compliance.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 53A-17a-121(2) 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 funding for this Program has not changed.

❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. Schools/school districts will continue to receive funding. The rule provides for increased Program oversight and for a variance to this rule in which funding is not a factor.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated costs or savings to small businesses and persons other than businesses. This rule and Program relate to public schools/school districts only.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Although the changes do provide for increased oversight, schools/school districts will continue to administer the Program with existing staff and within existing budgets.

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 10/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2008

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

## **R277. Education, Administration.**

### **R277-464. Highly Impacted Schools.**

#### **R277-464-3. Applications and Distribution of Funds.**

A. Awards shall be made to individual schools and funds allocated to school districts or charter schools shall be fully distributed to designated schools.

B. Applications shall be provided through the USOE.

C. Schools shall be selected for funding based on an analysis of the eligibility factors designated in Section 53A-15-701(2)(a). Those factors shall be equally weighted.

(1) Beginning with the FY 2009 funding cycle, statistics for school eligibility determination and allocations shall be based on the latest available data from the Year End upload of the Data Clearinghouse consistent with the funding schedule, except for the single parent status statistic, which shall be derived from Census Bureau data sources.

(2) Schools may use funds for learning programs identified by the school, if the school provides:

- (a) goals;
- (b) activities; and
- (c) outcomes, consistent with the proposed activities that are directly tied to the school's plan to increase student achievement.

(2) Each school selected for funding shall receive a base allocation.

D. Based on available funds, schools shall be funded on a three-year funding cycle, beginning in FY 2009.

E. In the event of closure of a school funded under this rule, the school district to which the school belongs may designate another school within the school district as highly impacted.

(1) A school district may reallocate funds from operating highly impacted schools within the school district to fund a newly designated highly impacted school; the reallocation shall be accomplished consistent with the standards, procedures and timelines of this rule.

(1)2) In designating a new or different highly impacted school within the school district, the school district cannot exceed its total original number of highly impacted schools by more than one school per three-year funding cycle.

(2)3) [The school district shall provide a rationale for designating the new school as highly impacted using the criteria under]In requesting to change the designation of a school or in adding one additional highly impacted school within a school district, the school district has the burden of demonstrating a rationale for the USOE for the change consistent with the criteria of Section 53A-15-701(2).

(3)4) The student at-risk factors in [the]a newly designated school or in a realigned school shall be comparable to the at-risk factors in [the closed school]other highly impacted schools within the school district.

(4)5) [A school district may not divert funds from operating highly impacted schools within the school district to fund a newly designated highly impacted school.]In realigning highly impacted schools within a school district or adding one additional school, the school district shall not receive additional funding for highly impacted schools from other school districts.

(6) School districts that desire to realign schools within the school district to change or add designated schools shall notify the USOE of changes in school boundaries or newly designated schools no later than June 1 of the year before funding is expected.

(7) Recommendations and decisions by school districts and the Board to realign highly impacted school boundaries or designate new schools as highly impacted shall retain the focus of the appropriation and this rule on schools that serve students who meet the highly impacted criteria.

F. The school district shall provide an application for reallocating highly impacted funds from a closed school to a different school within the school district prior to the school district distributing the funds to the newly designated school. Failure to properly apply to the USOE in a timely manner for reallocation of highly impacted funding from a closed school to a newly designated school within the school district may result in recapture of funds from the school district or the newly designated school by the USOE.

G. Schools receiving funding shall be notified by June 30.

H. Variances - School districts and charter schools may apply for a variance to this rule provided the school district or charter school:

- (1) maintains the focus on schools;
- (2) does not disadvantage other school districts or charter schools that receive highly impacted schools funding; and
- (3) requests the variance in writing within required timelines.

#### **R277-464-4. Oversight Monitoring, Evaluation and Reports.**

A. The Board may designate no more than two percent of the total appropriation for highly impacted schools to be used specifically by the USOE for oversight, monitoring and final

evaluation of highly impacted schools and their compliance with the law and this rule.

B. Each school selected for funding shall be required to submit an annual evaluation report to the USOE consistent with Section 53A-15-701(6)(a).

**KEY: students at risk**

**Date of Enactment or Last Substantive Amendment:** [~~July 9, 2007~~]**2008**

**Notice of Continuation:** July 6, 2005

**Authorizing, and Implemented or Interpreted Law:** Art X Sec 3; 53A-17a-121(2); 53A-1-401(3); 53A-15-701(3); 53A-15-701(2)(a)



## Education, Administration **R277-470** Charter Schools

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31831

FILED: 08/14/2008, 15:45

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide changes resulting from H.B. 472 and S.B. 2, 2008 Legislative Session. (DAR NOTES: H.B. 472 (2008) is found at Chapter 222, Laws of Utah 2008, and was effective 05/05/2008. 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 changes include: 1) modifying the appointment procedures for the staff director of the State Charter School Board; 2) modifying provisions relating to the purposes and status of charter schools; 3) requiring the Utah State Board of Education, in consultation with the State Charter School Board, to make rules relating to charter school accountability; 4) modifying the reporting deadlines and requirements relating to students who have accepted enrollment in charter schools; 5) modifying provisions related to the funding of charter schools; and 6) modifying the maximum number of authorized students in charter schools.

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 cost or savings to the state budget. State funding for charter schools/student was determined by the 2008 Legislature. This rule does not interrupt the funding directives of S.B. 2, 2008 Legislative Session. The rule facilitates other procedures.

❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. S.B. 2, 2008 Legislative Session, funding for charter schools will have significant fiscal

impact on local government and entities (school districts). This rule does not interfere with that impact. These amendments will not affect either local or state funding of charter schools.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated costs or savings to small businesses and persons other than business. This rule relates specifically to public charter school procedures and enhanced monitoring.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Enhanced monitoring will be provided for by existing staff within existing budgets.

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

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THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2008

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

### **R277. Education, Administration.**

#### **R277-470. Charter Schools.**

##### **R277-470-1. Definitions.**

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

B. "Charter schools" means schools acknowledged as charter schools by local boards of education under Section 53A-1a-515 and this rule or by the Board under Section 53A-1a-505.

C. "Charter school application" means the official chartering document by which a prospective charter school seeks recognition and funding under Section 53A-1a-505. The application includes the basic elements of the charter to be established between the charter school and the chartering board.

D. "Charter school deficiencies" means the following information:

(1) a charter school is not satisfying financial obligations as required by Section 53A-1a-505 in the charter school's written contractual agreement;

(2) a charter school is not providing required documentation following reasonable warning;

(3) compelling evidence of fraud or misuse of funds by charter school governing board members or employees.

E. "Charter school founding member" or "founding member" means an individual who had a significant role in the initial development of the charter school up until the first instructional day of school, the first year of operation, as submitted in writing to the State Charter School Board the first day of operation.

F. "Charter school governing board" means the board designated by the charter school to make decisions for the operation of the school similar to a local board of education.

G. "Days" means calendar days, unless specifically designated.

H. "Expansion" means a proposed ten percent increase of students or grade level(s) in an operating charter school at a single location.

I. "Local education agency (LEA)" means a local board of education, combination of school districts, other legally constituted local school authority having administrative control and direction of free public education within the state, or other entities as designated by the Board, and includes any entity with state-wide responsibility for directly operating and maintaining facilities for providing public education.

J. "NAAS accreditation" means the formal process for evaluation and approval under the Standards for Accreditation of the Northwest Association of Accredited Schools or the accreditation standards of the Board, available from the Utah State Office of Education Accreditation Specialist.

[F]K. "Neighborhood or traditional school" for purposes of this rule, means a public, non-charter school.

L. "New charter school" as provided in Section 53A-21-401(5)(d) means any charter school through the first day of its second year with students, or a satellite school that requires a new location/campus.

[K]M. "No Child Left Behind (NCLB)" means the federal law under the Elementary and Secondary Education Act, Title IX, Part A, 20 U.S.C. 7801.

[H]N. "On-going funds" means funds that are appropriated annually by the Legislature with the expectation that the funds shall continue to be appropriated annually.

[M]O. "Satellite school" means a charter school affiliated with an operating charter school having a common governing board and a similar program of instruction, but located at a different site or in a different geographical area.

[N]P. "State Charter School Board" means the board designated in Section 53A-1a-501.5.

[O]Q. "Subaccount" means the Charter School Building Subaccount consisting of funds provided under 53A-[1a-104]21-401(5)(b).

[P]R. "Subaccount Committee" means the committee established by the Superintendent under Section 53A-21-[104]401(6).

[Q]S. "Superintendent" means the State Superintendent of Public Instruction as designated under 53A-1-301.

T. "Urgent facility need" as provided in Section 53A-21-401(5)(d) means an unexpected exigency that affects the health and safety of students such as:

(1) to satisfy an unforeseen condition that precludes a school's qualification for an occupancy permit; or

(2) to address an unforeseen circumstance that keeps the school from satisfying provisions of public safety, public health or public school code.

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

[S]V. "Weighted Pupil Unit (WPU)" means the unit of measure that is computed in accordance with the Minimum School Program Act for the purpose of distributing revenue on a uniform basis for each pupil.

#### **R277-470-2. Authority and Purpose.**

A. This rule is authorized under Utah Constitution Article X, Section 3 which vests general control and supervision over public education in the Board, Section 53A-1a-513 which directs the Board to ~~adopt rules for charter school funding and fund distribution~~ distribute funds for charter school students directly to the charter school, Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities, and 20 U.S.C., Section 8063(3) which directs the Board to submit specific information prior to charter schools' receipt of federal funds.

B. The purpose of this rule is to establish procedures for authorizing, funding, and monitoring charter schools and for repealing charter school authorizations. The rule also establishes timelines as required by law to provide for adequate training for beginning charter schools and to ensure parent involvement on charter school boards.

#### **R277-470-3. Maximum Authorized Charter School Students.**

~~A. Total authorized students for both the 2007-08 and 2008-09 school years include all students who attend charter schools in the respective school years.~~

~~B. Local school boards may not approve [locally] district-chartered schools [for the 2007-08 or 2008-09 school years] unless they notify the State Charter School Board by [April 15, 2007] August 15 two years prior to opening of proposed [locally] district-chartered schools and estimated numbers of students.~~

[C]B. The Board, in consultation with the State Charter School Board, may approve schools, expansions and satellite charter schools for the total number of students authorized under 53A-1a-502.5 ~~[minus the total projected number of students who will attend locally chartered schools provided the State Charter School Board receives notification of proposed locally chartered schools by April 15, 2007.]~~

[D]C. ~~[Locally] District-chartered schools submitting applications shall be considered with all new charters.~~

~~E. If the State Charter School Board does not receive written notification of proposed locally chartered schools by April 15, 2007 and March 15 every year thereafter, the State Charter School Board may recommend approval of additional Board chartered schools or expansions or satellites that include the entire total number of students allowed under 53A-1a-502.5.]~~

#### **R277-470-5. New or Expanding Charter School Notification to Prospective Students and Parents.**

A. All charter schools opening or expanding by at least ten percent of overall enrollment or adding one or more grade levels after July 1, 2007 shall notify all families consistent with the schools' outreach plans described in the charter agreements of:



(1) a new or expanding charter school's purpose, focus and governance structure, including names and contact information of governing board members;

(2) the number of new students that will be admitted into the school;

(3) the proposed school calendar for the charter school;

(4) the charter school's timelines for acceptance or rejection of new students;

(5) a State-approved student charter school application (beginning with the 2008-09 school year);

(6) procedures for transferring to or from a charter school, together with applicable timelines; and

(7) provide for payment, if required, of a one-time fee per secondary school enrollment, not to exceed \$5.00, consistent with Section 53A-12-103.

B. Beginning with charter schools that are opening or expanding for the 2007-08 school year, charter schools shall provide written notice of the information in R277-470-5A consistent with the school's outreach plan and at least 150 days before the proposed opening day of school beginning with the 2008-09 school year; or

C. Beginning with charter schools that are opening or expanding for the 2007-08 school year, charter schools shall have an operative and readily accessible electronic website providing information required under R277-470-5A in place, and for schools opening after the 2007-08 school year at least 150 days before the proposed first day of school. The completed charter school website shall be provided to the State Charter School Board at least 170 days prior to the proposed opening day of school. The State Charter School Board shall require new charter schools to have websites that may be reviewed by the State Charter School Board prior to the schools posting the websites publicly.

#### **R277-470-6. Transfer Student Criteria.**

A. Charter schools shall allow students to transfer from one charter school to another and enroll students only consistent with Sections 53A-1a-506.5(2) through ~~(5)6~~, including timelines.

B. Charter schools shall provide notice to a withdrawing student's school of residence consistent with Section 53A-1a-506.5(4)5 and using USOE-designated transfer forms.

C. Both charter schools and neighborhood schools shall enroll students and exchange student information consistent with 53A-1a-506.5(2)(c) and 53A-11-504 and using USOE-designated transfer forms.

D. Both charter schools and neighborhood schools shall have policies that provide procedures for properly excluding students and notifying students and parents under 53A-11-903 and 53A-11-904.

E. Neither neighborhood schools nor charter schools may discourage students from attending schools of choice in violation of state or federal law.

F. Neither charter schools nor neighborhood schools shall be required to enroll students who have been properly excluded from public schools under 53A-11-903 and 53A-11-904.

#### **R277-470-11. Charter Schools and NCLB Funds.**

A. Charter schools that desire to receive NCLB funds shall comply with the requirements of R277-470-11.

B. To obtain its allocation of NCLB formula funds, a charter school shall complete all appropriate sections of the Consolidated Utah Student Achievement Plan (CUSAP) and identify its economically disadvantaged students in the October upload of the Data Clearinghouse.

C. If the school does not operate a federal school lunch program, the school:

(1) shall determine the economically disadvantaged status for its students on the basis of criteria no less stringent than those established by the U.S. Department of Agriculture for identifying students who qualify for reduced price lunch for the fiscal year in question; or

(2) may use the Charter School Declaration of Household Income form provided by the USOE for this purpose.

D. A school which does not use the form shall maintain equivalent documentation in its records, which may be subject to audit.

#### **R277-470-13. Charter School Oversight and Monitoring.**

A. The State Charter School Board shall provide direct oversight to the state's board chartered schools, including:

(1) creation of an accountability review process which shall include:

(a) approval of first year charter school accountability plans which may consist of:

(i) revised charter effectiveness goals or accountability plan for elementary schools; or

(ii) revised charter effectiveness goals or accountability plan and official application for NAAS accreditation.

(b) visit to charter school at least once during its first year of operation;

(c) visit(s) to charter school as determined in the review process; and

(d) written reports to charter schools after each visit.

~~(1)2~~ annual review of student achievement indicators for all schools, disaggregated for various student subgroups;

~~(2)3~~ quarterly review of summary financial records and disbursements and student enrollment;

~~(3)4~~ annual review conducted through site visits or random audits of personnel matters such as employee licensure and evaluations;

~~(4) regular review of charter school operations to ensure the operations and practices are consistent with the currently approved charter language;~~ ~~(5) review and approval of first year charter school accountability plans, which may be the charter effectiveness goals or official application for NAAS accreditation;~~

~~(5)6~~ regular review of other matters specific to effective charter school operations as determined by the USOE charter school staff; and

~~(6)7~~ audits and investigations of claims of fraud or misuse of public assets or funds.

B. The Board retains the right to review or repeal charter school authorization based upon factors that may include:

(1) financial deficiencies or irregularities; or

(2) persistently low student achievement inconsistent with comparable schools; or

(3) failure of the charter school to comply with state law, Board rules, or directives; or

(4) failure to comply with currently approved charter commitments.

C. All charter schools shall amend their charters to include the following statement:

To the extent that any charter school's charter conflicts with applicable federal or state law or rule, the charter shall be interpreted and enforced to comply with such law or rule and all other provisions of the charter school shall remain in full force and effect.

D. District charter school authorizers shall:

- (1) visit a charter school at least once during its first year of operation;
- (2) visit a charter school as determined in the review process;  
and
- (3) provide written reports to the charter schools after the visits.

**R277-470-14. Approved Charter School Expansion.**

A. The following shall apply to requests for expansion for approved and operating charter schools:

- (1) The school satisfies all requirements of state law and Board rule.
- (2) The approved Charter Agreement shall provide for an expansion consistent with the request; or
- (3) The charter school governing board has submitted a formal amendment request to the State Charter School Board that provides documentation that:
  - (a) the school district in which the charter school is located has been notified of the proposed expansion in the same manner as required in Section 53A-1s-505(1);
  - (b) the school can accommodate the expansion within existing facilities or that necessary structures will be completed, meeting all requirements of law and Board rule, by the proposed date of operation;
  - (c) the school currently satisfies all requirements of state law and Board rule including adequate insurance, adequate parental involvement, compliance with all fiscal requirements, and adequate services for all special education students at the school;
  - (d) students at the school are performing on standardized assessments at an acceptable level with stable scores or scores showing an upward trend;
  - (e) adequate qualified administrators and staff shall be available to meet the needs of the increased number of students at the time the expansion is implemented.

B. The charter school governing board shall file a request with the State Charter School Board for an expansion no ~~[fewer than nine months]~~ later than April 1 two years prior to the date of the proposed implementation of the expansion.

C. Expansion requests~~[for the 2008-09 school year]~~ shall be considered by the State Charter School Board as part of the total number of~~[new]~~ charter school students allowed under 53A-1a-502.5(1).

**R277-470-15. Satellite School for Approved Charter Schools.**

A. An existing charter school may submit an amendment request to the State Charter School Board for a satellite school no later than April 1 two years prior to the date of the proposed implementation of the satellite if the charter school fully satisfies the following:

- (1) The school currently satisfies all requirements of state law and Board rule including adequate insurance, adequate parental involvement, compliance with all fiscal requirements, and adequate services for all special education students at the school;
- (2) The school has operated successfully for at least three years;
- (3) Students at the school are performing on standardized assessments at an acceptable level with stable scores or scores showing an upward trend;
- (4) The proposed satellite school will provide educational services, assessment, and curriculum consistent with the services,

assessment, and curriculum currently being offered at the existing charter school;

(5) The school shall be financially stable; there have been no repeat findings of deficiencies on required outside audits for at least two consecutive years;

(6) Adequate qualified administrators, including at least one onsite administrator, and staff are available to meet the needs of the proposed student population at the satellite site school;

(7) The school has had an audit by Charter School Section staff regarding performance of the current charter agreement, contractual agreements, and financial records; and

(8) The school provides any additional information or documentation requested by the Charter School Section staff or the Board.

(9) A satellite school that receives School LAND Trust funds shall have a School LAND Trust committee and satisfy all requirements for School LAND Trust committees consistent with R277-477.

B. The satellite school amendment request shall include the following:

(1) Written certification from the charter school governing board that the charter school currently satisfies all requirements of state law and Board rule;

(2) A detailed explanation of the governance structure for the satellite school, including appointed, elected and parent representation on the governing board, parental involvement and professional staff involvement in implementing the educational plan.

The applicant charter school shall include at least two voting parent members representing the parents of students at the satellite school on its governing board; at least one parent shall be elected by parents of students attending the satellite school;

(3) Information detailing the grades to be served, the number of students to be served and general information regarding the physical facilities anticipated to serve the school;

(4) A detailed financial plan for the satellite school;

(5) A signed acknowledgment by the charter school governing board certifying board members' understanding that a physical site for the building must be secured no later than January 1 of the year the satellite school is scheduled to open;

(a) the securing of the building site must be verified by a real estate closing document, signed lease agreement, or other contract indicating a right of occupancy;

(b) failure to secure a site by the required date may, at the discretion of the State Charter School Board, delay the opening of the satellite school for at least one academic year.

(6) Notification to both the school district in which the charter school is located and the school district of the proposed satellite school location in the same manner as required in Section 53A-1a-505(1);

(7) Written certification that no later than 15 days after securing a building site, the charter school governing board shall notify the school district in which the charter school satellite school is located of the school location, grades served, and anticipated enrollment by grade with a copy of the notification sent to the State Charter School Board; and

(8) A signed acknowledgment by the charter school governing board that the board understands the satellite school shall be held accountable for its own AYP report and disaggregated financial data and reports.

C. The approval of the satellite school by the State Charter School Board requires ratification by the State Board of Education

and will expire 24 months following such ratification if a building site has not been secured for the satellite school.

D. A charter school may not apply for more than three satellite locations.

**R277-470-17. Charter School Building Subaccount.**

A. The Board shall establish or reauthorize a Subaccount Committee consistent with 53A-~~1a-104~~21-401(6) by July 15 annually.

(1) The Superintendent, on behalf of the Board, may annually accept nominations of individuals who meet the qualifications of 53A-~~1a-104~~21-401(6)(a) from interested parties, including individuals desiring to nominate themselves, before June 1. The Board shall determine an appropriate number of Subaccount Committee members based upon nominations.

(2) The governor shall nominate one or more individuals who meet the qualifications of 53A-~~1a-104~~21-401(6)(a) before June 1.

(3) Subaccount Committee members shall serve three year terms, beginning in June 2007. If revolving loan account funds continue to be available, the Board shall appoint at least two additional members in June 2008, to ensure continuity of the committee.

B. The Subaccount Committee shall develop and the USOE shall make available a loan application that includes criteria designated under Sections 53A-~~1a-104~~21-401(6)(b) and (8).

C. The Subaccount Committee shall include other criteria or information from loan applicants that the committee or the Board determines to be necessary and helpful in making final recommendations to the Superintendent, the State Charter School Board and the Board. The Subaccount Committee shall also establish terms and conditions for loan repayment.

D. Applications for loans shall be accepted on an ongoing basis, subject to eligibility criteria and availability of funding.

(1) To apply for a loan, a charter school shall submit the information requested on the Board's most current loan application form together with the requested supporting documentation.

(2) The application shall include a resolution from the governing board of the charter school that the governing board, at a minimum:

(a) agrees to enter into the loan as provided in the application materials;

(b) agrees to the interest established by the Subaccount Committee and repayment schedule of the loan designated by the Subaccount Committee and the Board;

(c) agrees that loan funds shall only be used consistent with the purposes of Section 53A-21-~~104~~401(5)(c) and the purpose of the approved charter;

(d) agrees to any and all audits or financial reviews ordered by the Subaccount Committee or the Board;

(e) agrees to any and all inspections or reviews ordered by the Subaccount Committee or the Board;

(f) understands that repayment, including interest, shall be deducted automatically from the charter school's monthly fund transfers, as appropriate.

E. The Subaccount Committee shall not make recommendations to the Superintendent, the State Charter School Board or the Board until the committee receives complete and satisfactory information from the applicant and the Subaccount Committee has reached a majority recommendation.

F. The submission of intentionally false, incomplete or inaccurate information from a loan applicant shall result in immediate cancellation of any previous loan(s), the requirement for immediate repayment of any funds received, denial of subsequent applications for a 12 month period from the date of the initial application, and possible Board revocation of a charter.

G. The Superintendent, in consultation with USOE and State Charter Board staff, shall review recommendations from the Subaccount Committee and make final recommendations to the Board.

H. The Superintendent shall submit final recommendations from the Subaccount Committee to the Board no more than 60 days after submission of all information and materials from the loan applicant to the Subaccount Committee.

I. The Board may request additional information from loan applicants or a reconsideration of a recommendation by the Subaccount Committee.

J. The Board's approval or denial of loan applications constitutes the final administrative action in the charter school building revolving loan process.

**R277-470-19. Miscellaneous Provisions.**

A. The State Charter School Board and the Board shall, in the recommendation and approval process, consider and may give priority to charter school applications that target underserved student populations, among traditional public schools and operating charter schools.

(1) Underserved student populations may include low income students, students with disabilities, English Language Learners (ELL), or students in remote areas of the state who have limited access to the full range of academic courses;

(2) Priority may also be given to charter school applicants for proposed schools that do not have other charter schools within the school district; and

(3) To be given priority, the charter school application and proposed employee and site information shall support the school's designated focus.

B. The State Charter School Board shall provide a form on its website for individuals to report threats to health, safety, or welfare of students consistent with 53A-1a-510(3).

(1) Individuals making reports shall be directed to report suspected criminal activity to local law enforcement and suspected child abuse to local law enforcement or the Division of Child and Family Services consistent with 62A-4a-403 and 53A-11-605(4).

(2) Additionally, Individuals may report threats to the health, safety, or welfare of students to the local charter board.

(a) reports shall be made in writing;

(b) reports shall be timely;

(c) anonymous reports shall not be reviewed further.

(3) Local charter boards shall verify that potential criminal activity or suspected child abuse has been reported consistent with state law and this rule.

(4) Local charter boards shall act promptly to investigate disciplinary action, if appropriate, against students who may be participants in threatening activities or take appropriate and reasonable action to protect students or both.

**KEY: education, charter schools**

**Date of Enactment or Last Substantive Amendment: [February 7,] 2008**

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

**Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53A-1a-515; 53A-1a-505; 53A-1a-513; 53A-1a-502; 53A-1-401(3); 53A-1a-510; 53A-1a-509; 41-6-115; 53A-1a-506; 53A-21-401; 53A-1a-519; 53A-1a-520**

◆ ————— ◆

## Education, Administration

### **R277-477**

## Distribution of Funds from the School Trust Lands Account and Implementation of the School LAND Trust Program

### **NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 31832

FILED: 08/14/2008, 15:45

### **RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is amended to provide more specific language for schools/school districts to follow when administering the School LAND Trust Program funds.

**SUMMARY OF THE RULE OR CHANGE:** The changes provide for more specific procedures for distribution of funds based on approval of School LAND Trust Program plans and provide requirements for school business administrators to enter summary financial data about local School LAND Trust Program expenditures on the Program website.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsections 53A-16-101.5(3)(c) 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 rule provides more specific procedures and guidance for schools/school districts when administering the Program.

❖ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local government. Schools/school districts will continue to receive funding for the Program but with clearer and more specific direction within the rule.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** There are no anticipated costs or savings to small businesses and persons other than businesses. This rule and Program related to public schools/school districts.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for affected persons. Schools/school districts will have more specific information when using Program funds.

**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 10/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2008

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

### **R277. Education, Administration.**

**R277-477. Distribution of Funds from the School Trust Lands Account and Implementation of the School LAND Trust Program.**

**R277-477-3. Distribution of Funds -- Determination of Proportionate Share.**

A. Funds shall be distributed to school districts and charter schools as provided under Section 53A-16-101.5(3)(a). The distribution shall be based on the state's total fall enrollment as reflected in the audited October 1 Fall Enrollment Report from the previous school year.

B. Each school district and the USOE, with regard to charter schools and the USDB, shall distribute funds received under R277-477-3A to each school within each school district or to each charter school and USDB on an equal per student basis.

C. Local school boards and the USOE may adjust distributions, maintaining an equal per student distribution for school openings and closures and for boundary changes occurring after the audited October 1 Fall Enrollment Report of the prior year.

D. All public non-charter schools receiving funds shall have a school community council as required by Sections 53A-1a-108[-], and a current school plan for enhancing or improving academic excellence consistent with Section 53A-16-101.5 approved by the local school board.

E. All charter schools shall have a committee consisting of a majority of parents elected from parents of students currently attending the charter school that is designated to make decisions about the School LAND Trust funds, and a current school plan for enhancing or improving academic excellence consistent with Section 53A-16-101.5 approved by the State Charter School Board for state chartered schools.

F. The plan shall be electronically submitted to the USOE on the School LAND Trust Program website.

G. All charter schools shall be considered collectively as a school district to receive a base amount under Section 53A-16-101.5(3)(a)(i).

H. The USDB shall receive the average statewide per pupil base amount as the school's base allocation.

I. In order to receive its allocation, a school shall satisfy the requirements of Section 53A-16-101.5(4-7).

J. Plans shall include specific academic goals, steps to meet those goals, measurements to assess improvement and specific expenditures to implement plans that may include purchase of workbooks, textbooks, professional development, computer hardware and software, library and media supplies, or supplement funding for aides, teachers and specialists, and other tools for student academic improvement consistent with Section 53A-16-101.5(5).

K. Income from the Interest and Dividends Account shall be distributed to school districts after the close of the state fiscal year as the USOE receives the funds in the Interest and Dividends Account within the Uniform School Fund.

L. Each school board shall ensure timely distribution of the funds to ~~eligible~~ schools with plans approved by the local school board.

~~[M. In a year-end report, each local board shall provide to the USOE:~~

~~— (1) the names of schools and the funds distributed under this rule;~~

~~— (2) required school plan information as designated in R277-477-4;~~

~~— (3) a list of 10 percent of the district schools, or five schools implementing exemplary plans to be used to inform the public;~~

~~— (4) the date on which funds were made available to each school; and~~

~~— (5) the local school board of education meeting date(s) when School LAND Trust plans were approved.]M. When approving school plans on the School LAND Trust Program website, school district personnel shall report the meeting date(s) when the local school board approved the plans.~~

N. Funds not used in the school approved plan may be carried over by the school to the next school year and added to the School LAND Trust Program funds available for expenditure in that school the following year. Schools shall provide an explanation for any carry over that exceeds one-~~half~~third of the school's allocation in the school plan or report.

O. School LAND Trust Program funds shall be focused on the school's critical academic needs.

(1) School LAND Trust Funds shall only be used to directly impact instruction and enhance academic excellence in reading, writing, mathematics, science, social studies, technology, fine arts, foreign language, and career education in high schools.

(2) Expenditures to aid students in recovering academic credits, assisting students in completion and recovery of credits towards graduation, study skill classes and college entrance exam preparation classes are appropriate academic uses of the specific School LAND Trust Program funds.

(3) Programs to improve school climate, provide security, address behavioral issues, prevent bullying, permanent auditorium audio systems, and other non-academic school needs are not eligible for funding from the School LAND Trust Program.

(4) Student incentives shall be academic and the total may not exceed \$1000, or four percent of the School LAND Trust Program

funds, whichever is less. Examples of academic incentives include academic field trips, flashcards, books, or student planners.

(5) Schools for individuals with disabilities may use funds as needed to directly impact and improve student performance according to the Individual Education Plan (IEP) of the students.

~~[P].~~ Funds from the School LAND Trust Program that are expended inconsistent with the requirements and academic intent of the law, inconsistent with R277-477, or inconsistent with the original school board/charter board approval shall be withheld by the USOE in subsequent years until the misappropriated funds have been restored.

~~[P]Q.~~ Schools serving only youth in custody may form committees and submit plans to the district serving the students. Youth in custody schools shall receive the same per pupil distribution as other schools in the district providing services.[

~~— Q. Plans submitted by schools chartered by the State Charter School Board shall be reviewed and approved by each charter school governing body and then submitted to the State Charter School Board for final approval.]~~

R. Plans submitted by charter schools~~— chartered by local school boards~~ shall be ~~reviewed~~prepared, submitted and approved by the charter school committee established in R277-470-9D, requiring a majority of elected parents to serve on the committee, and then submitted first to the local charter school board, then to the local school board for approval, if the school is chartered by the district, or to the State Charter School Board if the school is chartered by the Board.

S. Plans submitted by the USDB governing board shall be reviewed and approved by the State Superintendent or designee.

#### **R277-477-4. Information to USOE.**

A. Information on each school's plan to address critical academic needs shall be completed via the School LAND Trust Program website maintained through the USOE for accurate and uniform reporting.

B. To facilitate submission of information by schools, each school board shall establish a timeline for timely submission of information and a district submission date for the district schools not later than May 15 of each year.

C. Timelines shall allow for school committee reconsideration and editing of the school plan following local school board requested changes.

D. USOE staff shall visit ten percent of the schools receiving funds from the School LAND Trust Program annually to discuss the program and website, receive information and suggestions, provide training, answer questions and review implementation of the plans and reported purchases.

E. USOE staff shall read school plans and reports for compliance with the law.

~~[E]F.~~ School districts wishing to submit information to the School LAND Trust website through a comprehensive electronic plan shall meet the parameters for programming and data entry required by the USOE. They shall review School LAND Trust plans on the USOE website prior to local school board approval to ensure information consistent with the law has been downloaded by individual schools into the electronic plan visible on the School LAND Trust Program website.

G. Charter school and school district business administrators shall enter financial data relating to the School LAND Trust Program on the School LAND Trust Program website at the time

they prepare and submit Annual Program Report (APR) data to the USOE. The appropriate data shall appear in the final reports submitted online by school community councils for reporting to parents as required in Section 53A-1a-108.

H. The financial data shall include:

(1) the annual distribution received by each school (the sum of the distributions to schools within a school district equals the total distributed to the school district by the USOE);

(2) expenditures made by each school from revenues received from the School LAND Trust in the prior fiscal year.

I. Expenditures made after the close of the fiscal year shall be accounted for as expenditures in the following fiscal year.

J. The financial report in each school final report shall be consistent with the narrative submitted by that school community council or charter committee.

**KEY: schools, trust lands funds**

**Date of Enactment or Last Substantive Amendment: [~~October 10, 2007~~]2008**

**Notice of Continuation: November 23, 2005**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-16-101.5(3)(c); 53A-1-401(3)**



Education, Administration

**R277-494**

Charter School and Online Student Participation in Extracurricular or Co-curricular School Activities

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 31834

FILED: 08/14/2008, 15:46

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This new rule is proposed to comply with S.B. 36, 2008 Legislative Session, that requires local school boards to allow charter school and online student participation in extracurricular school activities. The State Board of Education added co-curricular activities. (DAR NOTE: S.B. 36 (2008) is found at Chapter 233, Laws of Utah 2008, and was effective 05/05/2008.)

SUMMARY OF THE RULE OR CHANGE: The rule provides: 1) definitions; 2) procedures for payment and participation related to the fee schedule; 3) a tier activities participation fee schedule; and 4) additional provisions.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsections 53A-1-401(3) and 53A-1a-519(5)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. Implementation of this Program is at the local level.

❖ LOCAL GOVERNMENTS: There may be expenses (or savings) to both traditional schools and school districts, and charter schools as they comply with 2008 legislation and this implementing rule. The Utah State Office of Education will gather data through the 2008-09 school year to determine costs to school districts and charter schools and possible savings to both.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated costs or savings to small business and persons other than businesses. This rule implements a public school program that specifically requires charter schools to bear the cost of the legislation rather than students or parents.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule implements a public school program that specifically requires charter schools to bear the cost of the legislation rather than students or parents.

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 10/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2008

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

**R277. Education, Administration.**  
**R277-494. Charter School and Online Student Participation in Extracurricular or Co-curricular School Activities.**

**R277-494-1. Definitions.**

A. "Activity fees" means fees that are approved by a local board and charged to all students to participate in any or all activities sponsored by or through the public school. Fees vary among districts and schools and entitle a public school student to participate in regular school activities, to try out for extracurricular or co-curricular school activities, to receive transportation to activities, and to attend regularly scheduled public school activities.

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

C. "Charter school" means a school acknowledged as a charter school by a local board of education under Section 53A-1a-515 and R277-470 or by the Board under Section 53A-1a-505.

D. "Co-curricular activity" means an activity that includes practices or events outside the regular school day and a specific required class enrollment as a condition of participation.

E. "District enrollment levels" means districts divided by size as outlined in the Schedule as part of this rule.

F. "Extracurricular activity" means an athletic program or activity sponsored by the public school and offered, competitively or otherwise, to public school students outside of the regular school day or program.

G. "Online school" means a school:

(1) that provides the same number of classes consistent with the requirement of similar resident schools;

(2) that delivers course work via the internet;

(3) that has designated a readily accessible contact person; and

(4) that provides the range of services to public education students required by state and federal law.

H. "Pay to play fees" means the fees charged to a student to participate in a specific school-sponsored extracurricular or co-curricular activity. All fees shall be approved annually by the local board of education.

I. "Student's boundary school" means the school the student is designated to attend according to where the student's legal guardian lives or the school where the student is enrolled under Section 53A-2-206.5 et seq.

J. "Student's school of enrollment" means the public school in which the student is enrolled consistent with Section 53A-11-101 et seq.

K. "Student fee waivers" means all expenses for an activity that are waived for student participation in the activity consistent with Section 53A-12-103 et seq. and R277-407.

L. "School participation fee" means the fee paid by the charter/online school to the traditional school consistent with the fee schedule of R277-494-4 for student participation in extracurricular or co-curricular activities.

M. "Student participation fee" means the fee charged to all participating charter/online and traditional school students by the resident school for designated extracurricular or co-curricular activities consistent with R277-407.

N. "Tier activities" means extracurricular activities (both boys and girls, as offered) divided by type and expense to sponsoring schools/school districts as outlined in the Schedule as part of this rule. The activities that fall into each tier are as follows:

(1) Tier 1 activity: football.

(2) Tier 2 activities: baseball, softball, basketball, swimming and diving, wrestling, soccer, volleyball, and drill team.

(3) Tier 3 activities: golf, tennis, cross-country, track, and all other extracurricular and co-curricular activities.

**R277-494-2. 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, Section 53A-1a-519(5) that directs to the Board to make rules establishing fees for charter school students' participation in extracurricular or co-curricular activities at school district schools, and Section 53A-2-

214(6) which directs the Board to make rules establishing fees for charter/online students' participation in extracurricular or co-curricular activities at school district schools.

B. The purpose of this rule is to establish a Tier Activities Participation Fee Schedule and provide information to school districts, charter and online schools, and parents that fairly inform districts, schools, and parents of the Schedule and requirements integral to the Schedule.

**R277-494-3. Requirements for Payment and Participation Integral to the Schedule.**

A. A charter or online school may allow student participation in activities designated under R277-494-1K.

B. The school participation fee identified in the Schedule shall be paid by the student's school of enrollment to the boundary school at which the student desires to participate.

C. The fees in this Schedule do not include student participation fees or required activity fees. Student participation fees or required activity fees shall be paid to the boundary school by the participating student.

D. All fees, including school participation fees and school participation fees shall be paid prior to student participation.

E. If a participating charter or online school student qualifies for fee waivers, all waived student participation fees shall be paid to the boundary school by the student's school of enrollment prior to student participation.

**R277-494-4. Tier Activities Participation Fee Schedule (Schedule)**

A. Fee schedule

District Enrollment	Tier 1	Tier 2	Tier 3
less than 1,000	\$600	\$300	\$150
1,001 to 6,000	\$500	\$250	\$125
6,001 to 18,000	\$400	\$200	\$100
18,000 to 45,000	\$300	\$150	\$ 75
+45,000	\$200	\$100	\$ 75

B. Charter and online students participating under this rule shall meet all eligibility requirements and timelines of the receiving schools.

**R277-494-5. Additional Provisions.**

A. Neither this rule nor the Schedule applies to student participation in school activities which require student enrollment in a regularly scheduled class at the boundary school.

B. Despite the provisions of R277-494-5A, charter, online and traditional schools may negotiate to allow student participation in co-curricular activities such as debate, drama, or choral programs. Participating charter/online students shall be required to meet all attendance requirements of all traditional public school students.

C. This rule shall be effective beginning with the 2008-09 school year.

**KEY: extracurricular, co-curricular, activities, student participation**

**Date of Enactment or Last Substantive Amendment: 2008**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-1a-519(5); 53A-2-214(6)**

Education, Administration

**R277-506**

School Psychologists and School Social Workers Licenses and Program

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 31833

FILED: 08/14/2008, 15:46

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to re-include the school counselor license requirements that were previously in this rule and were removed and placed in a different rule. It has since been determined that the most appropriate place for these requirements is in this rule.

SUMMARY OF THE RULE OR CHANGE: The changes include adding a new Section R277-506-5 on School Counselors and adding school counselor appropriately throughout the rule as necessary.

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 changes simply move school counselor license requirement language from another rule to this rule.

❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. The requirements have not changed, only the location of the requirements into this rule.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated costs or savings to small businesses and persons other than businesses. The changes related to school counselor license requirements in public schools.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The requirements have not changed, only the location of the requirements.

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 10/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2008

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

**R277. Education, Administration.**

**R277-506. School Psychologists~~[-and]~~, School Social Workers, and School Counselors Licenses and Programs.**

**R277-506-2. Authority and Purpose.**

A. This rule is authorized under Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Sections 53A-1-402(1)(a) which requires the Board to make rules regarding the qualification and certification of educators and ancillary personnel who provide direct student services, 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:

(1) the standards for obtaining licenses issued by the Board for employment in the public schools as school psychologists, ~~and~~ school social workers, and school counselors; and

(2) the standards which shall be met by a post-secondary institution in order to receive Board approval of its program for school psychologists~~[-and]~~, school social workers, and school counselors.

**R277-506-5. School Counselors.**

There are three levels of licensure for a K-12 school counselor:

A. School Counselor Professional Educator License Level 1 is a license issued:

(1) upon completion of an accredited counselor education program; or

(2) to persons applying for licensure under interstate agreements.

(3) This license is issued to counselors who are beginning their professional careers who have completed an approved 600 hour field experience (400 hours if the applicant has completed two or more years of successful teaching experience as approved by USOE licensing).

B. School Counselor Professional Educator License Level 2 is:

(1) a license issued after satisfaction of all requirements for a Level 1 license and 3 years of successful experience as a school counselor in an accredited school in Utah; and

(2) is valid for five years.

C. Counseling Intern Temporary License is based on written recommendation from a USOE accredited program that a candidate:

(1) is currently enrolled in the program;

(2) has completed 30 semester hours of course work, including successful completion of a practicum; and



(3) has skills to work in a school as an intern with supervision from the school setting and from the counselor education program.

(a) Letters from the accredited program recommending eligible candidates shall be submitted to USOE at the beginning of each school year.

(b) The Counseling Intern Temporary License is valid for the current year only and is not renewable.

**KEY: educational program evaluations, professional competency, educator licensing**

**Date of Enactment or Last Substantive Amendment: [~~July 11, 2006~~2008]**

**Notice of Continuation: September 6, 2007**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-402(1)(a); 53A-6-103; 53A-1-401(3)**

◆ ————— ◆

## Education, Administration

### R277-715

## English Language Learner Family Literacy Centers

### NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 31835

FILED: 08/14/2008, 15:46

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this new rule is to provide a formula to allocate funds appropriated by the 2008 Legislature in S.B. 2 for school districts and charter schools to provide English Language Learner Family Literacy Centers. (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 rule provides: 1) criteria for proposals from school districts and charter schools; 2) for Utah State Office of Education response to proposals; 3) time lines for submission of proposals; 4) a formula for distribution of funds; and 5) accounting measures.

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 Program will be administered by the state with existing staff, within existing appropriation and budget.

❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. The 2008 Legislature appropriated specific funding to be provided to schools/school districts for the purposes of this rule, so long as school districts limit expenditures to appropriated funding and requirements of statute and this rule.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated costs or savings to small businesses

and persons other than businesses. This Program is designated for public schools/school districts.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Funding via a Legislative appropriation was provided to completely fund the Program.

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 10/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2008

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

### **R277. Education, Administration.**

#### **R277-715. English Language Learner Family Literacy Centers Program.**

##### **R277-715-1. Definitions.**

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

B. An "English Language Learner (ELL)" means a student who has difficulty speaking, reading, writing, or understanding the English language.

C. "English Language Learner Family Literacy Centers (Centers)" means centers created by public schools to increase parent involvement; communicate with parents who are not proficient in English concerning required and optional activities at the school, in the parents' preferred language to the extent practicable; increase academic achievement, literacy skills, and language gains in all ethnic groups of students and their families; coordinate with school administrators, educators, families, and students; support and coordinate with other language acquisition instructional services and language proficiency program in the public schools.

D. "Language acquisition" means the process of learning a language.

E. "Language minority population" means a language other than the one spoken by the majority of people in a given regional or national context.

F. "Language proficiency" means the level of competence at which an individual is able to use language for both basic communication tasks and academic purposes as determined by local evaluation.

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

**R277-715-2. 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-161(2) which directs the Board to adopt a formula that allocates the money appropriated by the Legislature for the English Language Learner Family Literacy Centers Program to school districts and charter schools.

B. The purpose of this rule is to adopt a formula to allocate funds appropriated by the Legislature under Section 53A-17a-161 in a fair and equitable manner.

**R277-715-3. Proposals from School Districts and Charter Schools.**

A. Participation in this program by school districts and charter schools is optional; submitted proposals for developing centers shall be consistent with:

- (1) the purposes of Section 53A-17a-161 and this rule; and
- (2) available and successful center models.

B. Proposals shall identify:

- (1) center development timelines;
- (2) timelines that explain annual progress between July 2008 and July 2010;
- (3) an annual total and budget;
- (4) an assessment component, including participation by local community councils, school employees, students, and others as appropriate.

C. Proposals shall be submitted to the USOE by June 30.

**R277-715-4. USOE Response, Timelines and Formula.**

A. The USOE may appoint an expert review panel to review, prioritize and recommend proposals for funding by the Board.

B. After the USOE receives proposals, it will determine a funding formula based on the number and quality of proposals.

C. The formula shall:

(1) distribute 45 percent of the funds as a base for all school districts and charter schools that submit viable proposals for developing family literacy centers;

(2) distribute 50 percent of the funds directly to participating school districts and charter schools based on the ELL student count in the school districts/charter schools;

(3) retain five percent of appropriated funding for:

(a) an annual third party assessment of school district/charter school family literacy center projects; the assessment shall be a third-party assessment; and

(b) continuing professional development for participating school districts and charter schools that allows the USOE to provide current information and materials over a three year period to assist participating school districts/charter schools.

D. The Board shall approve recommendations for funding by July 30.

E. School districts and charter schools that receive funding shall be notified of funding and the distribution of funds shall begin as soon as possible after Board approval.

**KEY: English Language Learners**

**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-17a-161(2)**

Education, Administration  
**R277-733**  
 Adult Education Programs

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 31836

FILED: 08/14/2008, 15:46

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to update and align state and federal laws and regulations.

SUMMARY OF THE RULE OR CHANGE: The amendments provide for updated definitions, program standards, fiscal procedures, pupil accounting, curriculum standards, and data management standards. Terminology is updated and unnecessary language is deleted.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 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. The changes are primarily to update and align state and federal laws and regulations.

❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. The changes are primarily to update and align state and federal laws and regulation and federal funding continues to be provided for Adult Education programs to school districts.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated costs or savings to small businesses and persons other than businesses. The changes are primarily to update and align state and federal laws and regulations and federal funding continues to be provided for Adult Education programs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The changes are primarily to update and align state and federal laws and regulations and funding continues to be provided for Adult Education programs.

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 10/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2008

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

**R277. Education, Administration.**

**R277-733. Adult Education Programs.**

**R277-733-1. Definitions.**

A. "Adult" means a person 18 years of age or over.

B. "Adult education" means organized educational programs, other than regular full-time and summer education and secondary schools/programs/courses, provided by school districts or nonprofit organizations affording opportunities for out-of-school youth and adults who have or have not graduated from high school, to improve their literacy levels and to further their high school level education.

C. "Adult Basic Education (ABE)" means a program of instruction below the 9.0 academic grade level for adults who lack competency in reading, writing, speaking, problem solving or computation at a level that substantially impairs their ability to find or retain adequate employment that will allow them to become employable, contributing members of society and preparing them for advanced education and training. The instruction is designed to help adults by:

- (1) increasing their independence;
- (2) improving their ability to benefit from occupational training;
- (3) increasing opportunities for more productive and profitable employment; and
- (4) making them better able to meet adult responsibilities.

D. "Adult Education and Family Literacy Act (AEFLA)" means Title II of the Workforce Investment Act (WIA) of 1998 which provides the principle source of federal support for adult basic and literacy education programs for adults who lack basic skills, an adult education secondary school diploma, or proficiency in English.

E. "Adult High School Completion (AHSC)" means a program of academic instruction at the 9.0 grade level or above in Board-approved subjects for eligible adult education students who are seeking:

- (1) an adult education secondary education diploma from an adult education program; or
- (2) a certificate of GED.

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

G. "Certificate of GED" means a certificate issued by the USOE to an individual who has successfully passed all five subject areas of the GED based on Utah passing standards; measuring the major and lasting outcomes and concepts associated with a traditional four-year high school education.

H. "Community-Based Organization (CBO)" means a nonprofit organization:

- (1) eligible for and accepting federal AEFLA funds; and
- (2) for the sole purpose of providing adult education services to qualified adult education learners.
- (3) All rules and laws that apply to schools/school districts shall also apply to CBOs that receive adult education funding.
- (4) CBOs:
  - (a) apply to the USOE;
  - (b) receive adult education funding through a competitive process; and
  - (c) receive USOE funding on a reimbursement basis only.

I. "Consumable items" means student workbooks, student packets, computer disks, pencils, papers, notebooks, and other similar personal items for which a student retains ownership during the course of study.

J. "Desk monitoring" means the review of UTopia data to ensure program integrity.

K. "Eligible adult education student" means a person making his primary and permanent home in Utah, and:

- (1) is 17 years of age or older, and whose high school class has graduated; or
- (2) is under 18 years of age and is married; or
- (3) has been adjudicated as an adult; or
- (4) is an out-of-school youth 16 years of age or older who has not graduated from high school.

L. "Enrollee" means an adult student who has 12 or more contact hours in an adult education program during a fiscal/program year, ~~[has completed an intake,]an academic assessment[; established] establishing an Entering Functioning Level, [and who]has an adult education Student Education Occupation Plan (SEOP) with an established goal, and a defined funding code. Enrollee status is based on the last date that all of the above items are entered into UTopia.~~

M. "English for Speakers of Other Languages (ESOL)" is an instructional program provided for non-native language speakers.

~~[M]N.~~ "Fee" means any charge, deposit, rental, or other mandatory payment, however designated, whether in the form of money or goods. Admission fees, transportation charges, and similar payments to third parties are fees if the charges are made in connection with an activity or function sponsored by or through an adult education program. All fees are subject to approval by the local school board of education or local board of trustees.

~~[N]O.~~ "General Educational Development (GED) preparation" means a program intended to provide instruction in five specific subject areas which may lead to a certificate of GED.

P. "General Educational Development (GED) testing" means the test required under R277-702.

~~[O]Q.~~ "Latest official census data" means the most current statistical information available used to determine the number of adults who need adult education services, and determined by:

- (1) individuals 16 years of age and older; or
- (2) individuals 16 years of age and older whose primary language is other than English; or
- (3) individuals 16 years of age and older without a high school diploma - ungraduated adults.

[P]R. "Measurable outcomes" means indicators of student achievement in adult education programs resulting in state funding. These outcomes are described in R277-733-9.

[Q]S. "Other eligible adult education student" means a person 16 to 18 years of age whose high school class has not graduated and is counted in the regular school program. The funds generated, WPU or collected fees or both, are credited to the adult education program for attendance in an adult education program.

[R]T. "Out-of-school youth" means a student 16 years of age or older who has not graduated from high school and is no longer enrolled in a K-12 program of instruction.

[S]U. "Participant" means an adult education student who generates less than twelve contact hours in a fiscal/program year and does not meet the qualifications of an adult education enrollee.

V. "Teaching of English to Speakers of Other Languages (TESOL)" means a credential for teachers of ESOL.

[F]W. "Tuition" means the base cost of an adult education program providing services to the adult education student.

[U]X. "USOE" means the Utah State Office of Education.

Y. "UTopia" means Utah Online Performance Indicators for Adult Education statewide database.

[W]Z. "Waiver release form" means a form signed at least annually by an adult education student allowing for release of the student's personal data and student education occupation plan, including social security number and GED scores, for data matching purposes with agencies such as the Department of Workforce Services, higher education, Utah State Office of Rehabilitation and GED Scoring Services. Signed waiver release allows a student's education records to be shared with other adult education programs or interested agencies for the purpose of skill development, job training or career planning, or other purposes.

#### **R277-733-2. Authority and Purpose.**

A. This rule is authorized by Utah Constitution Article X, Section 3 which gives general control and supervision of the public school system to the Board, Section 53A-15-401 which places the general control and supervision of adult education under the Board, Section 53A-1-402(1) which allows the Board to adopt minimum standards for programs and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities. Additionally, the Board and Board of Regents are directed to provide adult education programs to inmates under Section 53A-1-403.5.

B. The purpose of this rule is to describe curriculum, program standards, allocation formulas, and operation procedures for the adult education program for adult education students both in and out of state custody.

#### **R277-733-4. Program Standards.**

A. Local Utah adult education programs shall comply with state and federal requirements and Board rules and follow procedures as defined in the Utah Adult Education Policy and Procedures Guide published, updated, and available from the USOE.

B. Local Utah adult education programs shall make reasonable efforts to inform prospective students within their geographic areas of the availability of the programs and provide enrollment information.

C. Adult education programs/courses may also be made available to Utah residents who are between the ages of 16 and 18, as determined necessary by local adult education programs.

D. Local adult education programs shall make reasonable efforts to schedule classes at local community sites and times that meet the needs of adult education students.

E. Each eligible adult education student shall have a written student educational/occupational plan (SEOP) defining the student's goal(s) based upon a complete academic assessment, prior academic achievement, work experience and an established Entering Functioning Level. Annually, the plan shall be reviewed by the student and a designated program official and maintained in the student's file along with a signed data matching/agency sharing waiver release form.

F. Only courses identified in R277-733-7 qualify for adult education funds.

G. Local adult education programs shall establish and maintain a local adult education advisory committee consisting of representation from the Department of Workforce Services, Vocational Office of Rehabilitation, higher education and other interested community members with the responsibility to advocate for exemplary adult education programs through collaboration and partnerships with businesses and other community agencies.

H. The USOE shall evaluate local programs through tri-annual site monitoring visits, desk monitoring, and as needed, additional site visits or both, to assure compliance.

I. Education staff assigned to provide education services shall be qualified and appropriate for their assignments.

J. The teaching certificate and endorsement held by a staff member of a school district or community-based program shall be important in evaluating the appropriateness of the teacher's assignment, but not controlling. For instance, elementary teachers may teach secondary age students who are performing academically at an elementary level in certain subjects. Persons teaching an adult education high school completion class shall hold a valid Utah elementary or secondary education license and may issue adult education high school completion credits in multiple subjects. Non-licensed individuals providing instruction in ESOL, ABE or AHSC classes shall instruct under the supervision of a licensed program employee.

K. Persons with post-secondary degrees in adult education but are not in possession of a Utah teaching certificate may be considered for employment solely in an adult education program teaching adult students following the completion of a student teaching field experience in an accredited adult education program.

L. Persons with TESOL or ESOL credentials may be considered for employment solely in an adult education program teaching adult students following the completion of a student teaching experience in an accredited adult education program.

#### **R277-733-7. Program, Curriculum, Outcomes and Student Mastery.**

A. The Utah Adult Education Program shall offer courses consistent with the Core curriculum under R277-700.

B. The Core curriculum and teaching strategies may be modified or adjusted to meet the individual needs of the adult education student.

C. Written course descriptions for AHSC required and elective courses shall be developed by school district adult education programs for all classes taught, consistent with the Utah Core curriculum and Utah adult education curriculum standards, as provided by the USOE.

D. Written course descriptions for ~~English for Speakers of Other Languages (ESOL)~~ and ABE courses shall be developed cooperatively by school districts, CBOs and the USOE based on Utah Core curriculum standards, modified for adult learners.

E. Course descriptions shall contain adult education mastery criteria and shall stress mastery of adult life skill course material consistent with Core objective standards and the Core curriculum.

F. Course content mastery shall be stressed rather than completion of predetermined seat time in a classroom.

G. Adult high school completion education is determined by the following prerequisite courses:

- (1) ESOL competency levels one through six;
- (2) ABE competency levels one through four.

H. Beginning January 1, 2008, AHSC students shall satisfy federal AHSC Levels I and II competency requirements with a minimum of 24 credits under the direction of a Utah licensed teacher as provided below:

(1) Adult High School Core Courses, as offered consistent with Utah Core objectives:

(a) 24.0 units of credit required through satisfaction of a course of study by demonstrated course competency or school district approved competency examination in correlation with the student's SEOP career focus;

(b) awarded adult education credit options including continuous professional employment training required for a professional license; or

(c) documented achievement of a trade or skill, basic or advanced military training;

(d) apprenticeship, union or registered work credentials;

(e) successful completion of the GED exam; academic credit for successfully passing the GED exam may only be applied toward an adult education diploma;

(f) transcribed college or university courses as they align to the following Core instructional areas:

(i) Language Arts: 3.0;

(ii) mathematics: 2.0, individualized mathematics courses to meet the life needs of adult learners;

(iii) science: 2.0, from the four science areas of chemistry, biological science, earth science, or physics;

(iv) social studies: 2.50, 1.0 in United States history, .50 in United States government and civics, .50 in geography; and .50 in world civilizations;

(v) arts: 1.50;

(vi) healthy lifestyles: 2.0, individualized courses meeting the life needs of adult learners that include: .25 - 1.50 health education, .25 - 1.50 individualized fitness for life courses;

(vii) career and technical education (CTE): 1.00;

(viii) general financial literacy: .50;

(ix) education technology: .50 computer technology courses or successful completion of school district approved competency examination;

(x) electives: 9.0 units of credit.]

~~I. Through December 31, 2007, adult education students may qualify for adult education diplomas from local programs by satisfying adult education graduation requirements provided in R277-733-71 or by satisfying the requirements including prerequisites, outlined in R277-733-7H(1) through (3).~~

~~(1) English for Speakers of Other Languages (ESOL) competency levels one through six.~~

~~(2) Adult Basic Education (ABE) competency levels one through four.~~

~~(3) Adult secondary education (ASE) shall satisfy ASE competency Levels I and II requirements with a minimum of 24 credits as provided below:~~

~~(a) Adult High School General Core Courses: 13.5 units of credit required:~~

~~(i) English: 3.0;~~

~~(ii) mathematics: 2.0, elementary algebra or above;~~

~~(iii) science: 2.0, with a maximum of one credit in at least two of the following areas: chemistry; biological science; earth science; physics;~~

~~(iv) social studies: 3.0, 1.0 in United States history or American government; .5 in geography; .5 in world studies; 1.0 in elective social studies;~~

~~(v) information technology: .5;~~

~~(vi) career and technical education: 1.0;~~

~~(vii) fine arts: 1.0;~~

~~(viii) healthy life styles: 1.0.~~

~~(b) The additional 10.5 required units of credit may be satisfied with elective courses.~~

~~J. Adult education students proposing to earn an adult education diploma between January 2, 2008 and June 2008 who, due to specific, compelling circumstances, including documentation of those circumstances, are not able to satisfy graduation requirements of R277-733-7H(1) through (3), may appeal directly to the USOE Adult Education Director for a review of the compelling circumstances and the students' credits. The USOE Adult Education Director shall have sole discretion to review the students' credits and circumstances and determine if a diploma shall be awarded only through June 30, 2008.]~~

~~[K]. The USOE Adult Education Section and local education programs shall disseminate clear information regarding revised adult education graduation requirements[ to all adult education students enrolled in Utah adult education courses as of October 1, 2007].~~

J. Adult education students receiving education services in a state prison or jail education program may graduate with an adult education secondary diploma upon completion of the state required 24.0 units of credit required under R277-700 and satisfied through completed credits or demonstrated course competency consistent with students' SEOP career focus.

[E]K. Graduation requirements may be changed or modified, or both, for adult students with documented disabilities through Individual Education Plans (IEPs) from age 16 up until their 22nd birthday or an adult education SEOP, or both to meet unique educational needs.

[M]. A student's IEP or adult education SEOP shall document the nature and extent of modifications, substitutions, or exemptions made to accommodate the student's disability(ies).

[N]. Modified graduation requirements for individual students shall:

(1) be consistent with the student's IEP or SEOP, or both;

(2) be maintained in the student's files;

(3) maintain the integrity and rigor expected for AHSC graduation.

[O]. School districts shall establish policies:

(1) allowing or disallowing adult education students participation in graduation activities or ceremonies; and

(2) allowing or disallowing adult education students from participating in the Utah Basic Skills Competency Test (UBSCT).

[P]. An adult education student may only receive an Adult Education Secondary diploma earned through a designated Utah adult education program.

~~[Q]P.~~ Adult education programs shall accept credits and grades awarded to students from other state recognized adult education programs, schools accredited by the Northwest Association of Accredited Schools or schools or programs approved by the Board without alteration.

~~[R]Q.~~ Adult education programs may establish reasonable timelines and may require adequate and timely documentation of authenticity for credits and grades submitted from schools or private providers.

~~[S]R.~~ A school district/adult education program is the final decision-making authority for the awarding of credit and grades from non-accredited sources.

S. Adult education shall provide a program that allows students to transition between sites in a seamless manner.

#### **R277-733-9. Allocation of Adult Education Funds.**

Adult education state funds shall be distributed to school districts offering adult education programs consistent with the following:

A. Base amount distributed equally to each participating school district with a Board-approved adult education plan and budget - 7 percent of appropriation.

B. Enrollees (not participants) as defined in R277-733-1L - 25 percent of appropriation.

C. Contact hours (instructional and non-instructional) for both enrollees and participants - 16 percent of appropriation.

D. Measurable outcomes, outlined below, based upon state funds, shall be distributed to school districts - 50 percent of appropriation as follows:

(1) number of enrollee adult education secondary diplomas awarded - 30 percent of the 50 percent available;

(2) number of enrollee certificates of GED awarded - 25 percent of the 50 percent available;

(3) number of enrollee level gains: ESOL competency levels 1-6, ABE competency levels 1-4, and AHSC competency levels 1-2 - 30 percent of the 50 percent available;

(4) number of enrollee ~~and participant~~ adult education completed secondary credits - 15 percent of the 50 percent available.

E. Supplemental support, to be distributed to school districts for special program needs or professional development, as determined by written request and USOE evaluation of need and approval - 2 percent or balance of appropriation, whichever is smaller.

(1) Any school district with pre-approved carryover adult education funds from the previous fiscal year is ineligible for supplemental funding.

(2) For the first quarter of the fiscal year (July through September) priority of supplemental funding shall be given to school districts whose initial adult education allocation is less than 1 percent of the state allotted total, as indicated on the state allocation table.

(3) Any balance of supplemental funds after the first quarter of the fiscal year may be applied for by all remaining eligible school districts.

F. Funds, state (flow through) or federal (reimbursement) or both, may be withheld for noncompliance with state policy and procedures and associated reporting timelines as defined by the USOE.

#### **R277-733-10. Adult Education Records and Audits.**

A. Official Records: To validate student outcomes, local programs shall maintain records for each program site in perpetuity which clearly and accurately show for each student:

(1) complete student intake(s);

(2) signed data matching/agency sharing waiver(s) of release as defined under R277-733-4E.

(3) copies of student assessments validating pre and post assessment outcomes, transcribed grade data including previous report cards, transcripts, work verification, military training, professional licenses, union or registered work credentials, GED certificates showing successful passing of all five areas of the GED exam.

B. Audits:

(1) To ensure valid and accurate student data, all programs accepting either state or federal adult education funds, or both, shall be entered and maintained in the ~~[Utah Online Performance Information for Adult Education (UTopia)]~~ data system.

(2) Annually, an independent auditor shall be retained by each school district and CBO to audit student accounting records to verify UTOpia data entries.

(3) Reports of accuracy shall be completed and submitted to the school districts' boards of education, the CBOs boards' of trustees and the USOE.

(4) The USOE shall receive the final auditor report by September 15 annually.

(5) Independent audit reporting dates, forms, and procedures are available in the state of Utah Legal Compliance Audit Guide provided to the school districts and CBOs by the USOE in cooperation with the State Auditors'[s] Office and published under the heading of APPC-5.

(6) USOE Adult Education Services program staff shall conduct tri-annual program reviews of each program to ensure accuracy of program data and program compliance. Desk monitoring shall be completed during years when tri-annual reviews are not performed. Additional informal monitoring or reviews or site visits may be conducted as necessary.

(7) The USOE shall review for cause school district or CBO records and practices for compliance with the law and this rule.

#### **R277-733-11. Advisory Council.**

A. The State Superintendent of Public Instruction or designee shall represent Adult Education programs on the Department of Workforce Services State Council as a voting member.

B. Adult education programs shall participate on or establish and maintain a local interagency advisory council consisting at a minimum of partner agencies including the Department of Workforce Services, the State Office of Rehabilitation, higher education, the Utah College of Applied Technology, industry and community representation, and other appropriate agencies with the purpose of supporting the mission of adult education in Utah.

**KEY: adult education**

**Date of Enactment or Last Substantive Amendment: ~~[December 26, 2007]~~2008**

**Notice of Continuation: October 5, 2007**

**Authorizing, Implemented, or Interpreted Law: Art X Sec 3; 53A-15-401; 53A-1-402(1); 53A-1-401(3); 53A-1-403.5; 53A-17a-119; 53A-15-404**



Education, Administration  
**R277-735**  
 Standards and Procedures for  
 Corrections Education Programs  
 Serving Inmates of the Utah  
 Department of Corrections

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE No.: 31837

FILED: 08/14/2008, 15:46

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to align state and federal laws and regulations.

SUMMARY OF THE RULE OR CHANGE: The amendments provide for updated definitions, program standards, fiscal procedures, pupil accounting, curriculum standards, and data management standards.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-1-403.5 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 are primarily to update and align state and federal laws and regulations. Outdated practices are deleted and terminology is updated.
- ❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government. The changes are primarily to update and align state and federal laws and regulation and funding continues to be provided for Corrections Education programs. Funding is provided at the state level to be carried out locally.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated costs or savings to small businesses and persons other than businesses. The changes are primarily to update and align state and federal laws and regulations and state and federal funding continues to be provided for Corrections Education programs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The changes are primarily to update and align state and federal laws and regulations and funding continues to be provided for Corrections Education programs.

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 10/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2008

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

**R277. Education, Administration.**

**R277-735. [~~Standards and Procedures for~~]Corrections Education Programs[~~Serving Inmates of the Utah Department of Corrections~~].**

**R277-735-1. Definitions.**

- A. "Board" means the Utah State Board of Education.
- B. "Inmate" means ~~[a person]~~an offender who is ~~[in the custody of the Utah Department of Corrections]~~incarcerated in state or county correctional facilities. Inmates may be housed in various locations throughout the state of Utah.
- C. "Custody" means the status of being legally in the control of another adult person or a public agency.
- ~~[D. "Recidivism Reduction Service Program" means an inmate service program consisting of at least nine components (Inmate Assessment, Cognitive Problem Solving Skills, Basic Literacy Skills, Career Skills, Job Placement, Post release Tracking and Support, Research and Evaluation, Family Involvement and Support, and Multi agency Collaboration) collaboratively planned and implemented by a minimum of the following agencies: appropriate local boards of education, Department of Corrections, Department of Employment Security, Department of Human Services, Board of Pardons, State Office of Rehabilitation, State Board of Regents, and the Governor's Office.~~
- ~~E. "Individual Development Plan" means a comprehensive inmate service plan developed collaboratively by state service agencies.~~
- ~~F. "Individual Educational Plan" means a written individual inmate educational service plan which is a part of the Individual Development Plan.]~~ D. "English for Speakers of Other Languages (ESOL)" is an instructional program provided for non-native language speakers.
- E. "Teaching of English to Speakers of Other Languages (TESOL)" means a credential for teachers of ESOL.
- ~~[G]E. "USOE" means the Utah State Office of Education.~~
- G. "UTopia" means Utah Online Performance Indicators for Adult Education statewide database.

**R277-735-2. Authority and Purpose.**

- A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and authority over public education in the Board, by Section 53A-1-403.5 which makes the Board directly responsible for the education of inmates in custody

and Section 53A-1-401(3) which allows the Board ~~and Board of Regents~~ to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to specify operation standards and procedures for inmates in ~~[custody]~~corrections education programs ~~that are the responsibility of the public school system.~~

~~C. Corrections education programs shall be consistent with R277-733, Adult Education Programs.~~

**~~[R277-735-3. Student Evaluation and Educational Plan.~~**

~~A. Each student meeting the definition of an inmate in custody shall be evaluated upon initial entry into custody of the Department of Corrections and as needed thereafter for the purposes of determining needed services to meet requirements for a reduction in the inmate recidivism rate.~~

~~B. The institution receiving the student is responsible for obtaining the student's evaluation records, and, in cases where the records are not current, for conducting necessary evaluation as quickly as possible.~~

~~C. Based upon the results of the student evaluation, an appropriate individual development plan and individual educational plan shall be prepared for each inmate in custody.~~

~~(1) Each inmate educational plan shall be reviewed and made current at least once each year or immediately following transfer of a student from one institution to another whichever is sooner.~~

~~(2) The plans shall be developed in collaboration with representatives of other appropriate service agencies working with the respective students.~~

~~D. Selected student educational plans shall be part of a written inmate Recidivism Reduction Service Program.~~

~~(1) The Recidivism Reduction Service Program shall specify the responsibilities of each of the agencies towards the students.~~

~~(2) The Plan shall be signed by each agency's representative and the inmate.~~

~~E. Educational Programs~~

~~(1) The appropriate (or designated) educational agency shall provide an educational program for the student which conforms as closely as possible to the student's individual educational plan.~~

~~(2) Educational services shall be provided in the least restrictive environment appropriate for the student's behavior and educational performance.~~

~~(3) Educational programs to which inmates in custody are assigned shall meet the standards adopted by the Board for that type program.~~

~~(4) Compliance of service plans shall be monitored by the USOE in periodic review visits.~~

~~(5) Educational services shall be sufficiently coordinated with non-custody programs to enable inmates in custody to continue their education with minimal disruption following discharge from custody.~~

~~(6) Custodial status alone does not qualify a student as being disabled under laws regulating education or educational programs for persons with disabilities.~~

~~F. Admission into Educational Programs~~

~~Inmates in custody shall be admitted to classes within resources available within ten school days following arrival at a new residential placement.~~

~~G. When a student inmate is transferred to a new program, the sending program shall make all available school records current and forward them to the receiving program within one week following notification of release or transfer.~~

~~H. When a student inmate is released from custody, educational records shall only be available through standard signed release procedures.~~

**~~R277-735-[4]3. Procedures for Providing Services.~~**

~~A(1) The Board may contract with local school [districts]boards, state post-secondary educational institutions, other state agencies, or private providers of the local boards' choosing to provide educational services for inmates[~~in custody~~].~~

~~(2) The respective responsibilities of the Board, [the] local school [districts]boards, and other service providers for education shall be established by letters of agreement or contracts.~~

~~(3) A district may sub-contract with local educational service providers for the provision of educational services to students.~~

~~(4) Educational services shall be provided in the appropriate environment for the student's behavior and educational performance.~~

~~(5) Educational programs to which inmates are assigned shall meet the standards adopted by the Board for that type of program.~~

~~(6) Educational programs shall be monitored by the USOE in periodic review visits.~~

~~(7) Educational services shall be sufficiently coordinated with non-custody programs to enable inmates in custody to continue their public school education with minimal disruption following discharge from custody.~~

~~(8) Custodial status alone does not qualify an individual for services under the Individuals with Disabilities Act (IDEA), 20 U.S.C. Sec. 1400 et seq., amended in 2004.~~

~~[B.] Inmates receiving educational services by or through a school district become students of that district for funding purposes. [B.] When a student inmate is transferred to a new program, the sending program shall update and finalize all school records in UTopia releasing the student's records as soon as possible after receiving notice of the transfer.~~

~~C. When a student inmate is released from custody, educational records shall only be available consistent with the Family Education Rights and Privacy Act (FERPA), 20 U.S.C. Section 1232g; 34 CFR Part 99.~~

~~[C]D. Funding~~

~~(1) Inmates receiving educational services by or through a school district become students of that school district for funding purposes.~~

~~(1)[2] State funds appropriated to the USOE for [inmates in custody]corrections education shall be allocated to districts on the basis of annual applications.~~

~~(2)[3] The funds distributed to a district shall be based upon criteria which include:~~

- ~~(a) the number of inmates in custody served in the district;~~
- ~~(b) the type of services provided to the inmates;~~
- ~~(c) the setting for providing services; and~~
- ~~(d) the length of the program[~~and~~~~

~~(e) evidence of a reduced rate of inmate return to prison].~~

~~[D]E. Funds approved for [inmates in custody]corrections education projects can be expended only for the purposes described in the respective funding application.~~

~~[E]F. Unexpended funds may [not]only be carried over from one fiscal year to the next[~~except by~~] with specific approval of the Board or its designee.[~~

~~F. Federal funds provided to the USOE for use by school districts under Title I of the Improving America's Schools Act of 1994, P.L. 103-382, Title I, Part D, Catalogue of Federal Domestic~~



~~Assistance #84.013A, for the education of inmates in custody shall be allocated in accordance with Subsection R277-735-4C. These materials are available at the State Office of Education in the Deputy Superintendent's Office.]~~

G. The Board, or its designee, shall adopt uniform pupil and fiscal accounting procedures, forms, and deadlines for ~~[inmates in custody]~~ correctional education programs.

H. Program Staff

(1) Education staff assigned to provide education services ~~[inmates in custody]~~ shall be qualified and appropriate for their assignments.

(2) ~~[The teaching certificate and endorsement held by a staff member shall be important in evaluating the appropriateness of a teacher's assignment, but not controlling. For instance, elementary teachers may teach secondary age students who are functioning at an elementary level in certain subjects.]~~ The teaching certificate and endorsement held by a staff member or a person assigned to teach in a prison or jail shall be important in evaluating the appropriateness of the teacher's assignment, but not controlling. For example, elementary teachers may teach secondary age students who are academically performing at an elementary level in certain subjects. Persons teaching an adult education high school completion course shall hold a valid Utah elementary or secondary education license and may issue adult education high school completion credits in multiple subjects. Non-licensed individuals providing instruction in ESOL, Adult Basic Education (ABE) or Adult High School Completion (AHSC) classes shall instruct under the supervision of a licensed program employee.

(3) Persons with a post-secondary degree in adult education but are not in possession of a Utah teaching certificate may be considered for employment solely in an adult education program teaching adult students following the completion of a student teaching field experience in an accredited adult education program.

(4) Persons with TESOL or ESOL credentials may be considered for employment solely in a adult education program teaching adult students following the completion of a student teaching experience in an accredited adult education program.

**R277-735-4. Program, Curriculum, Outcomes and Student Mastery.**

A. Adult education shall provide a program that allows students to transition between sites in a seamless manner.

B. Adult education students receiving education services in a state prison or jail education program may graduate with a school district adult education secondary diploma upon completion of the state required 24.0 units of credit required under R277-700 and satisfied through completed credits or demonstrated course competency consistent with students' SEOP career focus.

C. Graduation requirements may be changed or modified, or both, for adult students with documented disabilities through Individual Education Plans (IEPs) consistent with IDEA.

D. Modified graduation requirements for individual students shall:

(1) be consistent with the student's IEP or SEOP, or both;

(2) be maintained in the student's files;

(3) maintain the integrity and rigor expected for AHSC graduation.

**R277-735-5. Confidentiality.**

A. Transcripts and diplomas prepared for inmates in custody shall be issued in the name of the contracted educational agency

which also provides service to non-custodial ~~[inmates]~~ offenders and shall not bear reference to custodial status.

B. School records which refer to custodial status, inmate court records, and related matters shall be kept separate from permanent school records and shall be destroyed or may be sealed upon order of a court of competent jurisdiction.

C. Access to Student Records

(1) Staff ~~[which]~~ who design and oversee individual student plans shall have access to all appropriate records relevant to the student's education.

(2) Information obtained from records remains the property of the supplying agency and shall not be transferred or shared with other persons or agencies without the permission of the supplying agency, consistent with Section ~~[63-2-206]~~ 63G-2-206.

(3) Access to and provision of student records or transcripts shall be consistent with state and federal law.[

**R277-735-6. Advisory Council.**

~~Local educational agencies serving inmates in custody shall collaborate to establish a local interagency advisory council of all service groups which shall be responsible for the provision of services and programs to inmates in their service areas.]~~

**KEY: public education, custody[\*], inmates[\*]**

**Date of Enactment or Last Substantive Amendment: [January 5, 1999]2008**

**Notice of Continuation: January 5, 2004**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-403.5; 53A-1-401(3)**



Education, Rehabilitation  
**R280-150**  
Adjudicative Proceedings Under the  
Vocational Rehabilitation Act

**NOTICE OF PROPOSED RULE**

(Repeal and Reenact)

DAR FILE No.: 31838

FILED: 08/14/2008, 15:47

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is repealed and reenacted to eliminate duplicate processes and to specify standards and procedures for adjudication of disputes under the Vocational Rehabilitation Act.

**SUMMARY OF THE RULE OR CHANGE:** The reenacted rule removes Sections R280-150-3 through R280-150-15 and adopts and incorporates by reference procedures for adjudicative proceedings consistent with 34 CFR 361.57, 2007 edition.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 53A-24-103 and Subsection 53A-1-401(3)

**THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL:** 34 CFR 361.57, 2007 edition

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There are no anticipated costs or savings to the state budget. The reenacted rule incorporates by reference the federal process for adjudicative proceedings under which the State Office of Rehabilitation operates.
- ❖ LOCAL GOVERNMENTS: There are no anticipated costs or savings to local government entities. The reenacted rule incorporates by reference the process for adjudicative proceedings under which the State Office of Rehabilitation will operate.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: There are no anticipated costs or savings to small businesses and persons other than businesses. The reenacted rule incorporates by reference the the federal process for adjudicative proceedings under which the State Office of Rehabilitation operates.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The reenacted rule incorporates by reference the federal process for adjudicative proceedings under which the State Office of Rehabilitation operates.

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  
REHABILITATION  
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 10/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2008

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

**R280. Education, Rehabilitation.**

**R280-150. Adjudicative Proceedings Under the Vocational Rehabilitation Act.**

**[R280-150-1. Definitions.**

~~—A. This rule incorporates by reference Section 63-46b-2, U.C.A. 1953.~~

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

~~—C. "Presiding officer" means, in addition to the definition of 63-46b-2(1)(h), any person designated by the Division to serve as the presiding officer.~~

~~—D. "Director" means the Director of the Division of Rehabilitation Services or the Director of the Division of Services for the Visually Handicapped.~~

~~—E. "Division" means the Division of Rehabilitation Services or the Director of the Division of Services for the Visually Handicapped.~~

~~—F. "Fair hearing" means the requirement for adjudicative proceedings under Section 63-46b-4, U.C.A. 1953, and the Vocational Rehabilitation Act.~~

**~~R280-150-2. Authority and Purpose.~~**

~~—A. This rule is authorized by Section 63-46b-1(5), U.C.A. 1953, which allows the Board to promulgate rules, which are in conformity with Chapter 46b, Title 63, affecting or governing its adjudicative proceedings.~~

~~—B. The purpose of this rule is to specify how adjudicative proceedings are conducted under state and federal Vocational Rehabilitation Acts administered by the Board.~~

**~~R280-150-3. Initial Determination.~~**

~~—A. Initial action taken to determine the legal rights, duties, privileges, immunities, or other legal interests of persons under state and federal Vocational Rehabilitation Acts is comprised of a decision and resolution of concerns regarding the decision.~~

~~—B. (1) any applicant or client unable to resolve concerns surrounding a decision with his or her counselor may ask the appropriate District Director to resolve his or her concerns regarding the decision. A member of the supervisory staff of the agency is assigned to re-examine the counselor's decision. The request for review shall describe the decision and facts and reasons for re-examination. The supervisory staff member shall not have participated in making the decision in question.~~

~~—(2) a written decision regarding the issues in question shall be mailed to the party making the request and other appropriate persons no later than 10 days following the conclusion of the re-examination. The decision shall include notice to the party of the right to administrative review of the decision under the Utah Administrative Procedures Act and this rule.~~

**~~R280-150-4. Commencement of Adjudicative Proceedings.~~**

~~—A. This rule incorporates by reference Section 63-46b-3, U.C.A. 1953.~~

~~—B. Any party to an initial determination made under this rule may initiate a fair hearing on the matter by sending to the Director a written request for a hearing which contains the information required by Section 63-46b-3(3)(a). The request must be received by the Director within 30 days of the date on which a decision rendered on the matter under R280-150-3(B)(2) was sent to the party making the request.~~

~~—C. The Director may initiate a fair hearing by filing notice of the action as required by Section 63-46b-3(2)(a), U.C.A. 1953 and relevant federal law.~~

~~—D. Any party may be represented by counsel or by another person of his or her choice at any time in any fair hearing.~~

**R280-150-5. Designation of Adjudicative Proceedings as Formal or Informal.**

— A. This rule incorporates by reference Section 63-46b-4, U.C.A. 1953.

— B. All fair hearings commenced under this rule are initially designated as informal. The presiding officer designated for the hearing may convert a formal hearing to informal and vice versa under Section 63-46b-4(3), U.C.A. 1953.

— C. All informal fair hearings shall be conducted as informal hearings on the record.

**R280-150-6. Procedures for Informal Fair Hearings.**

— A. This rule incorporates by reference Section 63-46b-5, U.C.A. 1953.

— B. No answer is required of a respondent in an informal fair hearing. The respondent may file with the presiding officer a response containing the information required by Section 63-46b-6, U.C.A. 1953 and any evidence related to the matter.

— C. The Division shall only hold a hearing if a party to the matter requests a hearing:

— (1) under R280-150-4(B); or

— (2) within 30 days of receiving notice issued under R280-150-4(C).

— The party requesting the hearing shall be notified in writing within ten working days of when the request is received as to the date, time, and place of the hearing.

— D. Intervention is prohibited unless required by a federal or state statute applicable to the matter.

— E. A record of all aspects of the informal fair hearing shall be maintained.

**R280-150-7. Procedures for Formal Hearings—Responsive Pleadings.**

— A. This rule incorporates by reference Section 63-46b-6, U.C.A. 1953.

— B. The requirement that a respondent must respond within 20 days may be waived by the presiding officer for good cause or may be changed to meet the requirements of federal law applicable to the matter.

— C. The response shall be filed in a manner that provides for the information required by Section 63-46b-6, U.C.A. 1953.

— D. The presiding officer may permit or require any pleadings which will provide for the fair and efficient conduct of the fair hearing.

**R280-150-8. Procedures for Formal Fair Hearings—Discovery, Subpoenas, Motions, and Prehearing Conferences.**

— A. This rule incorporates by reference Section 63-46b-7, U.C.A. 1953.

— B. (1) The presiding officer may, upon written notice to all parties of record, hold a prehearing conference for the purpose of:

— (a) formulating or simplifying the issues;

— (b) obtaining admissions of fact and of documents which will avoid unnecessary proof;

— (c) arranging for the exchange of proposed exhibits or prepared expert testimony and procedure at the hearing;

— (d) agreeing to other matters that may expedite the orderly conduct of the proceedings or the settlement; or

— (e) obtaining a settlement of the matter.

— (2) agreements reached during a prehearing conference are recorded in an appropriate order.

— C. The presiding officer may permit or require parties to file motions, other pleadings, affidavits, briefs, or other materials relevant to the action in order to provide for the fair and efficient conduct of the adjudicative proceeding.

**R280-150-9. Procedure for Formal Fair Hearings—Hearings Procedure.**

— A. This rule incorporates by reference Section 63-46b-8, U.C.A. 1953.

— B. The party requesting the hearing shall be notified in writing within ten working days of when the request is received as to the date, time, and place of the hearing.

**R280-150-10. Procedure for Formal Fair Hearings—Intervention.**

— This rule incorporates by reference Section 63-46b-9, U.C.A. 1953.

**R280-150-11. Procedures for Formal Fair Hearings—Orders.**

— A. This rule incorporates by reference Section 63-46b-10, U.C.A. 1953.

— B. The written decision shall be mailed to all parties within 30 days of the date of the hearing.

**R280-150-12. Default.**

— A. This rule incorporates by reference section 63-46b-11, U.C.A. 1953.

— B. A party to an informal fair hearing is deemed to have failed to participate in the adjudicative proceeding if:

— (1) that party does not attend, either in person or by representation, any hearing, conference, or other meeting on the matter at which his or her presence is requested or which that party has requested; or

— (2) that party does not respond, when requested, to any correspondence or communication made in connection with the matter by the presiding officer, Director, or the Board.

**R280-150-13. Reconsideration.**

— A. This rule incorporates by reference Section 63-46b-13, U.C.A. 1953, except that, in accordance with section 102 of the federal Vocational Rehabilitation Act, the time within which the request for reconsideration must be filed is 20 days.

— B. (1) the Director may reconsider any fair hearing on his or her own initiative. All parties are notified within 20 days of the mailing of the presiding officer's decision of the Director's intent to reconsider.

— C. The Director issues a decision on the matter within 30 days after the filing of the request for, or sending the notice of, reconsideration. The review is based on the record of the fair hearing.

— D. Enforcement of a presiding officer's order is stayed during the reconsideration period.

**R280-150-14. Judicial Review.**

— A. This rule incorporates by reference Section 63-46b-18, U.C.A. 1953.

— B. A party requesting a stay of its order or temporary remedy during the pendency of judicial review shall petition the Director for such. The Director shall within a reasonable time issue an order either granting or denying the stay. The order shall state the reasons for the grant or denial.

**R280-150-15. Declaratory Orders.**

~~— A. This rule incorporates by reference Section 63-46b-21, U.C.A. 1953.~~

~~— B. A request for a declaratory order shall be filed on a form, Request for a Declaratory Order, provided by the Division which is hereby incorporated by reference, or submitted in writing in a manner that contains all the information on the form. If it appears to the Director upon the filing of the request that the matters requested in the petition are not within the jurisdiction or adjudicative powers of the Division, the Director need not take further action on the matter. It shall notify the petitioner of the reasons why the request is denied and of the procedures to obtain reconsideration of the decision. If it appears to the Director upon the filing of the request that the matters requested in the petition are within the jurisdiction or adjudicative power of the Division, the Director shall appoint a presiding officer for the matter.~~

~~— C. The presiding officer has the discretion to issue an order making any provision of Sections 63-46b-4 through 63-46b-13, U.C.A. 1953, apply to the proceeding to issue the declaratory order. The presiding officer shall conduct the proceeding in a fair and efficient manner.~~

~~— D. The Director shall not issue a declaratory order in the following instances:~~

~~— (1) issuance of an order is not under circumstances in which both the public interest and the interests of the parties are protected;~~

~~— (2) the critical facts are not clear and may be altered by subsequent events;~~

~~— (3) the party making the request is unable to show real risk will be confronted if the intended course of conduct is taken.~~

~~— E. Parties which meet the requirements of Section 63-46b-10, U.C.A. 1953, may intervene in a declaratory action upon filing a petition to intervene within ten days of the filing of the request for declaratory action. Section 63-46b-10 and Section 9 of this rule govern intervention in proceedings to issue declaratory orders.]~~

**R280-150-1. Definitions.**

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

**R280-150-2. Authority and Purpose.**

~~— A. This rule is authorized by 53A-24-103 which places the Utah State Office of Rehabilitation under the policy direction of the Board and under the direction and general supervision of the Superintendent of Public Instruction, 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 standards and procedures for adjudication of disputes under the Vocational Rehabilitation Act.~~

**R280-150-3. Standards and Procedures.**

~~— A. As its rules for adjudicative proceedings under the Vocational Rehabilitation Act, the Board adopts and hereby incorporates by reference: 34 C.F.R. 361.57, 2007 edition, which adopts, defines, and publishes procedures for review of state rehabilitation service decisions, including alternative dispute resolution through mediation; and~~

~~— B. The Board shall act in accordance with:~~

~~(1) Subsection V of the Rehabilitation Act of 1973, 29 U.S.C.A. 794; and~~

~~(2) The Utah State Office of Rehabilitation Case Service Manual, Chapter 21, approved on May 9, 2008.~~

**KEY: administrative procedures, rules and procedures**

**Date of Enactment or Last Substantive Amendment: [1988]2008**

**Notice of Continuation: August 10, 2004**

**Authorizing, and Implemented or Interpreted Law: [63-46b]53A-24-103; 53A-1-401(3)**



## Health, Health Systems Improvement, Child Care Licensing **R430-6** Background Screening

**NOTICE OF PROPOSED RULE**

(Repeal and Reenact)

DAR FILE NO.: 31820

FILED: 08/14/2008, 14:32

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This change is in response to requests from the child care provider community to allow individuals with certain Misdemeanor A crimes that occurred over ten years ago to be employed in regulated child care programs.

**SUMMARY OF THE RULE OR CHANGE:** The change allow individuals with Misdemeanor A convictions for offenses that would not prohibit an individual from being employed in a regulated child care programs if the level of Misdemeanor had been B or C, if it has been ten years or more since the disqualifying Misdemeanor A offense. In addition, if the offense is more than 5 years old, but less than 10 years, a 6-month period of supervised employment is allowed to give the person time to have the offense expunged.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 26, Chapter 39

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** The agency does not anticipate any cost or savings to state budget, because this rule change does significantly increase or decrease the workload for state employees who regulate child care facilities, or who conduct background screenings related to those facilities.

❖ **LOCAL GOVERNMENTS:** If a local government operates a child care program, they may see a savings resulting from being able to employ some individuals they would not have been able to employ otherwise. Because the agency has no way of knowing the number of individuals seeking employment that would be affected by this change, we cannot reasonably estimate the cost savings to local governments.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** All child care programs are small businesses. These programs may see a savings resulting from being able to employ some individuals they would not have been able to employ otherwise. Because the agency has no way of knowing the number of individuals seeking employment that would be affected by this change, we cannot reasonably estimate the cost savings to local governments.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because this change does not increase any of the requirements for employment in a regulated child care program, there will be no compliance costs for affected programs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: More people will be able to be employed in child care and this should have a positive fiscal impact. 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 10/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/15/2008

AUTHORIZED BY: David N. Sundwall, Executive Director

## **R430. Health, Health Systems Improvement, Child Care Licensing.**

### **R430-6. Background Screening.**

#### **~~R430-6-1. Authority.~~**

~~— (1) The Utah Code, Section 26-39-107, requires that a Bureau of Criminal Identification (BCI) screening be conducted on each person requesting a license or residential certificate or to renew a license or certificate for existing, new, and proposed owners, directors, members of the governing body, employees, providers of care and volunteers, except parents of children enrolled in the child care program.~~

~~— (2) Utah Code, Section 26-39-104, requires the Department to make and enforce rules to protect children's common needs for a safe and healthy environment and provide for competent care givers. The Department shall review the licensing information system for licensing and certification purposes pursuant to Section 62A-4a-116.2 to screen for individuals who may have a supported finding of severe abuse and neglect by the Department of Human Services or substantiated finding by a Juvenile court under Subsection 78-3a-320.~~

#### **R430-6-2. Purpose.**

~~The purpose of the screening process using the BCI criminal background and child and adult licensing information system is to protect children receiving services in a child care program. The criminal background screening process determines whether a~~

~~covered individual has been convicted of any crime. In addition, the Department screens all individuals using the licensing information system and court records under Subsection 78-3a-320(4) which is limited to:~~

- ~~— (1) supported findings of severe abuse or neglect;~~
- ~~— (2) an adjudication of severe child abuse or neglect by a court of competent jurisdiction; and~~
- ~~— (3) any criminal conviction or guilty plea related to neglect, physical abuse, or sexual abuse of any person.~~

#### **R430-6-3. Definitions.**

~~Terms used in this rule are defined in Title 26, Chapter 39. In addition:~~

- ~~— (1) "Convicted" includes a conviction by a jury or court, a deferred judgment and sentence agreement, a deferred prosecution agreement, a deferred adjudication agreement, a plea in abeyance, and a plea of guilty or nolo contendere.~~
- ~~— (2) "Covered Individual" means:~~
  - ~~— (a) owners;~~
  - ~~— (b) directors;~~
  - ~~— (c) members of the governing body;~~
  - ~~— (d) employees;~~
  - ~~— (e) providers of care, including children residing in a home where child care is provided;~~
  - ~~— (f) volunteers, excluding parents of children enrolled in the program; and~~
  - ~~— (g) all adults residing in a residence where child care is provided.~~
- ~~— (3) "Department" means the Utah Department of Health.~~
- ~~— (4) "Direct supervision" means that the care giver can see and hear the children under age six, and is near enough to intervene when needed. Care givers must be able to hear school age children and be near enough to intervene.~~
- ~~— (5) "Supported" means a finding by the Utah Department of Human Services (DHS), at the completion of an investigation by DHS, that there is a reasonable basis to conclude that one or more of the following severe types of abuse or neglect has occurred:~~
  - ~~— (a) if committed by a person 18 years of age or older;~~
    - ~~— (i) severe or chronic physical abuse;~~
    - ~~— (ii) sexual abuse;~~
    - ~~— (iii) sexual exploitation;~~
    - ~~— (iv) abandonment;~~
    - ~~— (v) medical neglect resulting in death, disability, or serious illness;~~
    - ~~— (vi) chronic or severe neglect; or~~
    - ~~— (vii) chronic or severe emotional abuse~~
  - ~~— (b) if committed by a person under the age of 18:~~
    - ~~— (i) serious physical injury, as defined in Subsection 76-5-109(1)(d) to another child which indicates a significant risk to other children; or~~
    - ~~— (ii) sexual behavior with or upon another child which indicates a significant risk to other children.~~
- ~~— (6) "Unsupervised Contact" means contact with children that provides the unsupervised person opportunity and probability for personal communication or touch when not under the direct supervision of a child care provider or employee.~~
- ~~— (7) "Volunteer" means an individual who is not directly compensated for providing care whose duties assigned by a child care provider or employee include unsupervised contact in a child care facility with children or food consumed by children on a regularly scheduled basis of one or more times per month.~~

**~~R430-6-4. Exclusions from Criminal Background Screening, Emergency-Care Providers.~~**

~~In an emergency, not anticipated in the provider's emergency plan, a provider may assign a person who has not had a criminal background screening to care for and have unsupervised contact with children.~~

~~(1) That person shall make a signed, written declaration to the provider that the person has not been convicted of a felony or misdemeanor and has not been investigated with a supported finding from the Department of Human Services.~~

~~(2) During the term of the emergency, that person may be counted as a provider of care for purposes of maintaining the required care provider to child ratios.~~

~~(3) The provider shall make reasonable efforts to minimize the time that this person has unsupervised contact with children.~~

**~~R430-6-5. Criminal Background Screening through the Utah Division of Criminal Investigation and National Criminal History Records.~~**

~~(1) Each child care provider requesting a residential certificate or license or to renew a license or residential certificate to provide child care shall submit to the Department the name and other identifying information on all covered individuals involved with the child care facility at the time the application is filed. A fingerprint card, waiver and fee, prepared either by the local law enforcement agency or an agency approved by local law enforcement, shall also be submitted unless an exception is granted under (4) below.~~

~~(2) The request for a certificate or a license submitted by the provider shall require the provider to state in writing, based upon the provider's best information and belief, that no covered person, including the provider's own children, has ever been convicted of a felony, misdemeanor or had a consent to a supported finding from DHS or a substantiated finding from a juvenile court of severe abuse or neglect of a child. If the provider is aware of any such conviction or supported or substantiated finding, the Department shall obtain information from the provider to assess the threat to children consistent with R430-6-6.~~

~~(3) After a license or certificate is issued or renewed, within five days of a new covered individual becoming involved with a child care facility, the child care facility licensee or certificate holder must submit the identifying information. A fingerprint card, waiver and fee, prepared either by the local law enforcement agency or an agency approved by local law enforcement, shall also be submitted unless an exception is granted under (4) below.~~

~~(4) Fingerprint cards are not required if the Department is reasonably satisfied that:~~

~~(a) the covered individual has resided in Utah for the last five years;~~

~~(b) the covered individual has previously submitted fingerprints under this section for a national criminal history record check and has resided in Utah continuously since that time; or~~

~~(c) as of May 3, 1999, the covered individual was involved with a child care facility in a covered individual capacity and has resided in Utah continuously since that time.~~

~~(5) If a covered individual has resided in Utah for the last five years, except for religious or military service out of state, the covered individual shall submit to the Department a letter from their clergy or commanding officer documenting that the covered individual was not convicted of any felony or misdemeanor during the time period of the religious or military service. The covered individual shall then be deemed to have resided in Utah for the last five years and not be required to submit fingerprint cards.~~

~~(6) The Department shall perform a criminal background screening, which includes a review of the BCI database maintained by the Department of Public Safety pursuant to Part 2 of Chapter 10, Title 53; and if a fingerprint card, waiver and fee were submitted; the Department shall forward the fingerprint card, waiver and fee to the Utah Department of Public Safety for submission to the FBI for a national criminal history record check.~~

~~(7) If the BCI portion of the criminal background screening indicates that the covered individual has a conviction for a felony or misdemeanor, regardless of any exception under (4) above, the covered individual shall submit a fingerprint card, waiver and fee upon request by the Department.~~

~~(8) The Department shall review any criminal convictions, consistent with R430-6-6, to determine if action should be taken to protect the health and safety of children receiving child care in the facility.~~

~~(9) If the Department takes an action adverse to any covered individual, based upon the criminal background screening, the Department shall send a written decision to the child care provider and the covered individual explaining the action and the right of appeal.~~

**~~R430-6-6. Exclusion from Child Care Due to Criminal Convictions or Pending Charges.~~**

~~(1) As required by Utah Code Ann. Subsection 26-39-107(2), if the criminal conviction was a felony, or is a misdemeanor that is not excluded under paragraphs (2) or (3) below, the covered individual may not provide child care, volunteer, or own or operate a child care program with a license or certificate issued by the Department. If such a covered individual resides in a home where child care is provided, the Department shall revoke an existing license or certificate and refuse to permit child care in the home.~~

~~(2) As allowed by Utah Code Ann. Subsection 26-39-107(3)(a), the Department hereby excludes the following misdemeanors and determines that a misdemeanor conviction listed below does not disqualify a covered individual from providing child care:~~

~~(a) any class B or C conviction under Chapter 6, Title 76, Offenses Against Property, Utah Criminal Code;~~

~~(b) any class B or C conviction under Chapter 6a, Title 76, Pyramid Schemes, Utah Criminal Code;~~

~~(c) any class B or C conviction under Chapter 8, Title 76, Offenses Against the Administration of Government, Utah Criminal Code;~~

~~(d) any class B or C conviction under Chapter 9, Title 76, Offenses Against Public Order and Decency, Utah Criminal Code, except for 76-9-301.8, Bestiality; 76-9-702, Lewdness; and 76-9-702.5, Lewdness Involving Child; and~~

~~(e) any class B or C conviction under Chapter 10, Title 76, Offenses Against Public Health, Welfare, Safety and Morals, Utah Criminal Code, except for 76-10-1201 to 1229.5, Pornographic and Harmful Materials and Performances; 76-10-1301 to 1314, Prostitution; and 76-10-2301, Contributing to the Delinquency of a Minor.~~

~~(3) Only the Executive Director may consider and approve individual cases where a covered individual with a misdemeanor conviction will be allowed to provide child care, that would otherwise be excluded by this rule. This authority may not be delegated.~~

~~(4) The covered individual shall supply at a minimum the following in support of the request for action by the Executive Director:~~

~~(a) three sworn and notarized witness letters of personal reference attesting to the rehabilitation; and~~

~~(b) a copy of the police report and the court report.~~

~~—(5) The Department shall rely on the criminal background screening as conclusive evidence of the conviction and the Department may revoke or deny a license, certificate and employment based on that evidence.~~

~~—(6) If the covered individual is denied a license, certificate or employment based upon the criminal background screening and the covered individual disagrees with the information provided by the Criminal Investigations and Technical Services Division, the covered individual may challenge the information as provided in Utah Code Ann. Sections 77-18-10 through 77-18-15.~~

~~—(7) All child care providers must report all felony and misdemeanor arrests, charges or convictions of covered individuals to the Department within 48 hours.~~

#### **R430-6-7. Licensing Information System.**

~~—(1) Pursuant to Utah Code Subsection 26-39-104(1)(a)(ii) the Department shall screen all covered individuals, including children residing in a home where child care is provided, for a history of supported finding of severe abuse, neglect, or exploitation from the licensing information system maintained by the Utah Department of Human Services (DHS) and the juvenile court records.~~

~~—(2) If a covered individual appears on the licensing information system, the Department shall assess the threat to the safety and health of children. The Department may revoke any existing license or certificate and refuse to permit child care in the home until the Department is reasonably convinced that the covered individual no longer resides in the home.~~

~~—(a) Upon request, the Department may permit the covered individual to be employed under supervision until a decision is reached, and if the applicant can demonstrate that the work arrangement does not pose a threat to the safety and health of children being served in the licensed or residential certificate child care setting.~~

~~—(b) The Department may hold the license, certificate or employment denial in abeyance until DHS or the Juvenile court renders a decision, while the covered individual appeals the supported finding.~~

~~—(3) If the Department denies or revokes a license, certificate or employment based upon the licensing information system, the Department shall send a written decision to the licensee and the covered individual.~~

~~—(4) If the covered individual disagrees with the supported finding of severe abuse or neglect, any appeal must be directed to and follow the process established by Subsection 62A-4a-116.1. If the covered individual consents to the supported finding of severe abuse or neglect that was the basis of the Department's denial or revocation, but disagrees with the action taken by the Department, the covered individual may request a hearing with the Department.~~

~~—(5) If the DHS determines a covered individual has a supported finding of severe abuse, neglect or exploitation after the Department issues a license, certificate or grants employment; the licensee and covered individual has five working days to notify the Department. Failure to notify the Department may result in revocation of the license or certificate.~~

#### **R430-6-8. Covered Individuals with Arrests or Pending Criminal Charges.**

~~—(1) If the Department determines there exists credible evidence that a covered individual has been arrested or charged with a felony or a misdemeanor that would not be excluded under R430-6-6(2), the Department shall act to protect the health and safety of children in child care that the covered individual may have contact with. The~~

~~Department may revoke or suspend any license or certificate of a provider if necessary to protect the health and safety of children in care.~~

~~—(2) If the Department denies or revokes a license, certificate or restricts employment based upon the arrest or felony or misdemeanor charge, the Department shall send a written decision to the licensee and the covered individual notifying them that a hearing with the Department may be requested.~~

~~—(3) The Department may hold the license, certificate or employment denial in abeyance until the arrest or felony or misdemeanor charge is resolved.~~

#### **R430-6-9. Statutory Penalties.**

~~—(1) A violation of any rule is punishable by administrative civil money penalty of up to \$5,000 per day as provided in Utah Code Section 26-39-108 or other civil penalty of up to \$5,000 per day or a class B misdemeanor on the first offense and a class A misdemeanor on the second offense as provided in Utah Code, Title 26, Chapter 23.~~

~~—(2) The Department may impose an administrative civil money penalty of up to \$100 per day to a maximum of \$10,000 for each violation of the Child Care Licensing Act or the rules promulgated pursuant to that act.~~

~~—(3) Any person intentionally making false statements or reports to the Department may be fined \$100 for each violation to a maximum of \$10,000.~~

~~—(4) Assessment of any civil money penalty does not preclude the Department from also taking action to deny, revoke, condition, or refuse to renew a license or certificate.~~

~~—(5) Assessment of any administrative civil money penalty under this section does not preclude injunctive or other equitable remedies.]~~

#### **R430-6-1. Authority and Purpose.**

This rule is promulgated pursuant to Title 26, Chapter 39. It establishes requirements for background screenings for child care programs.

#### **R430-6-2. Definitions.**

Terms used in this rule are defined in Title 26, Chapter 39. In addition:

(1) "Applicant" means a person who has applied for a new child care license or residential certificate from the Department, or a currently licensed or certified child care provider who is applying for a renewal of their child care license or certificate.

(2) "Background finding" means a determination by the Department that an individual:

(a) has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor.

(b) has been adjudicated in juvenile court of committing an act which if committed by an adult would be a felony or misdemeanor.

(3) "Covered individual" means:

(a) owners;

(b) directors;

(c) members of the governing body;

(d) employees;

(e) providers of care, including children residing in a home where child care is provided;

(f) volunteers, excluding parents of children enrolled in the program; and

(g) all individuals age 12 and older residing in a residence where child care is provided.

(4) "Department" means the Utah Department of Health.

(5) "Involved with child care" means to provide child care, volunteer, own, operate, direct, be employed in, or function as a member of the governing body of a child care program with a license or certificate issued by the Department.

(6) "Supported finding" means an individual is listed on the Licensing Information System child abuse and neglect database maintained by the Utah Department of Human Services.

(7) "Unsupervised Contact" means contact with children that provides the person opportunity for personal communication or touch when not under the direct supervision of a child care provider or employee who has passed a background screening.

(8) "Volunteer" means an individual who receives no form of direct or indirect compensation for providing care.

#### **R430-6-3. Submission of Background Screening Information.**

(1) Each applicant requesting a new or renewal child care license or residential certificate must submit to the Department the name and other required identifying information on all covered individuals.

(a) Unless an exception is granted under Subsection (4) below, the applicant shall ensure that the identifying information submitted for all individuals age 18 and older includes a fingerprint card and fee.

(b) The fingerprint card must be prepared either by a local law enforcement agency or an agency approved by local law enforcement.

(2) The applicant shall state in writing, based upon the applicant's information and belief, whether each covered individual:

(a) has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor.

(b) has been adjudicated in juvenile court of committing an act which if committed by an adult would be a felony or misdemeanor;

(c) has ever had a supported finding by the Department of Human Services, or a substantiated finding from a juvenile court, of abuse or neglect of a child.

(3) Within five days of a new covered individual beginning work at a child care facility or moving into a licensed or certified home, the licensee or certificate holder must submit to the Department the name and other required identifying information for that individual.

(a) Unless an exception is granted under Subsection (4) below, the licensee or certificate holder shall ensure that the identifying information submitted for all individuals age 18 and older includes a fingerprint card and fee.

(b) The fingerprint card must be prepared either by a local law enforcement agency or an agency approved by local law enforcement.

(4) Fingerprint cards are not required if:

(a) the covered individual has resided in Utah continuously for the past five years;

(b) the covered individual is less than 23 years of age, and has resided in Utah continuously since the individual's 18th birthday; or

(c) the covered individual has previously submitted fingerprints under this section for a national criminal history record check and has resided in Utah continuously since that time.

#### **R430-6-4. Criminal Background Screening.**

(1) Regardless of any exception under R430-6-4(4), if an in-state criminal background screening indicates that a covered individual age 18 or older has a background finding, the Department

may require that individual to submit a fingerprint card and fee from which the Department may conduct a national criminal background screening on that individual.

(2) Except for the offenses listed Subsection (3), if a covered individual has a background finding, that individual may not be involved with child care. If such a covered individual resides in a home where child care is provided, the Department shall revoke an existing license or certificate or refuse to issue a new license or certificate.

(3) A background finding for any of the following offenses does not prohibit a covered individual from being involved with child care:

(a) any Class A misdemeanor offense as allowed in Subsection (4), and any Class B or C misdemeanor offense under Title 32A, Alcoholic Beverage Control Act;

(b) any Class A misdemeanor offense as allowed in Subsection (4), and any Class B or C misdemeanor offense under Title 41, Chapter 6a, Traffic Code;

(c) any Class A misdemeanor offense as allowed in Subsection (4), and any Class B or C misdemeanor offense under Title 58, Chapter 37, Utah Controlled Substances Act;

(d) any Class A misdemeanor offense as allowed in Subsection (4), and any Class B or C misdemeanor offense under Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(e) any Class A misdemeanor offense as allowed in Subsection (4), and any Class B or C misdemeanor offense under Title 58, Chapter 37b, Imitation Controlled Substances Act;

(f) any Class A misdemeanor offense as allowed in Subsection (4), and any Class B or C misdemeanor offense under Title 76, Chapter 4, Inchoate Offenses, except for:

(i) 76-4-401, Enticing a Minor;

(g) any Class A misdemeanor offense as allowed in Subsection (4), and any Class B or C misdemeanor offense under Title 76, Chapter 6, Offenses Against Property;

(h) any Class A misdemeanor offense as allowed in Subsection (4), and any Class B or C misdemeanor offense under Title 76, Chapter 6a, Pyramid Scheme Act;

(i) any Class A misdemeanor offense as allowed in Subsection (4), and any Class B or C misdemeanor offense under Title 76, Chapter 7, Subsection 103, Adultery, and 104, Fornication;

(j) any Class A misdemeanor offense as allowed in Subsection (4), and any Class B or C misdemeanor offense under Title 76, Chapter 8, Offenses Against the Administration of Government;

(k) any Class A misdemeanor offense as allowed in Subsection (4), and any Class B or C misdemeanor offense under Title 76, Chapter 9, Offenses Against Public Order and Decency, except for:

(i) 76-9-301, Cruelty to Animals;

(ii) 76-9-301.1, Dog Fighting;

(iii) 76-9-301.8, Bestiality;

(iv) 76-9-702, Lewdness;

(v) 76-9-702.5, Lewdness Involving Child; and

(vi) 76-9-702.7, Voyeurism; and

(l) any Class A misdemeanor offense as allowed in Subsection (4), and any Class B or C misdemeanor offense under Title 76, Chapter 10, Offenses Against Public Health, Welfare, Safety and Morals, Utah Criminal Code, except for:

(i) 76-10-509.5, Providing Certain Weapons to a Minor;

(ii) 76-10-509.7, Parent or Guardian Knowing of a Minor's Possession of a Dangerous Weapon;

(iii) 76-10-1201 to 1229.5, Pornographic Material or Performance;



(iv) 76-10-1301 to 1314, Prostitution; and

(v) 76-10-2301, Contributing to the Delinquency of a Minor.

(4) A covered individual with a Class A misdemeanor background finding may be involved with child care if either of the following conditions is met:

(a) if the Class A misdemeanor background finding is for any of the excluded misdemeanor offenses in Subsection (3), and:

(i) ten or more years have passed since the Class A misdemeanor offense; and

(ii) there is no other background finding for the individual in the past ten years; or

(b) if the Class A misdemeanor background finding is for any of the excluded misdemeanor offenses in Subsection (3) and five or more years have passed, but ten years have not passed since the Class A misdemeanor offense, and there is no other background finding since the Class A misdemeanor offense, then the individual may be involved with child care as an employee of an existing licensed or certified child care program for up to six months if:

(i) the individual provides documentation for an active petition for expungement of the disqualifying offense within 30 days of the notice of the disqualifying background finding; and

(ii) the licensee or certificate holder ensures that another employee who has passed the background screening is always present in the same room as the individual, and ensures that the individual has no unsupervised contact with any child in care.

(5) If the court denies a petition for expungement from an individual who has petitioned for expungement and continues to be involved with child care as an employee under Subsection (4)(b), that individual may no longer be employed in an existing licensed or certified child care program, even if six months have not passed since the notice of the disqualifying background finding.

(6) The Department may rely on the criminal background screening as conclusive evidence of the arrest, charge, or conviction, and the Department may revoke or deny a license, certificate, or employment based on that evidence.

(7) If a covered individual is denied a license, certificate or employment based upon the criminal background screening and the covered individual disagrees with the information provided by the Department of Public Safety, the covered individual may challenge the information as provided in Utah Code, Sections 77-18-10 through 77-18-14 and 77-18a-1.

(8) If the Department takes an action adverse to any covered individual based upon the criminal background screening, the Department shall send a written decision to the licensee or certificate holder and the covered individual explaining the action and the right of appeal.

(9) All licensees, certificate holders, and covered individuals must report to the Department any felony or misdemeanor arrest, charge, or conviction of a covered individual within 48 hours of becoming aware of the arrest, charge, or conviction. Failure to notify the Department within 48 hours may result in disciplinary action, including revocation of the license or certificate.

#### **R430-6-5. Covered Individuals with Arrests or Pending Criminal Charges.**

(1) If a covered individual has been arrested or charged with a felony or a misdemeanor that would not be excluded under R430-6-4(3), the Department may revoke or suspend any license or certificate of a provider, or deny employment, if necessary to protect the health and safety of children in care.

(2) If the Department denies or revokes a license or certificate or denies employment based upon the arrest or charge, the Department shall send a written decision to the licensee or certificate holder and the covered individual notifying them that a hearing with the Department may be requested.

(3) The Department may hold the license, certificate or employment denial in abeyance until the arrest or felony or misdemeanor charge is resolved.

#### **R430-6-6. Child Abuse and Neglect Background Screening.**

(1) If the Department finds that a covered individual has a supported finding on the Department of Human Services Licensing Information System, that individual may not be involved with child care.

(a) If such a covered individual resides in a home where child care is provided the Department shall revoke the license or certificate for the child care provided in that home.

(b) If such a covered individual resides in a home for which an application for a new license or certificate has been made, the Department shall refuse to issue a new license or certificate.

(2) If the Department denies or revokes a license, certificate, or employment based upon the Licensing Information System maintained by the Utah Department of Human Services, the Department shall send a written decision to the licensee or certificate holder and the covered individual.

(3) If the covered individual disagrees with the supported finding on the Licensing Information System, the individual cannot appeal the supported finding to the Department of Health but must direct the appeal to the Department of Human Services and follow the process established by the Department of Human Services.

(4) All licensees, certificate holders, and covered individuals must report to the Department any supported finding on the Department of Human Services Licensing Information System concerning a covered individual within 48 hours of becoming aware of the supported finding. Failure to notify the Department within 48 hours may result in disciplinary action, including revocation of the license or certificate.

#### **R430-6-7. Emergency Providers.**

(1) In an emergency, not anticipated in the licensee or certificate holder's emergency plan, a licensee or certificate holder may assign a person who has not had a criminal background screening to provide emergency care for and have unsupervised contact with children for no more than 24 hours per emergency incident.

(a) Before the licensee or certificate holder may leave the children in the care of the emergency provider, the licensee or certificate holder must first obtain a signed, written declaration from the emergency provider that the emergency provider has not been convicted of, pleaded no contest to, and is not currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, and does not have a supported finding from the Department of Human Services.

(b) During the term of the emergency, the emergency provider may be counted as a provider of care for purposes of maintaining the required care provider to child ratios.

(c) The licensee or certificate holder shall make reasonable efforts to minimize the time that the emergency provider has unsupervised contact with children.

**R430-6-8. Restrictions on Volunteers.**

A parent volunteer who has not passed a background screening may not have unsupervised contact with any child in care, except the parent's own child.

**R430-6-9. Statutory Penalties.**

(1) A violation of any rule is punishable by administrative civil money penalty of up to \$5,000 per day as provided in Utah Code, Title 26, Chapter 39-601 or other civil penalty of up to \$5,000 per day or a Class B misdemeanor on the first offense and a Class A misdemeanor on the second offense as provided in Utah Code, Title 26, Chapter 23.

(2) Any person intentionally making false statements or reports to the Department may be fined \$100 for each violation to a maximum of \$10,000.

(3) Assessment of any civil money penalty does not preclude the Department from also taking action to deny, revoke, condition, or refuse to renew a license or certificate.

(4) Assessment of any administrative civil money penalty under this section does not preclude injunctive or other equitable remedies.

**KEY: child care facilities**

**Date of Enactment or Last Substantive Amendment:** ~~February 6, 2006~~ **2008**

**Notice of Continuation:** August 13, 2007

**Authorizing, and Implemented or Interpreted Law:** 26-39



Health, Health Systems Improvement,  
Child Care Licensing  
**R430-8**  
Exemptions From Child Care Licensing

**NOTICE OF PROPOSED RULE**

(Repeal and Reenact)

DAR FILE NO.: 31819

FILED: 08/14/2008, 14:28

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rulemaking action is to clarify which programs are exempt from licensure by the Department of Health as child care programs. These modifications are being made to bring our rule in line with changes to our statute that were made in the 2008 Legislative session, in S.B. 184. (DAR NOTE: S.B. 184 (2008) is found at Chapter 111, Laws of Utah 2008, and was effective 05/05/2008.)

SUMMARY OF THE RULE OR CHANGE: The changes clarify the definitions for "private" and "parochial" education institutions, "care not in lieu of parental care", and "relative care".

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 39

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The agency does not anticipate a cost or saving to the state budget, because the clarifications made this rule do not substantially affect the workload of Department of Health staff.

❖ LOCAL GOVERNMENTS: The agency does not anticipate a cost or saving to local government, because child care programs operated by local governments are not affected by this rule change, nor does this rule change require additional or less work on the part of local government.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: Approximately 30-40 child care programs, primarily located in gyms, will see a cost saving of their annual child care licensing fees (\$25 plus \$1.50 per child, annually), because they will no longer be required to be licensed. The total amount of this saving will depend on the number of children the facility is licensed for. This will only apply to those programs where the parent remains on-site while the care is provided, and the care is for less than 4 hours a day.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because this rule does not require any child care programs that are not currently licensed to become licensed, there will be no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change will have a positive fiscal impact on regulated 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 10/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/15/2008

AUTHORIZED BY: David N. Sundwall, Executive Director

**R430. Health, Health Systems Improvement, Child Care Licensing.**

~~**[R430-8. Exclusions From Child Care Licensing—Parochial Education Institution.**~~

~~**R430-8-1. Legal Authority.**~~

~~— This rule is promulgated pursuant to Title 26, Chapter 39.~~

**R430-8-2. Purpose.**

~~The purpose of this rule is to define what constitutes child care at a parochial education institution.~~

**R430-8-3. Parochial Education Institution.**

~~(1) Care provided to children in a physical structure controlled by a parochial institution will be considered to be at a parochial education institution if:~~

- ~~— (a) All children in care are over the age of three;~~
- ~~— (b) The institution has a written curriculum used as part of a course of study for the children in care;~~
- ~~— (c) A majority of the time that a child is in care is devoted to studying the established curriculum; and~~
- ~~— (d) The parochial institution has a governing board that actively supervises and directs the curriculum and program used by the institution.~~

~~(2) Care provided to children in a physical structure controlled by a parochial institution may be considered to be at a parochial education institution if three of the four requirements in R430-8-3(1) are met; and the institution is able to satisfy the Department that the care provided is clearly educational rather than primarily care in lieu of that which a parent provides.~~

**R430-8-4. Exclusion for Parochial Education Institution.**

~~Care provided to children at a parochial education institution is excluded from the requirement of obtaining a license under subsection 26-39-105(6). All other child care provided at a parochial institution is subject to the requirement of obtaining a license under R430-100.]~~

**R430-8. Exemptions From Child Care Licensing.****R430-8-1. Legal Authority.****R430-8-2. Purpose.**

~~This rule defines what constitutes child care that is exempt from regulation by the Utah Department of Health, Bureau of Child Care Licensing.~~

**R430-8-3. Definitions.**

~~(1) "Parochial education institution" means an institution that meets all of the following criteria:~~

- ~~— (a) operates as a substitute for, and gives the equivalent of, instruction required in public schools for any grade from first through twelfth grade;~~
- ~~— (b) has a governing board that actively supervises and directs the educational curriculum used by the institution and exercises oversight over the health and safety of the children in the program;~~
- ~~— (c) is owned and operated by a religious institution that is registered with the federal government as 501(c)(3) religious organization;~~
- ~~— (d) is not directly funded at public expense;~~
- ~~— (e) does not receive:~~
  - ~~— (i) child care subsidy funds, directly or indirectly, from the Department of Workforce Services; or~~
  - ~~— (ii) child care food program funds, directly or indirectly, from the State Office of Education; and~~
- ~~— (f) does not provide instruction in the home in lieu of instruction required in public schools for any grade from first through twelfth grade.~~

~~(2) "Private education institution" means an institution that meets all of the following criteria:~~

~~— (a) operates as a substitute for, and gives the equivalent of, instruction required in public schools for any grade from first through twelfth grade;~~

~~— (b) has a governing board that actively supervises and directs the educational curriculum used by the institution, and exercises oversight over the health and safety of the children in the program;~~

~~— (c) is not directly funded at public expense;~~

~~— (d) does not receive:~~

~~— (i) child care subsidy funds, directly or indirectly, from the Department of Workforce Services; or~~

~~— (ii) child care food program funds, directly or indirectly, from the State Office of Education; and~~

~~— (e) does not provide instruction in the home in lieu of instruction required in public schools for any grade from first through twelfth grade.~~

~~(3) "Public school" means a school, including a charter school, that is directly funded at public expense and is regulated by a board of education governed by Title 53A, Chapter 3, Local School Boards.~~

~~(4) "Related children" means children for whom the child care provider is the:~~

~~— (a) parent, legal guardian, or step-parent;~~

~~— (b) grandparent, step-grandparent, or great-grandparent;~~

~~— (c) sibling or step-sibling; or~~

~~— (d) aunt, uncle, step-aunt, step-uncle, great-aunt, or great-uncle.~~

**R430-8-4. Care Not in Lieu of Parental Care.**

~~(1) The Department does not issue licenses for care that meets all of the following:~~

~~— (a) the parent is physically present in the building where the care is provided, at all times while the care is being provided, and is near enough to reach his or her child to provide care within five minutes if needed;~~

~~— (b) the duration of the care is less than four hours for any individual child in any one day;~~

~~— (c) the program does not diaper children; and~~

~~— (d) the program does not prepare or serve meals to children.~~

**R430-8-5. Care Under Other Government Oversight.**

~~(1) A license is not required for care provided at a facility that is owned or operated by the federal government.~~

~~(2) A license is not required for care provided by a program that is owned or operated by the federal government.~~

~~(3) A license is not required for care provided as part of a summer camp that operates on federal land pursuant to a federal permit.~~

~~(4) A license is not required for care provided by an organization that qualifies for tax exempt status under Section 501(c)(3) of the Internal Revenue Code, if:~~

~~— (a) the care is provided pursuant to a written agreement with a local municipality or a county;~~

~~— (b) the local municipality or county provides oversight of the program; and~~

~~— (c) all of the children in care are over age four.~~

~~(5) A license is not required for care provided at a residential support program that is licensed by the Department of Human Services.~~

**R430-8-6. Mental Health Counseling.**

A license is not required for group counseling of children provided by a mental health therapist who is licensed to practice in this state, as defined in Utah Code 58-60-102.

**R430-8-7. Relative Care.**

The Department does not issue licenses or certificates to persons who only care for related children.

**R430-8-8. Care in the Home of the Provider.**

(1) A license or certificate is not required for care provided in the home of the provider for less than four hours per day, or for fewer than five children in the home at one time.

(2) The Department does not issue licenses or certificates for care provided in the home of the provider on a sporadic basis only.

**R430-8-9. Care Provided by an Educational Institution.**

(1) A license is not required for care provided by or at a public school or as part of a course of study at a public school.

(2) A license is not required for care provided at a public or private institution of higher education if the care is provided in connection with a course of study at the institution of higher education.

(3) A license is not required for:

(a) care provided as part of a course of study at a private education institution; or

(b) care provided as part of a program administered by a private education institution.

(4) A license is not required for care provided by a parochial education institution.

**KEY: child care facilities**

**Date of Enactment or Last Substantive Amendment:**  
**[September 22, 1999]2008**

**Notice of Continuation: June 16, 2004**

**Authorizing, and Implemented or Interpreted Law: 26-39**

◆ ————— ◆

**Human Services, Administration**  
**R495-882**  
**Termination of Parental Rights**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 31811

FILED: 08/13/2008, 17:25

**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 Utah Code was also changed due to the recodification of Title 78 under H.B. 78. (DAR NOTE: H.B. 78 (2008) is found at Chapter 3, Laws of Utah 2008, and was effective 05/05/2008.)

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 about child support obligations and child support arrears when a child is placed in the care/custody of the state or with an individual other than the parent for at least 30 days. 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-1-117, 78A-6-1106, and 78A-6-513

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: The proposed changes to the rule are for clarification purposes only and do not affect the current procedures. 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  
ADMINISTRATION  
120 N 200 W  
SALT LAKE CITY UT 84103-1500, 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 shanielawton@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 10/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2008

AUTHORIZED BY: Mark Brasher, Director

**R495. Human Services, Administration.****R495-882. Termination of Parental Rights.****R495-882-1. 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 child support obligations and child support arrears when a child is placed in the care/custody of the state or with an individual other than the parent for at least 30 days.

**R495-882-2. Arrears Obligation for Children in Care.**

In accordance with Sections 62A-1-117 and ~~[78-3a-906]~~78A-6-1106, child support is assigned to the state when a child is placed in the care/custody of the state or with an individual other than the parent for at least 30 days. The juvenile court shall also order the parents or any other obligated person to pay child support to the Office of Recovery Services (ORS) while the child is in a placement. If parental rights are terminated, and if any child support payable to the state has accrued prior to the termination of parental rights, the parent shall be responsible for paying this amount to the state in accordance with Section ~~[78-3a-413]~~78A-6-513. ORS will attempt to collect all past due support that accrued prior to the termination of parental rights for children who were in the care or custody of the state.

**KEY:** state custody, parental rights

**Date of Enactment or Last Substantive Amendment:** ~~June 29, 2004~~2008

**Authorizing, and Implemented or Interpreted Law:** 62A-11-107; 62A-1-117; ~~[78-3a-413]~~78A-6-513; ~~[78-3a-906]~~78A-6-1106



## Pardons (Board Of), Administration

### R671-509

#### Progress Violation Reports

#### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31816

FILED: 08/14/2008, 13:50

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule provides a guideline for parole agents or other Department of Corrections representatives under which to submit parole progress/violation reports. This keeps the Board informed of new convictions, charges, and other violations of parole or progress.

**SUMMARY OF THE RULE OR CHANGE:** The time line in which the parole agent or Department of Corrections representative must report progress or violations is now 72 hours of confinement or 7 days from the date of violation.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 77-27-11

#### ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The changes do not introduce costs or savings as the changes relate only to a more defined time line.
- ❖ LOCAL GOVERNMENTS: None--The changes do not introduce costs or savings as the changes relate only to a more defined time line.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--The changes do not introduce costs or savings as the changes relate only to a more defined time line.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** None--The changes do not introduce costs or savings as the changes relate only to a more defined time line.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** It has been determined that there is no fiscal impact on business associated with this amendment. Curtis Garner, Chairman

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

PARDONS (BOARD OF)  
ADMINISTRATION  
Room 300  
448 E 6400 S  
SALT LAKE CITY UT 84107-8530, or  
at the Division of Administrative Rules.

#### DIRECT QUESTIONS REGARDING THIS RULE TO:

Megan Flox-Lambert at the above address, by phone at 801-261-6456, by FAX at 801-261-6448, or by Internet E-mail at mflox@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 10/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2008

AUTHORIZED BY: Curtis L Garner, Chairman

#### **R671. Pardons (Board of), Administration.**

#### **R671-509. Parole Progress / Violation Reports.**

#### **R671-509-1. Progress / Violation Reports.**

A parole agent or other representative of the Department of Corrections shall submit to the Board a parole progress / violation report when an incident~~[-, positive or negative,]~~ occurs that constitutes cause to modify the conditions of~~[-]~~ or revoke~~[-]~~ parole.

Examples of incidents which shall be reported to the Board via a parole progress / violation ~~[R]~~report are:

- a. Conviction of any ~~[infraction,]~~ misdemeanor or felony.
- b. Significant ~~violations~~~~[incidents or infractions]~~ of the general or ~~[specific]~~ special conditions of parole.
- c. An incident which results in the parole ~~[supervisor]~~agent placing the parolee in jail~~[- on a parole hold]~~, under arrest, in detainment, or other conditions or incidents which result in the parolee being denied liberty.

~~[All suspected]~~ These reported parole violations shall be investigated and ~~[an]~~ all incident report(s) along with a recommended course of action submitted to the Board within ~~[a reasonable period of time.]~~ 72 hours of confinement or seven (7) days from the date of the violation. The report shall advise the Board of a parolee's adjustment and provide reasons for modification of the parole agreement conditions~~[if necessary]~~. Police reports, court orders, and waivers of personal appearance from parolees shall be attached when applicable.

**KEY: parole, incidents**

**Date of Enactment or Last Substantive Amendment:** ~~[January 1, 1999]~~ 2008

**Notice of Continuation:** September 11, 2003

**Authorizing, and Implemented or Interpreted Law:** 77-27-11



## Pardons (Board Of), Administration R671-510 Evidence for Issuance of Warrants

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31814

FILED: 08/14/2008, 13:49

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule outlines the evidence needed and the appropriate process to be followed in order to issue a warrant.

**SUMMARY OF THE RULE OR CHANGE:** The changes relate to processes and time limitations for the collection of background information for warrant requests. A process for updating information was also added.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 77-27-11

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** None--The changes do not introduce costs or savings as the changes relate only to the collection of background information and more defined time line.

❖ **LOCAL GOVERNMENTS:** None--The changes do not introduce costs or savings as the changes relate only to the collection of background information and more defined time line.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** None--The changes do not introduce costs or savings as the changes relate only to the collection of background information and more defined time line.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** None--The changes do not introduce costs or savings as the changes relate only to the collection of background information and more defined time line.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** It has been determined that

there is no fiscal impact on business associated with this amendment. Curtis Garner, Chairman

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

PARDONS (BOARD OF)  
ADMINISTRATION  
Room 300  
448 E 6400 S  
SALT LAKE CITY UT 84107-8530, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Megan Flox-Lambert at the above address, by phone at 801-261-6456, by FAX at 801-261-6448, or by Internet E-mail at mflox@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 10/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2008

AUTHORIZED BY: Curtis L Garner, Chairman

### **R671. Pardons (Board of), Administration.**

#### **R671-510. Evidence for Issuance of Warrants.**

##### **R671-510-2. Warrant Request.**

Warrant requests shall include:

- a. the name of the parolee, ~~[prison]~~ offender number, and date of birth~~[, and offender number]~~;
- b. the nature of the allegations that justify possible revocation of parole;
- c. the elements substantiating probable cause for each allegation which should include how, when, where, and what occurred;
- d. the condition of the parole agreement that the parolee is alleged to have violated, along with the date and ~~[approximate]~~ location where the violation occurred;
- e. the legible name, signature, and telephone number ~~[and/or pager]~~ of the parole officer and supervisor;
- f. the fax cover sheet will include the phone number or numbers where the reporting agent can be contacted if needed.

##### **R671-510-3. Background Information.**

The agent will also give the Board background information about the parolee, including overall status, adjustment to parole, and any other information requested in the warrant request form, which the Board shall promulgate. The background information shall accompany the warrant request if it can be completed in time. If it cannot be completed ~~[in time]~~ by the time the warrant is submitted, the agent shall send it to the Board, and the parolee, within seven (7) days after issuance of the warrant. ~~[Once the parolee is detained on the Board warrant, the agent will track the case and notify the Board of updates. No less than ten days prior to the hearing the agent will send updated allegations and recommendations and any other information needed to ensure that full information regarding allegations and general parole performance is in the file prior to the hearing.]~~

**R671-510-4. Update Information.**

Once the parolee is detained on the Board warrant, the agent will track the case and notify the Board of updates. No less than seven (7) days prior to the hearing, the agent will send to the Board all updated allegations and recommendations and any other information needed to ensure that full information regarding allegations and general parole performance is in the file prior to the hearing. The agent will also serve updated allegations and disclose general information to the incarcerated parolee no less than seven (7) days prior to the parole violation hearing.

At its discretion, the Board may dismiss the allegation(s) if the update information is not received in a timely manner.

**KEY: warrants, parole, probable cause**

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

**Notice of Continuation:** September 11, 2003

**Authorizing, and Implemented or Interpreted Law:** 77-27-11



**Pardons (Board Of), Administration**  
**R671-512**  
**Execution of the Warrant**

**NOTICE OF PROPOSED RULE**  
(Amendment)

DAR FILE NO.: 31815  
FILED: 08/14/2008, 13:50

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule provides guidelines for the execution of a warrant.

**SUMMARY OF THE RULE OR CHANGE:** All but one of the changes to this rule are minor word alterations. The only actual amendment to this rule is the addition of a Waiver of Time to the pleadings which must be provided to the parolee.

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 77-27-11, 77-27-27, 77-27-28, 77-27-29, and 77-27-30

**ANTICIPATED COST OR SAVINGS TO:**

- ❖ **THE STATE BUDGET:** None--The changes do not introduce costs or savings as the changes relate only to providing an additional pleading to the parolee.
- ❖ **LOCAL GOVERNMENTS:** None--The changes do not introduce costs or savings as the changes relate only to providing an additional pleading to the parolee.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** None--The changes do not introduce costs or savings as the changes relate only to providing an additional pleading to the parolee.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** None--The changes do not introduce costs or savings as the changes relate only to providing an additional pleading to the parolee.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It has been determined that there is no fiscal impact on business associated with this amendment. Curtis Garner, Chairman

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

PARDONS (BOARD OF)  
ADMINISTRATION  
Room 300  
448 E 6400 S  
SALT LAKE CITY UT 84107-8530, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Megan Flox-Lambert at the above address, by phone at 801-261-6456, by FAX at 801-261-6448, or by Internet E-mail at mflox@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 10/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2008

AUTHORIZED BY: Curtis L Garner, Chairman

**R671. Pardons (Board of), Administration.**  
**R671-512. Execution of the Warrant.**  
**R671-512-1. Execution of the Warrant.**

When the agent executes the warrant, or as soon thereafter as possible, the agent shall provide the parolee copies of the warrant and the warrant request. At the same time, the agent shall also provide the parolee with ~~the~~ a Notice Regarding Parole Allegations, ~~the~~ a Challenge to Probable Cause Determination, ~~and the~~ an Affidavit of Waiver and Plea of Guilt, ~~as published by the Board,~~ and Waiver of Time.

**KEY: parole, warrants**

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

**Notice of Continuation:** September 11, 2003

**Authorizing, and Implemented or Interpreted Law:** 77-27-11; 77-27-27; 77-27-28; 77-27-29; 77-27-30



**Pardons (Board Of), Administration**  
**R671-514**  
**Waiver and Pleas of Guilt**

**NOTICE OF PROPOSED RULE**  
(Amendment)

DAR FILE NO.: 31813  
FILED: 08/14/2008, 13:49

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule outlines Board procedure regarding the appropriate process in the event that the parolee enters a plea.

SUMMARY OF THE RULE OR CHANGE: The changes relate to the processes of entry and acceptance of pleas. The major changes detail that parolees are encouraged to attend hearings and that waiver processes may be altered if the parolee is not able to independently understand their rights.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 77-27-9 and 77-27-11

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: None--The changes do not introduce costs or savings as the changes are minor and relate to small process alterations for entry of waivers and/or pleas.
- ❖ LOCAL GOVERNMENTS: None--The changes do not introduce costs or savings as the changes are minor and relate to small process alterations for entry of waivers and/or pleas.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--The changes do not introduce costs or savings as the changes are minor and relate to small process alterations for entry of waivers and/or pleas.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The changes do not introduce costs or savings as the changes are minor and relate to small process alterations for entry of waivers and/or pleas.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It has been determined that there is no fiscal impact on business associated with this amendment. Curtis Garner, Chairman

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

PARDONS (BOARD OF)  
ADMINISTRATION  
Room 300  
448 E 6400 S  
SALT LAKE CITY UT 84107-8530, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Megan Flox-Lambert at the above address, by phone at 801-261-6456, by FAX at 801-261-6448, or by Internet E-mail at mflox@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 10/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2008

AUTHORIZED BY: Curtis L Garner, Chairman

**R671. Pardons (Board of), Administration.****R671-514. Waiver and Pleas of Guilt.****R671-514-2. Guilty Pleas.**

If the parolee wishes to plead guilty, the agent shall provide a copy of the Affidavit of Waiver and Plea of Guilt. If the parolee is functionally illiterate, or suffers from a mental disability the agent shall explain the contents of the affidavit and waiver. If the agent believes the parolee is unable to understand the affidavit and waiver and appreciate the consequences of signing it for any other reason, the agent shall not execute the Waiver and the agent shall promptly inform the Board, which may assign counsel to the parolee or take any other action that will assist the parolee to understand his rights.

**R671-514-3. Multiple Pleas.**

A parolee may plead guilty to some of the allegations and plead not guilty to others. The Board may decide to dismiss the allegations to which the parolee pled not guilty and make a disposition based solely on the pleas of guilt. If the Board chooses to make a disposition based solely on pleas of guilt, it need not hold either an evidentiary or parole revocation hearing. However, at its discretion the Board may schedule a special appearance hearing, or parole rehearing, to ask the parolee questions or listen to victim testimony. [if doing so would assist it in making an appropriate disposition.]

**R671-514-4. Entry of Pleas at Anytime.**

A parolee may enter a plea of guilt at anytime. If the parolee pleads guilty at the revocation or evidentiary hearing, the hearing officer shall explain to the parolee the rights he is surrendering and receive an admission and plea on the record. Notwithstanding pleas of guilt, offenders are highly encouraged to attend their hearing.

**KEY: parole, allegations, pleas**

**Date of Enactment or Last Substantive Amendment:** ~~January 1, 1999~~ 2008

**Notice of Continuation:** September 11, 2003

**Authorizing, and Implemented or Interpreted Law:** 77-27-9; 77-27-11



Pardons (Board Of), Administration  
**R671-515**  
Timeliness of Parole Revocation  
Hearings

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 31817

FILED: 08/14/2008, 13:51

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule ensures that parole revocation hearings are conducted in a timely manner.



SUMMARY OF THE RULE OR CHANGE: The New Offense clause was removed and some information detailing Board procedure continuing hearings beyond the 30-day recommendation was reduced.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 76-3-202

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--The changes do not introduce costs or savings as the changes relate only to minor changes detailing parole revocation hearing time limitations and eliminating the New Offense clause.

❖ LOCAL GOVERNMENTS: None--The changes do not introduce costs or savings as the changes relate only to minor changes detailing parole revocation hearing time limitations and eliminating the New Offense clause.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--The changes do not introduce costs or savings as the changes relate only to minor changes detailing parole revocation hearing time limitations and eliminating the New Offense clause.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The changes do not introduce costs or savings as the changes relate only to minor changes detailing parole revocation hearing time limitations and eliminating the New Offense clause.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It has been determined that there is no fiscal impact on business associated with this amendment. Curtis Garner, Chairman

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

PARDONS (BOARD OF)  
ADMINISTRATION  
Room 300  
448 E 6400 S  
SALT LAKE CITY UT 84107-8530, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Megan Flox-Lambert at the above address, by phone at 801-261-6456, by FAX at 801-261-6448, or by Internet E-mail at mflox@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 10/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2008

AUTHORIZED BY: Curtis L Garner, Chairman

### **R671. Pardons (Board of), Administration.**

#### **R671-515. Timeliness of Parole Revocation Hearings.**

##### **R671-515-1. Timeliness of Parole Revocation Hearings.**

A Parole Revocation Hearing ~~[will]~~shall be conducted ~~[by a hearing officer]~~ within 30 days after detention in a state prison unless the parolee expressly waives the hearing in writing~~[-]~~, or unless the Board finds good cause to continue the hearing. ~~[For good cause, the Board may continue the hearing beyond 30 days.]~~

##### ~~[R671-515-3. New Offense.~~

~~When the parolee is convicted of a new offense of which the parole office had knowledge, and the parolee has not been detained on a Board warrant during the pendency of court proceedings, the parole revocation process should be commenced within ninety (90) days from the time of sentencing on the new offense.]~~

##### ~~[R671-515-[4]3. Exceed Time Period for Good Cause.~~

The Board may for good cause upon a motion by the parolee or the Department of Corrections, or upon its own motion, exceed the time periods established in subsection (2)~~[-or-(3)]~~. The time limitations in these rules are discretionary~~[directory]~~, not mandatory. A motion to dismiss a revocation based on failure to meet time limits will be granted only if the failure has substantially prejudiced the parolee's defense.

**KEY: parole, timeliness, good cause**

**Date of Enactment or Last Substantive Amendment:** ~~[January 1, 1999]~~2008

**Notice of Continuation:** September 11, 2003

**Authorizing, and Implemented or Interpreted Law:** 76-3-202



## Pardons (Board Of), Administration **R671-516** Parole Revocation Hearings

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 31818

FILED: 08/14/2008, 13:51

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule outlines procedure regarding the execution of parole revocation hearings.

SUMMARY OF THE RULE OR CHANGE: The changes to this rule add minor detail the guilty plea process and sufficiency of evidence.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 77-27-5, 77-27-9, and 77-27-11

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--The changes do not introduce costs or savings as the changes relate only to minor changes detailing parole revocation hearing processes and evidentiary requirements.

❖ LOCAL GOVERNMENTS: None--The changes do not introduce costs or savings as the changes relate only to minor changes detailing parole revocation hearing processes and evidentiary requirements.

❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: None--The changes do not introduce costs or savings as the changes relate only to minor changes detailing parole revocation hearing processes and evidentiary requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The changes do not introduce costs or savings as the changes relate only to minor changes detailing parole revocation hearing processes and evidentiary requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It has been determined that there is no fiscal impact on business associated with this amendment. Curtis Garner, Chairman

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

PARDONS (BOARD OF)  
ADMINISTRATION  
Room 300  
448 E 6400 S  
SALT LAKE CITY UT 84107-8530, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Megan Flox-Lambert at the above address, by phone at 801-261-6456, by FAX at 801-261-6448, or by Internet E-mail at mflox@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 10/01/2008.

THIS RULE MAY BECOME EFFECTIVE ON: 10/08/2008

AUTHORIZED BY: Curtis L Garner, Chairman

**R671. Pardons (Board of), Administration.**

**R671-516. Parole Revocation Hearings.**

**R671-516-2. All Guilty Pleas.**

If the parolee pleads guilty to all the allegations, the hearing officer shall proceed directly to disposition. The parolee shall present any reasons for mitigation. If present, the parole agent or representative of the Department of Corrections may discuss reasons for aggravation or mitigation and recommend a disposition. Notwithstanding the submission of guilty pleas, offenders are highly encouraged to attend their hearing.

**R671-516-4. Insufficient Evidence.**

If the hearing officer believes there is insufficient evidence to justify ~~continued detention and~~ an evidentiary hearing, the matter shall be promptly routed to a ~~majority of~~ the Board. If ~~the~~ a majority of the Board agrees, ~~there is insufficient evidence to justify detention and an evidentiary hearing,~~ the warrant shall be withdrawn and the parolee released from custody.

**KEY: parole, revocation, hearings**

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

**Notice of Continuation: September 11, 2003**

**Authorizing, and Implemented or Interpreted Law: 77-27-5; 77-27-9; 77-27-11**

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**End of the Notices of Proposed Rules Section**

## NOTICES OF CHANGES IN PROPOSED RULES

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

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

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

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends October 1, 2008. At its option, the agency may hold public hearings.

From the end of the waiting period through December 30, 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.

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

Environmental Quality, Administration  
**R305-4**  
 Clean Fuels and Vehicle Technology  
 Fund Grant and Loan Program

**NOTICE OF CHANGE IN PROPOSED RULE**

DAR File No.: 31391  
 Filed: 08/07/2008, 12:03

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to clarify the language of Rule R305-4 in response to public comments.

SUMMARY OF THE RULE OR CHANGE: The reference used in the Section R305-4-2 definition of "Fund" was changed to more accurately cite the correct reference. A clarification was made in Subsection R305-4-5(3) which now states that applicant will be issued reimbursement for the applicant's "project costs" rather than the applicant's expenses. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed new rule that was published in the June 1, 2008, issue of the Utah State Bulletin, on page 84. 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 new rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-1-401

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: No anticipated cost or savings are expected with these changes, because no additional requirements were added.
- ❖ LOCAL GOVERNMENTS: No anticipated cost or savings are expected with these changes, because no additional requirements were added.
- ❖ SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES: No anticipated cost or savings are expected with these changes, because no additional requirements were added.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No anticipated cost are expected with these changes, because no additional requirements were added.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No anticipated cost or savings are expected for businesses with these changes, because no additional requirements were added. Rick Sprott, Executive Director

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

ENVIRONMENTAL QUALITY  
 ADMINISTRATION  
 168 N 1950 W

SALT LAKE CITY UT 84116-3085, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Mat E. Carlile at the above address, by phone at 801-536-4136, by FAX at 801-536-0085, or by Internet E-mail at MCARLILE@utah.gov

THIS RULE MAY BECOME EFFECTIVE ON: 10/01/2008

AUTHORIZED BY: Richard W. Sprott, Executive Director

**R305. Environmental Quality, Administration.**  
**R305-4. Clean Fuels and Vehicle Technology Fund Grant and Loan Program.**

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**R305-4-2. Definitions.**

- "Clean fuel" means clean fuel as defined in Subsection 19-1-402(1).
- "Clean-fuel vehicle" means clean-fuel vehicle as defined in Subsection 19-1-402(2).
- "Department" means the Utah Department of Environmental Quality.
- "Fund" means fund as defined in Subsection 19-1-403~~(5)~~.
- "Government vehicle" means government vehicle as defined in Subsection 19-1-402(6).
- "Grant" means monies awarded to an applicant from the fund that do not have to be repaid.
- "Electric-hybrid vehicle" means electric-hybrid vehicle as defined in Subsection 19-1-402(3).
- "OEM vehicle" means OEM vehicle as defined in Subsection 19-1-402(8).
- "Private sector business vehicle" means private sector business vehicle as defined in Subsection 19-1-402(9).
- "Refueling equipment" means refueling equipment as defined in Subsection 19-1-402(10)
- "Retrofit" means retrofit as defined in Subsection 19-1-402(11).

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**R305-4-5. Final Approval Procedure and Payment Process.**

- (1) Once an applicant's project has been pre-approved to receive a grant or loan, the applicant shall provide all additional documentation required in R307-123.
- (2) If rejected at any stage of the process, the applicant may consult with the Department to determine appropriate revisions to the application that should be made prior to submitting the application for reconsideration.
- (3) Once an applicant has obtained final approval to receive a grant or loan, including signed contract documents, monies from the fund will be issued as reimbursements for the applicant's ~~expenses~~ project costs.
- (4) Grant or loan monies for a state match of a federal or non-federal grant will only be issued to the applicant after the applicant's project has been approved by the granting entity for the federal or non-federal grant.

(5) The approved applicant shall continue to comply with the provisions of this rule.

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**KEY:** air pollution, alternative fuels, grants and loans, motor vehicles

**Date of Enactment or Last Substantive Amendment:** 2008

**Authorizing, and Implemented or Interpreted Law:** [~~19-2-104;~~ 19-1-401



**Environmental Quality, Air Quality  
R307-123**

**General Requirements: Clean Fuels  
and Vehicle Technology Grant and  
Loan Program**

**NOTICE OF CHANGE IN PROPOSED RULE**

DAR File No.: 31390  
Filed: 08/07/2008, 12:01

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** During the public comment period, inconsistencies between Section R307-121-4 and Section R307-123-4 were noticed. It was the intention of the Board that the language of these two sections of the rules be identical. This change rectifies the discrepancies.

**SUMMARY OF THE RULE OR CHANGE:** In Subsections R307-123-4(a) and (b), the words "the vehicle is registered" are added to maintain consistency with Rule R307-121. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed new rule that was published in the June 1, 2008, issue of the Utah State Bulletin, on page 89. 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 new rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 19-2-104, 19-1-401, 59-7-605, and 59-10-1009

**ANTICIPATED COST OR SAVINGS TO:**

- ❖ **THE STATE BUDGET:** No cost or savings is anticipated for this rule change because this change is a clarification of the language. No additional requirements were added.
- ❖ **LOCAL GOVERNMENTS:** No cost or savings is anticipated for this rule change because this change is a clarification of the language. No additional requirements were added.
- ❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** Small Businesses: No cost or savings is anticipated for this rule change because this change is a clarification of the

language. No additional requirements were added. Other Persons: No cost or savings is anticipated for this rule change because this change is a clarification of the language. No additional requirements were added.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** No cost or savings is anticipated for this rule change because this change is a clarification of the language. No additional requirements were added.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** No cost or savings is anticipated for business with this rule change because this change is a clarification of the language. No additional requirements were added. 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](mailto:kkreykes@utah.gov)

**THIS RULE MAY BECOME EFFECTIVE ON:** 10/01/2008

**AUTHORIZED BY:** Bryce Bird, Planning Branch Manager

**R307. Environmental Quality, Air Quality.  
R307-123. General Requirements: Clean Fuels and Vehicle  
Technology Grant and Loan Program.**

.....

**R307-123-4. Demonstration of Eligibility for Vehicles Converted to  
Clean Fuels.**

To demonstrate that a conversion of a motor vehicle fueled by clean fuel is eligible, proof of purchase shall be made by submitting the following documentation to the executive secretary:

- (1) the VIN;
- (2) the fuel type before conversion;
- (3) the fuel type after conversion;
- (4)(a) If the vehicle is registered within a county with an inspection and maintenance (I/M) program, a copy of the vehicle inspection report from an approved station showing that the converted clean fuel vehicle meets all county emissions requirements for all installed fuel systems; or
  - (b) in all other areas of the State a signed statement by an ASE certified technician that includes the VIN and states that the conversion is functional;
- (5) each of the following:
  - (a) the conversion equipment manufacturer,
  - (b) the conversion equipment model number,
  - (c) the date of the conversion, and

- (d) the name, address, and phone number of the person that converted the vehicle;
- (6) proof that the conversion is certified by the Board;
- (7) an original or copy of the purchase order, customer invoice, or receipt; and
- (8) a copy of the current Utah vehicle registration, which shows that the vehicle is registered in the applicant's name.

**KEY: air pollution, alternative fuels, grants and loans, motor vehicles**  
**Date of Enactment or Last Substantive Amendment: 2008**  
**Authorizing, and Implemented or Interpreted Law: 19-2-104; 19-1-401; 59-7-605; 59-10-1009**



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**End of the Notices of Changes in Proposed Rules Section**

## NOTICES OF 120-DAY (EMERGENCY) RULES

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An agency may file a 120-DAY (EMERGENCY) RULE when it finds that the regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a PROPOSED RULE, a 120-DAY RULE is preceded by a RULE ANALYSIS. This analysis provides summary information about the 120-DAY RULE including the name of a contact person, justification for filing a 120-DAY RULE, anticipated cost impact of the rule, and legal cross-references. A row of dots in the text (. . . .) indicates that unaffected text was removed to conserve space.

A 120-DAY RULE is effective at the moment the Division of Administrative Rules receives the filing, or on a later date designated by the agency. A 120-DAY RULE is effective for 120 days or until it is superseded by a permanent rule.

Because 120-DAY RULES are effective immediately, the law does not require a public comment period. However, when an agency files a 120-DAY RULE, it usually files a PROPOSED RULE at the same time, to make the requirements permanent. Comment may be made on the proposed rule. Emergency or 120-DAY RULES are governed by Section 63G-3-304; and Section R15-4-8.

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### Natural Resources, Wildlife Resources **R657-60** Aquatic Invasive Species Interdiction

#### NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE No.: 31805  
FILED: 08/12/2008, 10:44

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is purposed to define procedures and regulations to prevent and control the spread of aquatic invasive species within the State of Utah.

**SUMMARY OF THE RULE OR CHANGE:** This rule sets the guidelines and regulations designed to prevent and control the spread of Dreissena mussels in Utah. This rule will supersede the emergency rule currently in place under DAR No. 31624. It will also add a body of water (Lake Granby, CO) to the list of infested waters. (DAR NOTE: A corresponding amendment to Rule R657-60 is under DAR No. 31897 that will be published in the September 15, 2008, issue of the Bulletin.)

**STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Sections 23-27-401, 23-14-18, and 23-14-19

**ANTICIPATED COST OR SAVINGS TO:**

❖ **THE STATE BUDGET:** DWR determines that these amendments do create a cost impact to the state budget or DWR's budget. The 2008 Utah Legislative Session appropriated \$2,500,000 to aid in the implementation costs associated with this rule.

❖ **LOCAL GOVERNMENTS:** This rule does not create any direct cost or savings impact to local governments because they are not directly affected by the rule. Nor are local governments

indirectly impacted because the rule does not create a situation requiring services from local governments.

❖ **SMALL BUSINESSES AND PERSONS OTHER THAN BUSINESSES:** This rule may create a cost impact to boat owners and other water enthusiasts in Utah in that if Dreissena Mussels are found in Utah the cost to decontaminate boats and other conveyances will be at the expense of the owner.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** DWR determines that this rule may create a cost impact to individuals who own water vessels and boat in infested waters, because they would be required to decontaminate the conveyance.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The changes to this rule do not create an impact on businesses. Michael R. Styler, Executive Director

**EMERGENCY RULE REASON AND JUSTIFICATION:** REGULAR RULEMAKING PROCEDURES WOULD cause an imminent peril to the public health, safety, or welfare.

Quagga and Zebra mussels are invasive aquatic wildlife species from the European continent. The two species became established in the Eastern United States a decade ago by transatlantic ocean liners taking on ballast water in European ports and then discharging the water in North American ports. Since then the species have spread throughout the Mississippi River basin causing millions of dollars in damage each year to hydroelectric facilities, heavy industry, irrigation companies, and wild fisheries. The mussels attach to solid objects in the water and colonize by building layer upon layer of shells. Their prolific reproduction and colonization characteristics plug water lines in reservoirs, hydroelectric plants, industrial facilities, boat engines, irrigation systems, etc. The mussels spread from one water to another primarily by attaching to boats. Last year, lower Colorado River reservoirs, such as Lake Mead and Lake

Havasu, were found infested with Quagga mussels. Many recreationists that boat in these waters also boat in Utah waters which presents an imminent threat to Utah's industrial and agricultural infrastructure that uses and transports water through pipeline. S.B. 238 was passed into law during the 2008 General Legislative Session which makes it unlawful to transport a boat from an infested water without first decontaminating it and gives the state specialized interdiction tools to prevent the spread of the mussels into Utah waters. S.B. 238 charges the Division of Wildlife Resources (DWR) to promulgate administrative rules designating the waters that are considered infested for purposes of boat decontamination and to establish decontamination requirements and procedures. Without these regulatory components in rule, S.B. 238 is largely unenforceable. Given the recreational boat traffic between Lower Colorado River waters and Utah waters, the threat of Quagga mussels spreading to Utah is imminent without the rule's interdiction elements that give S.B. 238 traction to move forward and fulfill its purpose. Emergency rulemaking is necessary to effectively protect Utah waters from Quagga mussel infestation and the imminent peril infestation presents to public health, safety, and welfare. (DAR NOTE: S.B. 238 (2008) is found at Chapter 284, Laws of Utah 2008, and was effective 05/05/2008.)

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

Staci Coons at the above address, by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

THIS RULE IS EFFECTIVE ON: 08/13/2008

AUTHORIZED BY: James F Karpowitz, Director

**R657. Natural Resources, Wildlife Resources.**

**R657-60. Aquatic Invasive Species Interdiction.**

**R657-60-1. Purpose and Authority.**

(1) The purpose of this rule is to define procedures and regulations designed to prevent and control the spread of aquatic invasive species within the State of Utah.

(2) This rule is promulgated pursuant to authority granted to the Wildlife Board in Sections 23-27-401, 23-14-18, and 23-14-19.

**R657-60-2. Definitions.**

(1) Terms used in this rule are defined in Section 23-13-2 and 23-27-101.

(2) In addition:

(a) "Conveyance" means a terrestrial or aquatic vehicle, including a vessel, or a vehicle part that may carry or contain a Dreissena mussel.

(b) "Decontaminate" means to:

(i) Self-decontaminate equipment or a conveyance that has been in an infested water in the previous 30 days by:

(A) removing all plants, fish, mussels and mud from the equipment or conveyance;

(B) draining all water from the equipment or conveyance, including water held in ballast tanks, bilges, livewells, and motors; and

(C) drying the equipment or conveyance for no less than 7 days in June, July and August; 18 days in September, October, November, March, April and May; 30 days in December, January and February; or expose the equipment or conveyance to sub-freezing temperatures for 72 consecutive hours; or

(ii) Professionally decontaminate equipment or a conveyance that has been in an infested water in the previous 30 days by:

(A) Using a professional decontamination service approved by the division to apply scalding water (140 degrees Fahrenheit) to completely wash the equipment or conveyance and flush any areas where water is held, including ballast tanks, bilges, livewells, and motors.

(c) "Dreissena mussel" means a mussel of the genus Dreissena at any life stage, including a zebra mussel, a quagga mussel and a Conrad's false mussel.

(d) "Controlling entity" means the owner, operator, or manager of a water body, facility, or a water supply system.

(e) "Equipment" means an article, tool, implement, or device capable of carrying or containing water or Dreissena mussel.

(f) "Facility" means a structure that is located within or adjacent to a water body

(g) "Infested water" includes all the following:

(i) lower Colorado River between Lake Mead and the Gulf of California;

(ii) Lake Granby, Colorado;

(iii) Lake Mead in Nevada and Arizona;

(iv) Lake Mohave in Nevada and Arizona;

(v) Lake Havasu in California and Arizona;

(vi) Lake Pueblo in Colorado;

(vii) Lake Pleasant in Arizona;

(viii) San Justo Reservoir in California;

(ix) Southern California inland waters in Orange, Riverside, San Diego, Imperial, and San Bernardino counties;

(x) coastal and inland waters east of the 100th Meridian in North America; and

(xi) other waters established by the Wildlife Board and published on the DWR website.

(h) "Vessel" means every type of watercraft used or capable of being used as a means of transportation on water.

(i) "Water body" means natural or impounded surface water, including a stream, river, spring, lake, reservoir, pond, wetland, tank, and fountain.

(j) "Water supply system" means a system that treats, conveys, or distributes water for irrigation, industrial, wastewater treatment, or culinary use, including a pump, canal, ditch or pipeline.

(i) "Water supply system" does not include a water body.

**R657-60-3. Possession of Dreissena Mussels.**

(1) Except as provided in Subsections R657-60-3(2) and R657-60-5(2), a person may not possess, import, ship, or transport any Dreissena mussel.

(2) Dreissena mussels may be imported into and possessed within the state of Utah with prior written approval of the Director of the Division of Wildlife Resources or a designee.



**R657-60-4. Reporting of Invasive Species Required.**

(1) A person who discovers a Dreissena mussel within this state or has reason to believe a Dreissena mussel may exist at a specific location shall immediately report the discovery to the division.

(2) The report shall include the following information:

(a) location of the Dreissena mussels;

(b) date of discovery;

(c) identification of any conveyance or equipment in which mussels may be held or attached; and

(d) identification of the reporting party with their contact information.

(3) The report shall be made in person or in writing:

(a) at any division regional or headquarters office or;

(b) to the division's toll free hotline at 1-800-662-3337; or

(c) on the division's website at [www.wildlife.utah.gov/law/hsp/pf.php](http://www.wildlife.utah.gov/law/hsp/pf.php).

**R657-60-5. Transportation of Equipment and Conveyances That Have Been in Infested Waters.**

(1) The owner, operator, or possessor of any equipment or conveyance that has been in an infested water shall:

(a) immediately drain all water from the equipment or conveyance at the take out site, including water held in ballast tanks, bilges, livewells, motors, and other areas of containment; and

(b) immediately inspect the interior and exterior of the equipment or conveyance at the take out site for the presence of Dreissena mussels.

(2) If all water in the equipment or conveyance is drained and the inspection undertaken pursuant to Subsection (1)(b) reveals the equipment and conveyance are free from mussels or shelled organisms, fish, plants and mud, the equipment and conveyance may be transported in or through the state directly from the take out site to the location where it will be:

(a) professionally decontaminated; or

(b) stored and self-decontaminated.

(3) If all the water in the equipment or conveyance is not drained or the inspection undertaken pursuant to Subsection (1)(b) reveals the equipment or conveyance has attached mussels or shelled organisms, fish, plants, or mud, the equipment and conveyance shall not be moved from the take out site until the division is contacted and written or electronic authorization received to move the equipment or conveyance to a designated location for professional decontamination.

(4) A person shall not place any equipment or conveyance that has been in an infested water in the previous 30 days into any other water body or water supply system in the state without first decontaminating the equipment or conveyance.

**R657-60-6. Certification of Decontamination.**

(1) The owner, operator or possessor of a vessel desiring to launch on a water body in Utah must:

(a) verify the vessel and any launching device have not been in an infested water in the previous 30 days; or

(b) certify the vessel and launching device have been decontaminated.

(2) Certification of decontamination is satisfied by:

(a) previously completing self-decontamination since the vessel and launching device were last in an infested water and completely filling out and dating a decontamination certification form which can be obtained from the division; or

(b) providing a signed and dated certificate by a division approved professional decontamination service verifying the vessel and launching device were professionally decontaminated since the vessel and launching device were last in an infested water.

(3) Both the decontamination certification form and the professional decontamination certificate, where applicable, must be signed and placed in open view in the window of the launching vehicle prior to launching or placing the vessel in a body of water.

(4) It is unlawful under Section 76-8-504 to knowingly falsify a decontamination certification form.

**R657-60-7. Wildlife Board Designations of Infested Waters.**

(1) The Wildlife Board may designate a geographic area, water body, facility, or water supply system as infested with Dreissena mussels pursuant to Section 23-27-102 and 23-27-401 without taking the proposal to or receiving recommendations from the regional advisory councils.

**R657-60-8. Closure Order for a Water Body, Facility, or Water Supply System.**

(1)(a) If the division detects or suspects a Dreissena mussel is present in a water body, facility, or water supply system, the division director or designee may, with the concurrence of the executive director, issue an order closing the water body, facility, or water supply system to the introduction or removal of conveyances or equipment.

(b) The director shall consult with the controlling entity of the water body, facility, or water supply system when determining the scope, duration, level and type of closure that will be imposed in order to avoid or minimize disruption of economic and recreational activities.

(2)(a) A closure order issued pursuant to Subsection (1) shall be in writing and identify the:

(i) water body, facility, or water supply system subject to the closure order;

(ii) nature and scope of the closure or restrictions;

(iii) reasons for the closure or restrictions;

(iv) conditions upon which the order may be terminated or modified; and

(v) sources for receiving updated information on the status of infestation and closure order.

(b) The closure order shall be mailed, electronically transmitted, or hand delivered to:

(i) the controlling entity of the water body, facility, or water supply system; and

(ii) any governmental agency or private entity known to have economic, political, or recreational interests significantly impacted by the closure order; and

(iii) any person or entity requesting a copy of the order.

(c) The closure order or its substance shall further be:

(i) posted on the division's web page; and

(ii) published in a newspaper of general circulation in the state of Utah or the affected area.

(3) If a closure order lasts longer than seven days, the division shall provide the controlling entity and post on its web page a written update every 10 days on its efforts to address the Dreissena mussel infestation.

(a) The 10 day update notice cycle will continue for the duration of the closure order.

(4)(a) Notwithstanding the closure authority in Subsection (1), the division may not unilaterally close or restrict a water supply

system infested with Dreissena mussels where the controlling entity has prepared and implemented a control plan in cooperation with the division that effectively eradicates or controls the spread of Dreissena mussels from the water supply system.

(b) The control plan shall comply with the requirements in R657-60-9.

**R657-60-9. Control Plan Required.**

(1) The controlling entity of a water body, facility, or water supply system may develop and implement a control plan in cooperation with the division prior to infestation designed to:

(a) avoid the infestation of Dreissena mussels; and

(b) control or eradicate an infestation of Dreissena mussels that might occur in the future.

(2) A pre-infestation control plan developed consistent with the requirements in Subsection (3) and approved by the division will eliminate or minimize the duration and impact of a closure order issued pursuant to Section 23-27-303 and R657-60-8.

(3) Upon detection of a Dreissena mussel and issuance of a division closure order involving a water body, facility, or water supply system without an approved control plan, the controlling entity shall cooperate with the division in developing and implementing a control plan to address the:

(a) scope and extent of the infestation;

(b) actions proposed to control the pathways of spread of the infestation;

(c) actions proposed to control or eradicate the infestation;

(d) methods to decontaminate the water body, facility, or water supply system, if possible;

(e) actions required to systematically monitor the level and extent of the infestation; and

(f) requirements and methods to update and revise the plan with scientific advances.

(4) Any post-infestation control plan prepared pursuant to Subsection (3) shall be approved by the Division before implementation.

**R657-60-10. Procedure for Establishing a Memorandum of Understanding with the Utah Department of Transportation.**

(1) The division director or designee shall negotiate an agreement with the Utah Department of Transportation for use of

ports of entry for detection and interdiction of Dreissena Mussels illegally transported into and within the state. Both the Division of Wildlife Resources and the Department of Transportation must agree upon all aspects of Dreissena Mussel interdiction at ports of entry.

(2) The Memorandum shall include the following:

(a) methods and protocols for reimbursing the department for costs associated with Dreissena Mussel interdiction;

(b) identification of ports of entry suitable for interdiction operations;

(c) identification of locations at a specific port of entry suitable for interdiction operations;

(d) methods and protocols for disposing of wastewater associated with decontamination of equipment and conveyances;

(e) dates and time periods suitable for interdiction efforts at specific ports of entry;

(f) signage notifying motorists of the vehicles that must stop at the port of entry for inspection;

(g) priorities of use during congested periods between the department's port responsibilities and the division's interdiction activities;

(h) methods for determining the length, location and dates of interdiction;

(i) training responsibilities for personnel involved in interdiction activities; and

(j) methods for division regional personnel to establish interdiction efforts at ports within each region.

**R657-60-11. Penalty for Violation.**

A violation of any provision of this rule is punishable as provided in Section 23-13-11.

**KEY: fish, wildlife, wildlife law**

**Date of Enactment or Last Substantive Amendment: August 13, 2008**

**Authorizing, and Implemented or Interpreted Law: 23-27-401; 23-14-18; 23-14-19**

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**End of the Notices of 120-Day (Emergency) Rules Section**

# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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Within five years of an administrative rule's original enactment or last five-year review, the responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by Section 63G-3-305.

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## Natural Resources, Wildlife Resources **R657-19** Taking Nongame Mammals

### FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 31807  
FILED: 08/12/2008, 10:48

### NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Under Section 23-14-18, the Wildlife Board is authorized and required to regulate and prescribe the means by which wildlife may be taken.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments supporting or opposing Rule R657-19 were received since 08/15/2003, when the rule was last reviewed.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Division of Wildlife Resources has carefully reviewed the biological data and purposes for which the Wildlife Board allows the taking of species listed in this rule and has determined that such species may be taken without harming the resource, while allowing recreational opportunities and depredation control on private lands. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Staci Coons at the above address, by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

AUTHORIZED BY: James F Karpowitz, Director

EFFECTIVE: 08/12/2008

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## Pardons (Board Of), Administration **R671-312** Commutation Hearings for Death Penalty Cases

### FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 31827  
FILED: 08/14/2008, 15:44

### NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 77-19-7 and Art VII, Sec 12 require the Board to determine its policy regarding the commutation of death penalty sentences.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received pertaining to this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R671-312 outlines Board procedure regarding commutation hearings for death penalty cases. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)  
ADMINISTRATION  
Room 300  
448 E 6400 S  
SALT LAKE CITY UT 84107-8530, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Megan Flox-Lambert at the above address, by phone at 801-261-6456, by FAX at 801-261-6448, or by Internet E-mail at mflox@utah.gov

AUTHORIZED BY: Curtis L Garner, Chairman

EFFECTIVE: 08/14/2008

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Megan Flox-Lambert at the above address, by phone at 801-261-6456, by FAX at 801-261-6448, or by Internet E-mail at mflox@utah.gov

AUTHORIZED BY: Curtis L Garner, Chairman

EFFECTIVE: 08/14/2008

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## Pardons (Board Of), Administration **R671-517** Evidentiary Hearings and Proceedings

### FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 31823  
FILED: 08/14/2008, 15:43

### NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 77-27-5, 77-27-9, and 77-27-11 require the Board to determine its policy regarding evidentiary hearings and proceedings.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received pertaining to this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R671-517 outlines Board procedure regarding evidentiary hearings and proceedings. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)  
ADMINISTRATION  
Room 300  
448 E 6400 S  
SALT LAKE CITY UT 84107-8530, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Megan Flox-Lambert at the above address, by phone at 801-261-6456, by FAX at 801-261-6448, or by Internet E-mail at mflox@utah.gov

AUTHORIZED BY: Curtis L Garner, Chairman

EFFECTIVE: 08/14/2008

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## Pardons (Board Of), Administration **R671-513** Expedited Determination on Parolee Challenge to Probable Cause

### FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE No.: 31821  
FILED: 08/14/2008, 15:43

### NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 77-27-11, 77-27-27, 77-27-28, 77-27-29, and 77-27-30 require the Board to determine its policy regarding expedited determination on a parolee's challenge to probable cause.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received pertaining to this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R671-513 outlines Board procedure regarding expedited determination on a parolee's challenge to probable cause. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)  
ADMINISTRATION  
Room 300  
448 E 6400 S  
SALT LAKE CITY UT 84107-8530, or  
at the Division of Administrative Rules.

Pardons (Board Of), Administration  
**R671-518**  
 Conduct of Proceedings When a  
 Criminal Charge Results in Conviction

**FIVE YEAR NOTICE OF REVIEW AND  
 STATEMENT OF CONTINUATION**

DAR FILE No.: 31822  
 FILED: 08/14/2008, 15:43

**NOTICE OF REVIEW AND  
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 77-27-5, 77-27-9, and 77-27-11 require the Board to determine its policy regarding the conduct of proceedings when a criminal charge results in conviction.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received pertaining to this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R671-518 outlines Board procedure regarding the conduct of proceedings when a criminal charge results in conviction. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)  
 ADMINISTRATION  
 Room 300  
 448 E 6400 S  
 SALT LAKE CITY UT 84107-8530, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 Megan Flox-Lambert at the above address, by phone at 801-261-6456, by FAX at 801-261-6448, or by Internet E-mail at mflox@utah.gov

AUTHORIZED BY: Curtis L Garner, Chairman

EFFECTIVE: 08/14/2008



Pardons (Board Of), Administration  
**R671-519**  
 Proceedings When Criminal Charges  
 Result in Acquittal

**FIVE YEAR NOTICE OF REVIEW AND  
 STATEMENT OF CONTINUATION**

DAR FILE No.: 31826  
 FILED: 08/14/2008, 15:44

**NOTICE OF REVIEW AND  
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 77-27-5, 77-27-9, and 77-27-11 require the Board to determine its policy regarding proceedings when criminal charges result in acquittal.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received pertaining to this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R671-519 outlines Board procedure regarding proceedings when criminal charges result in acquittal. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)  
 ADMINISTRATION  
 Room 300  
 448 E 6400 S  
 SALT LAKE CITY UT 84107-8530, or  
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 Megan Flox-Lambert at the above address, by phone at 801-261-6456, by FAX at 801-261-6448, or by Internet E-mail at mflox@utah.gov

AUTHORIZED BY: Curtis L Garner, Chairman

EFFECTIVE: 08/14/2008



Pardons (Board Of), Administration  
**R671-520**  
 Treatment of Confidential Testimony

**FIVE YEAR NOTICE OF REVIEW AND  
 STATEMENT OF CONTINUATION**

DAR FILE No.: 31825  
 FILED: 08/14/2008, 15:44

**NOTICE OF REVIEW AND  
 STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS

AUTHORIZE OR REQUIRE THE RULE: Sections 77-27-5, 77-27-9, and 77-27-11 require the Board to determine its procedure regarding the treatment of confidential testimony.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received pertaining to this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R671-520 outlines Board procedure regarding the treatment of confidential testimony. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)  
ADMINISTRATION  
Room 300  
448 E 6400 S  
SALT LAKE CITY UT 84107-8530, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
Megan Flox-Lambert at the above address, by phone at 801-261-6456, by FAX at 801-261-6448, or by Internet E-mail at mflox@utah.gov

AUTHORIZED BY: Curtis L Garner, Chairman

EFFECTIVE: 08/14/2008



Pardons (Board Of), Administration  
**R671-522**  
Continuances Due to Pending Criminal  
Charges

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR File No.: 31824  
FILED: 08/14/2008, 15:44

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 77-27-5, 77-27-9, and 77-27-11 require the Board to determine its procedure regarding continuances due to pending criminal charges.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received pertaining to this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R671-522 outlines Board procedure regarding continuances due to pending criminal charges. Therefore, this rule should be continued.

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

PARDONS (BOARD OF)  
ADMINISTRATION  
Room 300  
448 E 6400 S  
SALT LAKE CITY UT 84107-8530, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Megan Flox-Lambert at the above address, by phone at 801-261-6456, by FAX at 801-261-6448, or by Internet E-mail at mflox@utah.gov

AUTHORIZED BY: Curtis L Garner, Chairman

EFFECTIVE: 08/14/2008



Public Service Commission,  
Administration  
**R746-344**

Filing Requirements for Telephone  
Corporations with Less than 5,000  
Access Line Subscribers

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR File No.: 31797  
FILED: 08/07/2008, 16:07

**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: Section 54-7-12 addresses rate changes of public utilities and the information and schedules they are to submit to justify and show the rate changes they propose. The rule provides direction on what type of information may be submitted by small telephone companies to simplify the provision of necessary information to support rate changes proposed and to be approved by the Commission.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received in the last five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule remains necessary to provide necessary information for general rate case filings. The required information shall be filed on schedules, approved by the commission, with the application for a change in rates. Providing this information simplifies proceedings, eliminates expense, and enhances the effectiveness of the fact-finding process. Therefore, this rule should be continued.

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

PUBLIC SERVICE COMMISSION  
ADMINISTRATION  
HEBER M WELLS BLDG  
160 E 300 S  
SALT LAKE CITY UT 84111-2316, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sheri Bintz at the above address, by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at sbintz@utah.gov

AUTHORIZED BY: Sandy Mooy, Legal Counsel

EFFECTIVE: 08/07/2008

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**Public Service Commission,  
Administration  
R746-345  
Pole Attachments**

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE NO.: 31798  
FILED: 08/07/2008, 16:18

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 54-4-13 provides that the Commission shall have the power to regulate the rates, terms, and conditions by which a public utility, as defined in Subsection 54-2-1(15)(a) including telephone corporations as defined in Subsection 54-2-23(a), can permit attachments to its poles by an attaching entity.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: In 2005, the Commission undertook a rulemaking proceeding to investigate possible amendments to the rule. Various rulemaking proceeding participants made comments regarding rental rates, how to recover expenses associated with pole attachments, definitions, and other matters which they believed could be

considered in the Commission's rulemaking procedure. None suggested opposing or eliminating the rule, but suggested possible modifications. The Commission considered all comments and incorporated the comments in the amendments to the rule made in the rulemaking proceeding. In 2006, comments were then received by various parties to clarify the intent and result of the rule modifications previously proposed. The change establishes terms for a generally available contract by which parties may arrange pole attachments. The rule will now identify a rental rate formula and methodology by which rates are to be established for pole attachments which may be sought and made available. In 2006 comments were received by various sources to provide for the provision of cost information relating to make-ready work involving electric utility pole space alone or all make-ready work.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Commission must continue to ensure just and reasonable terms and conditions for pole attachments, the attacher's use of the utilities' facilities to ensure reasonable rates and operations which will not interfere with the primary utility function or render them unsafe. Therefore, this rule should be continued.

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

PUBLIC SERVICE COMMISSION  
ADMINISTRATION  
HEBER M WELLS BLDG  
160 E 300 S  
SALT LAKE CITY UT 84111-2316, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sheri Bintz at the above address, by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at sbintz@utah.gov

AUTHORIZED BY: Sandy Mooy, Legal Counsel

EFFECTIVE: 08/07/2008

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**Public Service Commission,  
Administration  
R746-404  
Regulation of Promotional Programs of  
Electric and Gas Public Utilities**

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE NO.: 31795  
FILED: 08/07/2008, 15:58

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 54-4-1 gives the Commission the authority and jurisdiction to supervise and regulate every public utility in this state, and to do all things necessary or convenient in the exercise of that power and jurisdiction.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received in the last five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Electric and gas utility companies continue to request approval of promotional programs and the Commission must continue to monitor and regulate those programs to insure that they are in the public interest. Therefore, this rule should be continued.

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

PUBLIC SERVICE COMMISSION  
ADMINISTRATION  
HEBER M WELLS BLDG  
160 E 300 S  
SALT LAKE CITY UT 84111-2316, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sheri Bintz at the above address, by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at sbintz@utah.gov

AUTHORIZED BY: Sandy Mooy, Legal Counsel

EFFECTIVE: 08/07/2008



**Public Service Commission,  
Administration  
R746-406**

**Advertising by Electric and Gas Utilities**

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR File No.: 31796  
FILED: 08/07/2008, 15:59

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 54-4-1 gives the Commission the authority and jurisdiction to supervise and

regulate every public utility in this state, and to do all things necessary or convenient in the exercise of that power and jurisdiction.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received in the last five years.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule remains necessary to continue to monitor and regulate the direct or indirect advertising expenditures of utility companies and to ensure that they are in the public interest. Therefore, this rule should be continued.

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

PUBLIC SERVICE COMMISSION  
ADMINISTRATION  
HEBER M WELLS BLDG  
160 E 300 S  
SALT LAKE CITY UT 84111-2316, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sheri Bintz at the above address, by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at sbintz@utah.gov

AUTHORIZED BY: Sandy Mooy, Legal Counsel

EFFECTIVE: 08/07/2008



**Public Service Commission,  
Administration  
R746-500**

**Americans With Disabilities Act  
Complaint Procedure**

**FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE No.: 31791  
FILED: 08/04/2008, 11:53

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is required and authorized by 42 USC 12201, Section 54-1-1, and Subsection 63G-3-201(2). It provides for prompt and equitable resolution of complaints filed in accordance with Title II of the Americans with Disabilities Act of 1990.



SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received since the last five-year review in 2003.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary so that an individual with a disability may know the complaint process if they believe they have been excluded from participation in or been denied the benefits of the services, programs, or activities of the Commission or have been subjected to discrimination. Therefore, this rule should be continued.

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

PUBLIC SERVICE COMMISSION  
ADMINISTRATION  
HEBER M WELLS BLDG  
160 E 300 S  
SALT LAKE CITY UT 84111-2316, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Sheri Bintz at the above address, by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at sbintz@utah.gov

AUTHORIZED BY: Sandy Mooy, Legal Counsel

EFFECTIVE: 08/04/2008



Transportation, Motor Carrier, Ports of  
Entry  
**R912-14**

Changes in Utah's Oversize/Overweight  
Permit Program - Semitrailer Exceeding  
48 Feet Length

**FIVE YEAR NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

DAR FILE No.: 31794  
FILED: 08/07/2008, 14:13

**NOTICE OF REVIEW AND  
STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 72-7-402 gives the Department of Transportation the responsibility for Transportation, Motor Carriers, and Ports of Entry.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Motor Carrier Division has reviewed this rule and has determined it to be applicable and consistent with the manner in which the agency deals with trailers exceeding 48 feet in length. Therefore, this rule should be continued.

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

TRANSPORTATION  
MOTOR CARRIER, PORTS OF ENTRY  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W  
SALT LAKE CITY UT 84119-5998, or  
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Maureen Short at the above address, by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at maureenshort@utah.gov

AUTHORIZED BY: John R. Njord, Executive Director

EFFECTIVE: 08/07/2008



**End of the Five-Year Notices of Review and Statements of Continuation Section**

## NOTICES OF RULE EFFECTIVE DATES

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These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. Statute permits an agency to make a rule effective "on any date specified by the agency that is no fewer than seven calendar days after the close of the public comment period . . . , nor more than 120 days after the publication date." Subsection 63G-3-301(9).

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### Abbreviations

AMD = Amendment  
CPR = Change in Proposed Rule  
NEW = New Rule  
R&R = Repeal and Reenact  
REP = Repeal

### Crime Victim Reparations

#### Administration

No. 31529 (AMD): R270-1-24. Rent Awards.  
Published: July 1, 2008  
Effective: August 11, 2008

### Education

No. 31572 (AMD): R277-110. Legislative Supplemental Salary Adjustment.  
Published: July 1, 2008  
Effective: August 7, 2008

No. 31573 (AMD): R277-116-1. USOE Internal Audit Procedure.  
Published: July 1, 2008  
Effective: August 7, 2008

No. 31574 (AMD): R277-419. Pupil Accounting.  
Published: July 1, 2008  
Effective: August 7, 2008

No. 31575 (R&R): R277-437. Student Enrollment Options.  
Published: July 1, 2008  
Effective: August 7, 2008

No. 31576 (REP): R277-451. The State School Building Program.  
Published: July 1, 2008  
Effective: August 7, 2008

No. 31577 (AMD): R277-469. Instructional Materials Commission Operating Procedures.  
Published: July 1, 2008  
Effective: August 7, 2008

No. 31578 (NEW): R277-492. Utah Science Technology and Research Initiative (USTAR) Centers Program.  
Published: July 1, 2008  
Effective: August 7, 2008

No. 31579 (AMD): R277-502-6. Educator Licensing and Data Retention.  
Published: July 1, 2008  
Effective: August 7, 2008

No. 31580 (AMD): R277-515-4. Educator Responsibility for Maintaining a Safe Learning Environment and Educational Standards.  
Published: July 1, 2008  
Effective: August 7, 2008

No. 31581 (NEW): R277-526. Paraeducator to Teacher Scholarship Program.  
Published: July 1, 2008  
Effective: August 7, 2008

No. 31582 (NEW): R277-606. Grants to Purchase or Retrofit Clean School Buses.  
Published: July 1, 2008  
Effective: August 7, 2008

No. 31583 (NEW): R277-710. International Baccalaureate Programs.  
Published: July 1, 2008  
Effective: August 7, 2008

### Environmental Quality

#### Air Quality

No. 31389 (AMD): R307-121. General Requirements: Clean Fuel Vehicle Tax Credits.  
Published: June 1, 2008  
Effective: August 7, 2008

No. 31388 (AMD): R307-302-3. No-Burn Periods for Fine Particulate.  
Published: June 1, 2008  
Effective: August 7, 2008

#### Environmental Response and Remediation

No. 31495 (AMD): R311-200. Underground Storage Tanks: Definitions.  
Published: June 15, 2008  
Effective: August 18, 2008

No. 31496 (AMD): R311-203. Underground Storage Tanks: Notification, New Installations, Registration Fees, and Testing Requirements.  
Published: June 15, 2008  
Effective: August 18, 2008

No. 31497 (AMD): R311-206-3. Requirements for Issuance of Certificates of Compliance.  
Published: June 15, 2008  
Effective: August 18, 2008

Health

Health Care Financing, Coverage and Reimbursement Policy

No. 31506 (AMD): R414-1-5. State Plan.  
Published: June 15, 2008  
Effective: August 4, 2008

No. 31505 (R&R): R414-70. Medical Supplies, Durable Medical Equipment, and Prosthetic Devices.  
Published: June 15, 2008  
Effective: August 4, 2008

No. 31507 (REP): R414-71. Medical Supplies - Parenteral, Enteral, and IV Therapy.  
Published: June 15, 2008  
Effective: August 4, 2008

Health Systems Improvement, Child Care Licensing  
No. 31056 (R&R): R430-50. Residential Certificate Child Care Standards.  
Published: April 1, 2008  
Effective: September 1, 2008

No. 31056 (CPR): R430-50. Residential Certificate Child Care.  
Published: July 1, 2008  
Effective: September 1, 2008

No. 31057 (R&R): R430-90. Licensed Family Child Care.  
Published: April 1, 2008  
Effective: September 1, 2008

No. 31057 (CPR): R430-90. Licensed Family Child Care.  
Published: July 1, 2008  
Effective: September 1, 2008

Human Services

Recovery Services

No. 31562 (AMD): R527-255. Substantial Change in Circumstances.  
Published: July 1, 2008  
Effective: August 13, 2008

Insurance

Administration

No. 31500 (AMD): R590-222. Viatical Settlements.  
Published: June 15, 2008  
Effective: August 4, 2008

Labor Commission

Industrial Accidents

No. 31565 (NEW): R612-11. Prohibition of Direct Payments by Insured Employer.  
Published: July 1, 2008  
Effective: August 11, 2008

No. 31564 (NEW): R612-12. Reporting Requirements for Workers' Compensation Coverage Waivers.  
Published: July 1, 2008  
Effective: August 11, 2008

Public Safety

Driver License

No. 31545 (R&R): R708-2. Commercial Driver Training Schools.  
Published: July 1, 2008  
Effective: August 8, 2008

Tax Commission

Auditing

No. 31458 (AMD): R865-9I-4. Equitable Adjustments Pursuant to Utah Code Ann. Section 59-10-115.  
Published: June 15, 2008  
Effective: August 14, 2008

No. 31459 (AMD): R865-9I-11. Share of a Nonresident Estate or Trust, or Its Beneficiaries In State Taxable Income Pursuant to Utah Code Ann. Section 59-10-207.  
Published: June 15, 2008  
Effective: August 14, 2008

No. 31460 (AMD): R865-9I-12. Fiduciary Adjustment Pursuant to Utah Code Ann. Section 59-10-210.  
Published: June 15, 2008  
Effective: August 14, 2008

No. 31463 (AMD): R865-9I-13. Nonresident's Share of Partnership or Limited Liability Company Income Pursuant to Utah Code Ann. Sections 59-10-116, 59-10-117, 59-10-118, and 59-10-303.  
Published: June 15, 2008  
Effective: August 14, 2008

No. 31464 (AMD): R865-9I-39. Subtraction from Federal Taxable Income for a Dependent Child With a Disability or an Adult With a Disability Pursuant to Utah Code Ann. Sections 59-10-114 and 59-10-501.  
Published: June 15, 2008  
Effective: August 14, 2008

No. 31466 (AMD): R865-9I-48. Adoption Expenses Deduction Pursuant to Utah Code Ann. Section 59-10-114.  
Published: June 15, 2008  
Effective: August 14, 2008

No. 31470 (AMD): R865-9I-52. Subtractions for Health Care Insurance and For Premiums For Long-Term Care Insurance Pursuant to Utah Code Ann. Section 59-100-114.  
Published: June 15, 2008  
Effective: August 14, 2008

# RULES INDEX BY AGENCY (CODE NUMBER) AND BY KEYWORD (SUBJECT)

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The *Rules Index* is a cumulative index that reflects all effective changes to Utah's administrative rules. The current *Index* lists changes made effective from January 2, 2008, including notices of effective date received through August 15, 2008, the effective dates of which are no later than September 1, 2008. The *Rules Index* is published in the *Utah State Bulletin* and in the annual *Index of Changes*. Nonsubstantive changes, while not published in the *Bulletin*, do become part of the *Utah Administrative Code (Code)* and are included in this *Index*, as well as 120-Day (Emergency) rules that do not become part of the *Code*. The rules are indexed by Agency (Code Number) and Keyword (Subject).

DAR NOTE: The index may contain inaccurate page number references. Also the index is incomplete in the sense that index entries for Changes in Proposed Rules (CPRs) are not preceded by entries for their parent Proposed Rules. Bulletin issue information and effective date information presented in the index are, to the best of our knowledge, complete and accurate. If you have any questions regarding the index and the information it contains, please contact Nancy Lancaster (801-538-3218), Mike Broschinsky (801-538-3003), or Kenneth A. Hansen (801-538-3777).

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

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## RULES INDEX - BY AGENCY (CODE NUMBER)

### ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b>Administrative Services</b>					
<u>Administration</u>					
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
<u>Administrative Rules</u>					
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
<u>Archives</u>					
R17-5	Definitions for Rules in Title R17	31702	NSC	08/20/2008	Not Printed
R17-5	Definitions for Rules in Title R17	31553	NEW	08/20/2008	2008-13/2

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R17-6	Records Storage and Disposal at the State Records Center	31554	NEW	08/20/2008	2008-13/2
R17-7	Archival Records Care and Access at the State Archives	31555	NEW	08/20/2008	2008-13/3
R17-8	Application of Microfilm Standards	31556	NEW	08/20/2008	2008-13/5
R17-8-2	Micrographic Standards	31703	NSC	08/20/2008	Not Printed
<u>Facilities Construction and Management</u>					
R23-2	Procurement of Architect-Engineer Services	31098	AMD	07/14/2008	2008-8/2
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
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	2008-14/120
<u>Finance</u>					
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
R25-14	Payment of Attorneys' Fees in Death Penalty Cases	31527	AMD	07/01/2008	2008-13/5
<u>Fleet Operations</u>					
R27-2-1	Informal Proceedings	31408	NSC	08/18/2008	Not Printed
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
R27-4	Vehicle Replacement and Expansion of State Fleet	31411	NSC	08/18/2008	Not Printed
R27-5-2	Items Tracked in the Fleet Information System	31419	NSC	08/18/2008	Not Printed
R27-6	Fuel Dispensing Program	31420	NSC	08/18/2008	Not Printed
R27-7-1	Authority	31421	NSC	08/18/2008	Not Printed
R27-8-1	Authority	31422	NSC	08/18/2008	Not Printed
<u>Fleet Operations, Surplus Property</u>					
R28-3	Utah State Agency for Surplus Property Adjudicative Proceedings	31117	5YR	04/04/2008	2008-9/52
<u>Purchasing and General Services</u>					
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
R33-3-4	Sole Source Procurement	31475	AMD	08/01/2008	2008-12/3
R33-4	Specifications	31480	NSC	06/18/2008	Not Printed
R33-5	Construction and Architect-Engineer Selection	31481	NSC	06/18/2008	Not Printed
R33-5-250	Design-Build or Turnkey: Use	31476	AMD	08/01/2008	2008-12/4
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

RULES INDEX

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>Records Committee</u>					
R35-1	State Records Committee Appeal Hearing Procedures	31560	NSC	08/19/2008	Not Printed
R35-1a	State Records Committee Definitions	31561	NSC	08/19/2008	Not Printed
R35-2	Declining Appeal Hearings	31567	NSC	08/19/2008	Not Printed
R35-3	Prehearing Conferences	31568	NSC	08/19/2008	Not Printed
R35-4	Compliance with State Records Committee Decisions and Orders	31569	NSC	08/19/2008	Not Printed
R35-5-1	Authority and Purpose	31570	NSC	08/19/2008	Not Printed
R35-6-1	Authority and Purpose	31571	NSC	08/19/2008	Not Printed
<u>Risk Management</u>					
R37-2	Risk Management State Workers' Compensation Insurance Administration	31347	AMD	06/23/2008	2008-10/8
R37-4	Adjusted Utah Governmental Immunity Act Limitations on Judgments	31150	R&R	07/01/2008	2008-9/5
<b>Agriculture and Food</b>					
<u>Administration</u>					
R51-5	Grazing Advisory Boards	31471	REP	07/22/2008	2008-12/5
<u>Conservation and Resource Management</u>					
R64-2	Utah Conservation Commission Electronic Meetings	31079	NEW	06/03/2008	2008-8/4
<u>Marketing and Development</u>					
R65-2	Utah Cherry Marketing Order	31007	5YR	02/15/2008	2008-5/38
R65-5	Utah Red Tart and Sour Cherry Marketing Order	31008	5YR	02/15/2008	2008-5/38
<u>Plant Industry</u>					
R68-3-2	Registration of Products	31491	AMD	07/25/2008	2008-12/6
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
R68-8-2	Noxious Weed Seeds and Weed Seed Restrictions	31127	AMD	07/02/2008	2008-9/7
R68-9	Utah Noxious Weed Act	31544	5YR	06/09/2008	2008-13/147
R68-9	Utah Noxious Weed Act	31128	AMD	07/02/2008	2008-9/8
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
R68-16	Quarantine Pertaining to Pine Shoot Beetle, Tomicus piniperda	31126	AMD	07/02/2008	2008-9/11
R68-17	Quarantine Pertaining to Necrotic Strain of the Potato Virus Y	31009	REP	04/11/2008	2008-5/4
<u>Regulatory Services</u>					
R70-560	Cottage Food Production Operations	31430	AMD	07/25/2008	2008-11/47
<b>Alcoholic Beverage Control</b>					
<u>Administration</u>					
R81-1-2	Definitions	31254	AMD	06/27/2008	2008-10/10
R81-1-9	Liquor Dispensing Systems	31273	AMD	06/27/2008	2008-10/11
R81-1-10	Wine Dispensing	31275	AMD	06/27/2008	2008-10/13
R81-1-11	Multiple-Licensed Facility Storage and Service	31279	AMD	06/27/2008	2008-10/14
R81-1-11	Multiple-Licensed Facility Storage and Service	31630	NSC	08/25/2008	Not Printed
R81-1-26	Criminal History Background Checks	31289	AMD	06/27/2008	2008-10/16

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
R81-3-1	Definitions	31291	AMD	06/27/2008	2008-10/18
R81-3-9	Promotion and Listing of Products	31328	AMD	06/27/2008	2008-10/19
R81-3-13	Operational Restrictions	31329	AMD	06/27/2008	2008-10/20
R81-3-14	Type 5 Package Agencies	31330	AMD	06/27/2008	2008-10/21
R81-4C	Limited Restaurant Licenses	31154	NSC	05/01/2008	Not Printed
R81-4C	Limited Restaurant Licenses	31780	5YR	07/31/2008	2008-16/66
R81-4D	On-Premise Banquet License	31155	NSC	05/01/2008	Not Printed
R81-4D	On-Premise Banquet License	31785	5YR	07/31/2008	2008-16/66
R81-4D-1	Licensing	31336	AMD	07/30/2008	2008-10/22
R81-4D-2	Application	31338	AMD	07/30/2008	2008-10/24
R81-5-11	Price Lists	31287	AMD	06/27/2008	2008-10/25
R81-7-1	Application Guidelines	31332	AMD	06/27/2008	2008-10/26
R81-10	Off-Premise Beer Retailers	31334	NEW	06/27/2008	2008-10/27
R81-10B	Temporary Special Event Beer Permits	31786	5YR	07/31/2008	2008-16/67

**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
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**Commerce**

Administration

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**ABBREVIATIONS**

AMD = Amendment  
 CPR = Change in proposed rule  
 EMR = Emergency rule (120 day)  
 NEW = New rule  
 EXD = Expired  
 NSC = Nonsubstantive rule change  
 REP = Repeal  
 R&R = Repeal and reenact  
 5YR = Five-Year Review

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<b><u>adopt-a-highway</u></b> Transportation, Operations, Maintenance	31693	R918-4	NSC	08/25/2008	Not Printed
<b><u>adult education</u></b> Education, Administration	30883	R277-702	5YR	01/08/2008	2008-3/74
<b><u>advertising</u></b> Commerce, Consumer Protection	31213	R152-11	NSC	05/05/2008	Not Printed
Public Service Commission, Administration	31796	R746-406	5YR	08/07/2008	2008-17/83
<b><u>agriculture association</u></b> Agriculture and Food, Administration	31471	R51-5	REP	07/22/2008	2008-12/5
<b><u>air pollution</u></b> Environmental Quality, Air Quality	30697	R307-101	AMD	02/08/2008	2007-23/21
	30959	R307-101	5YR	02/08/2008	2008-5/40
	30960	R307-102	5YR	02/08/2008	2008-5/40
	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
	31389	R307-121	AMD	08/07/2008	2008-11/87
	30889	R307-121-3	NSC	01/30/2008	Not Printed
	30962	R307-170	5YR	02/08/2008	2008-5/41
	30699	R307-170-7	AMD	02/08/2008	2007-23/29
	30963	R307-202	5YR	02/08/2008	2008-5/42
	30964	R307-203	5YR	02/08/2008	2008-5/43
	30430	R307-214	AMD	01/11/2008	2007-19/12
	30895	R307-214	5YR	01/11/2008	2008-3/77
	30965	R307-220	5YR	02/08/2008	2008-5/43
	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
	30703	R307-223	AMD	02/08/2008	2007-23/38
	30968	R307-223	5YR	02/08/2008	2008-5/45
	30969	R307-224	5YR	02/08/2008	2008-5/45
	30704	R307-224-2	AMD	02/08/2008	2007-23/39
	30970	R307-250	5YR	02/08/2008	2008-5/46
	31388	R307-302-3	AMD	08/07/2008	2008-11/91
	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

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	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
	30973	R307-840	5YR	02/08/2008	2008-5/47
	30708	R307-840	AMD	02/08/2008	2007-23/48
<b><u>air quality</u></b>					
Environmental Quality, Air Quality	30700	R307-215	REP	02/08/2008	2007-23/31
	30706	R307-417	AMD	02/08/2008	2007-23/43
<b><u>air travel</u></b>					
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	31320	R25-7	AMD	07/01/2008	2008-10/4
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	31264	R873-22M-41	AMD	06/27/2008	2008-10/133
<b><u>alarm company</u></b>					
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	31588	R156-55d	NSC	08/25/2008	Not Printed
<b><u>alcoholic beverages</u></b>					
Alcoholic Beverage Control, Administration	31254	R81-1-2	AMD	06/27/2008	2008-10/10
	31273	R81-1-9	AMD	06/27/2008	2008-10/11
	31275	R81-1-10	AMD	06/27/2008	2008-10/13
	31279	R81-1-11	AMD	06/27/2008	2008-10/14
	31630	R81-1-11	NSC	08/25/2008	Not Printed
	31289	R81-1-26	AMD	06/27/2008	2008-10/16
	31291	R81-3-1	AMD	06/27/2008	2008-10/18
	31328	R81-3-9	AMD	06/27/2008	2008-10/19
	31329	R81-3-13	AMD	06/27/2008	2008-10/20
	31330	R81-3-14	AMD	06/27/2008	2008-10/21
	31154	R81-4C	NSC	05/01/2008	Not Printed
	31780	R81-4C	5YR	07/31/2008	2008-16/66
	31155	R81-4D	NSC	05/01/2008	Not Printed
	31785	R81-4D	5YR	07/31/2008	2008-16/66
	31336	R81-4D-1	AMD	07/30/2008	2008-10/22
	31338	R81-4D-2	AMD	07/30/2008	2008-10/24
	31287	R81-5-11	AMD	06/27/2008	2008-10/25
	31332	R81-7-1	AMD	06/27/2008	2008-10/26
	31334	R81-10	NEW	06/27/2008	2008-10/27
	31786	R81-10B	5YR	07/31/2008	2008-16/67
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Pardons (Board Of), Administration	31654	R671-514	5YR	07/03/2008	2008-15/104
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	30889	R307-121-3	NSC	01/30/2008	Not Printed
<b><u>alternative school</u></b>					
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<b><u>Americans with Disabilities Act 1992</u></b>					
Human Services, Administration	31367	R495-878	NSC	05/05/2008	Not Printed
	31067	R495-878	AMD	06/13/2008	2008-8/23
<b><u>amphibians</u></b>					
Natural Resources, Wildlife Resources	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
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Public Safety, Driver License	31124	R708-38	NSC	05/01/2008	Not Printed
<b><u>ancient human remains</u></b>					
Community and Culture, History	31290	R212-4	R&R	06/25/2008	2008-10/52
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Natural Resources, Wildlife Resources	31047	R657-3	5YR	03/11/2008	2008-7/65
	31053	R657-3	AMD	05/08/2008	2008-7/45
<b><u>animal protections</u></b>					
Natural Resources, Wildlife Resources	31220	R657-3	NSC	05/05/2008	Not Printed
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Health, Epidemiology and Laboratory Services, Laboratory Services	31717	R438-13	5YR	07/16/2008	2008-16/69
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Administrative Services, Fleet Operations, Surplus Property	31117	R28-3	5YR	04/04/2008	2008-9/52
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	31260	R123-3-2	NSC	05/05/2008	Not Printed
	31261	R123-3-3	NSC	05/05/2008	Not Printed
	31323	R270-2	NSC	05/05/2008	Not Printed
Workforce Services, Unemployment Insurance	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
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	30927	R414-308-7	AMD	04/01/2008	2008-4/16
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	31274	R884-24P-62	NSC	06/23/2008	Not Printed
	30931	R884-24P-62	AMD	03/28/2008	2008-4/30
<b><u>approval orders</u></b> Environmental Quality, Air Quality	30709	R307-401-14	AMD	02/08/2008	2007-23/42
<b><u>aquaculture</u></b> Natural Resources, Wildlife Resources	31611	R657-16	AMD	08/21/2008	2008-14/70
	31625	R657-59	EMR	06/27/2008	2008-14/129
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<b><u>archaeology</u></b> Community and Culture, History	31290	R212-4	R&R	06/25/2008	2008-10/52
<b><u>architects</u></b> Administrative Services, Facilities Construction and Management	31098	R23-2	AMD	07/14/2008	2008-8/2
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Commerce, Occupational and Professional Licensing	30935	R156-3a-303	AMD	03/27/2008	2008-4/5
<b><u>arts program</u></b> Education, Administration	31443	R277-490	NEW	07/08/2008	2008-11/74
<b><u>asbestos</u></b> Environmental Quality, Air Quality	30972	R307-801	5YR	02/08/2008	2008-5/47
	30707	R307-801	AMD	02/08/2008	2007-23/45
<b><u>asbestos hazard emergency response</u></b> Environmental Quality, Air Quality	30972	R307-801	5YR	02/08/2008	2008-5/47
	30707	R307-801	AMD	02/08/2008	2007-23/45
<b><u>assistance</u></b> Natural Resources, Parks and Recreation	30899	R651-301	AMD	03/10/2008	2008-3/37
<b><u>assurance organization designation</u></b> Insurance, Administration	31647	R590-250	NEW	08/25/2008	2008-14/63
<b><u>attorney exemption application process</u></b> Insurance, Title and Escrow Commission	31339	R592-8	NEW	07/14/2008	2008-10/126
<b><u>attorneys</u></b> Administrative Services, Finance	31527	R25-14	AMD	07/01/2008	2008-13/5
	31363	R25-14	EMR	05/05/2008	2008-10/140
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	31260	R123-3-2	NSC	05/05/2008	Not Printed
	31261	R123-3-3	NSC	05/05/2008	Not Printed
<b><u>automatic fire sprinklers</u></b>					
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
<b><u>automobile repair</u></b>					
Commerce, Consumer Protection	31215	R152-20	NSC	05/05/2008	Not Printed
<b><u>automobiles</u></b>					
Commerce, Administration	31354	R151-14-3	NSC	05/05/2008	Not Printed
Commerce, Consumer Protection	31215	R152-20	NSC	05/05/2008	Not Printed
<b><u>background checks</u></b>					
Human Services, Substance Abuse and Mental Health, State Hospital	31448	R525-5	5YR	05/19/2008	2008-12/57
<b><u>bait and switch</u></b>					
Commerce, Consumer Protection	31213	R152-11	NSC	05/05/2008	Not Printed
<b><u>banks and banking</u></b>					
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
<b><u>bed allocations</u></b>					
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
<b><u>benefits</u></b>					
Health, Health Care Financing, Coverage and Reimbursement Policy	30921	R414-302	5YR	01/25/2008	2008-4/43
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Natural Resources, Wildlife Resources	30829	R657-5	AMD	02/07/2008	2008-1/18
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Natural Resources, Wildlife Resources	31609	R657-6	AMD	08/21/2008	2008-14/69
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	30766	R305-3	REP	02/15/2008	2007-24/6
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Administrative Services, Finance	31317	R25-5	5YR	04/29/2008	2008-10/143
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Natural Resources, Parks and Recreation	30900	R651-205-17	AMD	03/10/2008	2008-3/36
<b><u>boilers</u></b>					
Labor Commission, Safety	31246	R616-2	NSC	05/05/2008	Not Printed
<b><u>bonds</u></b>					
Money Management Council, Administration	31587	R628-18	NSC	08/25/2008	Not Printed
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<b><u>boxing</u></b>					
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
	31566	R859-1-501	AMD	09/01/2008	2008-13/106
	31585	R859-1-506	AMD	09/01/2008	2008-13/108
	31586	R859-1-509	AMD	09/01/2008	2008-13/109
<b><u>breaks</u></b>					
Human Resource Management, Administration	31193	R477-8	AMD	07/01/2008	2008-10/101
	30778	R477-8-5	AMD	01/22/2008	2007-24/16
<b><u>brine shrimp</u></b>					
Natural Resources, Wildlife Resources	31227	R657-52-6	NSC	05/05/2008	Not Printed
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Governor, Economic Development	30788	R357-2	NEW	01/30/2008	2007-24/9
	30859	R357-2-7	NSC	01/30/2008	Not Printed
<b><u>budgeting</u></b>					
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
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Commerce, Occupational and Professional Licensing	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
	31626	R156-56-801	NSC	07/01/2008	Not Printed
<b><u>building inspection</u></b>					
Commerce, Occupational and Professional Licensing	30574	R156-56	AMD	01/01/2008	2007-21/38
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	31142	R156-56-701	AMD	07/01/2008	2008-9/30
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	31588	R156-55d	NSC	08/25/2008	Not Printed
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Environmental Quality, Drinking Water	31157	R309-352	5YR	04/18/2008	2008-10/144
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	31363	R25-14	EMR	05/05/2008	2008-10/140
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Capitol Preservation Board (State), Administration	30591	R131-1	AMD	02/29/2008	2007-21/11
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Insurance, Administration	31649	R590-238	AMD	08/25/2008	2008-14/61
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Public Safety, Peace Officer Standards and Training	31648	R728-501	5YR	07/01/2008	2008-14/142
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Health, Health Care Financing, Coverage and Reimbursement Policy	31169	R414-6	5YR	04/21/2008	2008-10/145
	31493	R414-6	AMD	07/22/2008	2008-12/23
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<b><u>certificate of registration</u></b>					
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	31050	R657-45-2	AMD	05/08/2008	2008-7/49
<b><u>certification</u></b>					
Labor Commission, Safety	31233	R616-1	5YR	04/28/2008	2008-10/150
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<b><u>certifications</u></b>					
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Tax Commission, Auditing	31531	R865-19S-94	AMD	08/18/2008	2008-13/115
	31272	R865-19S-99	NSC	06/23/2008	Not Printed
	31258	R865-19S-105	AMD	07/01/2008	2008-10/132
	30841	R865-19S-121	AMD	02/25/2008	2008-1/37
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Education, Administration	30846	R277-470-7	AMD	02/07/2008	2008-1/9
<b><u>child abuse</u></b>					
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	30716	R512-20	REP	01/07/2008	2007-23/58
	31857	R512-200	5YR	08/20/2008	Not Printed
	31858	R512-201	5YR	08/20/2008	Not Printed
	31859	R512-202	5YR	08/20/2008	Not Printed
	31043	R512-204	NEW	05/08/2008	2008-7/31
	31860	R512-300	5YR	08/20/2008	Not Printed
	31861	R512-301	5YR	08/20/2008	Not Printed
<b><u>child care</u></b>					
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Workforce Services, Employment Development	31364	R986-700	AMD	07/02/2008	2008-10/136
	31033	R986-700	AMD	05/01/2008	2008-6/21
	31499	R986-700-752	NSC	07/02/2008	Not Printed
<b><u>child care facilities</u></b>					
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	31538	R430-50	5YR	06/06/2008	2008-13/149
	31056	R430-50	R&R	09/01/2008	2008-7/4
	31056	R430-50	CPR	09/01/2008	2008-13/119
	31539	R430-60	5YR	06/06/2008	2008-13/149
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	31057	R430-90	CPR	09/01/2008	2008-13/129
	31057	R430-90	R&R	09/01/2008	2008-7/16
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Human Services, Administration	31465	R495-879	NSC	06/18/2008	Not Printed
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	31151	R527-34	AMD	06/09/2008	2008-9/43
	30891	R527-39	5YR	01/10/2008	2008-3/78

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	31409	R527-200	NSC	08/18/2008	Not Printed
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	31061	R527-231	AMD	05/15/2008	2008-7/32
	31562	R527-255	AMD	08/13/2008	2008-13/82
	31133	R527-257	REP	06/09/2008	2008-9/45
	31054	R527-258	AMD	05/14/2008	2008-7/33
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	31163	R527-302	AMD	06/25/2008	2008-10/120
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	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
	31563	R527-550	NSC	08/19/2008	Not Printed
	31384	R527-601-1	NSC	08/18/2008	Not Printed
	31159	R527-920	NEW	06/27/2008	2008-10/122
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	30716	R512-20	REP	01/07/2008	2007-23/58
	31856	R512-100	5YR	08/20/2008	Not Printed
	31857	R512-200	5YR	08/20/2008	Not Printed
	31858	R512-201	5YR	08/20/2008	Not Printed
	31859	R512-202	5YR	08/20/2008	Not Printed
	31043	R512-204	NEW	05/08/2008	2008-7/31
	31860	R512-300	5YR	08/20/2008	Not Printed
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	31862	R512-302	5YR	08/20/2008	Not Printed
	31863	R512-305	5YR	08/20/2008	Not Printed
	31590	R512-500	R&R	08/21/2008	2008-14/57
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	31864	R512-500	5YR	08/20/2008	Not Printed
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	31204	R645-100-500	NSC	05/05/2008	Not Printed
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	30655	R156-1-102a	AMD	01/08/2008	2007-23/3
<b><u>domestic violence</u></b>					
Human Services, Child and Family Services	31857	R512-200	5YR	08/20/2008	Not Printed
	31858	R512-201	5YR	08/20/2008	Not Printed
	31859	R512-202	5YR	08/20/2008	Not Printed
	31860	R512-300	5YR	08/20/2008	Not Printed
	31861	R512-301	5YR	08/20/2008	Not Printed
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Environmental Quality, Drinking Water	31157	R309-352	5YR	04/18/2008	2008-10/144
<b><u>driver address record</u></b>					
Public Safety, Driver License	31121	R708-42-4	NSC	05/05/2008	Not Printed
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	31113	R708-18-1	NSC	05/05/2008	Not Printed
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Public Safety, Driver License	31119	R708-36-1	NSC	05/05/2008	Not Printed
	31123	R708-44-4	NSC	05/05/2008	Not Printed
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	30767	R523-1	NSC	03/31/2008	Not Printed
<b><u>DUI programs</u></b>					
Human Services, Substance Abuse and Mental Health	31352	R523-22-9	NSC	05/05/2008	Not Printed
<b><u>durable medical equipment</u></b>					
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	30976	R277-515-3	NSC	02/27/2008	Not Printed
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<b><u>medical supplies</u></b>					
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<b><u>medical transportation</u></b>					
Health, Health Care Financing, Coverage and Reimbursement Policy	30922	R414-306	5YR	01/25/2008	2008-4/45
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	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
	31759	R647-6	5YR	07/28/2008	2008-16/73
	31760	R647-7	5YR	07/28/2008	2008-16/73
	31761	R647-8	5YR	07/28/2008	2008-16/74
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Natural Resources, Forestry, Fire and State Lands	31109	R652-122-100	NSC	05/01/2008	Not Printed
<b><u>mining</u></b>					
Labor Commission, Safety	31233	R616-1	5YR	04/28/2008	2008-10/150
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<b><u>minors</u></b>					
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
<b><u>monitoring</u></b>					
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	30699	R307-170-7	AMD	02/08/2008	2007-23/29
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	31123	R708-44-4	NSC	05/05/2008	Not Printed
<b><u>motor vehicles</u></b>					
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Commerce, Consumer Protection	31215	R152-20	NSC	05/05/2008	Not Printed
Environmental Quality, Air Quality	31389	R307-121	AMD	08/07/2008	2008-11/87
	30889	R307-121-3	NSC	01/30/2008	Not Printed
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	31264	R873-22M-41	AMD	06/27/2008	2008-10/133
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	31115	R708-30-14	NSC	05/05/2008	Not Printed
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<b><u>municipal landfills</u></b>					
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	30966	R307-221	5YR	02/08/2008	2008-5/44
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	31174	R156-11a-601	NSC	05/05/2008	Not Printed
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	30912	R230-1	AMD	07/16/2008	2008-3/12
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	30859	R357-2-7	NSC	01/30/2008	Not Printed
<b><u>rural economic development</u></b>					
Governor, Economic Development	30788	R357-2	NEW	01/30/2008	2007-24/9
	30859	R357-2-7	NSC	01/30/2008	Not Printed
<b><u>safety</u></b>					
Environmental Quality, Radiation Control Labor Commission, Occupational Safety and Health	30865	R313-15	AMD	03/17/2008	2008-2/10
	31244	R614-1	NSC	05/05/2008	Not Printed
	31102	R614-1-4	AMD	05/22/2008	2008-8/30
Labor Commission, Safety	31248	R614-3-1	NSC	05/05/2008	Not Printed
	31246	R616-2	NSC	05/05/2008	Not Printed
	31253	R616-3	NSC	05/05/2008	Not Printed
Regents (Board Of), University of Utah, Administration Transportation, Preconstruction	30943	R616-3-3	AMD	03/24/2008	2008-4/21
	31695	R805-1	5YR	07/11/2008	2008-15/105
31066	R930-5	AMD	06/10/2008	2008-8/46	
<b><u>safety regulations</u></b>					
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	31090	R909-75	AMD	05/27/2008	2008-8/45
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	31272	R865-19S-99	NSC	06/23/2008	Not Printed
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	30612	R392-700	NEW	05/16/2008	2007-22/65
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Health, Epidemiology and Laboratory Services, Environmental Services	31446	R392-100-2	AMD	07/17/2008	2008-11/95
	30612	R392-700	CPR	05/16/2008	2008-7/58
	30612	R392-700	NEW	05/16/2008	2007-22/65
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Education, Administration	31582	R277-606	NEW	08/07/2008	2008-13/31
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Education, Administration	31036	R277-483	5YR	03/03/2008	2008-7/62
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	30707	R307-801	AMD	02/08/2008	2007-23/45
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	31105	R708-2-25	NSC	05/05/2008	Not Printed
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<b><u>securities regulation</u></b>					
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<b><u>seminars</u></b> Human Services, Substance Abuse and Mental Health	31164	R523-24-7	AMD	07/14/2008	2008-10/116
	31165	R523-24-9	AMD	07/14/2008	2008-10/117
	31353	R523-24-13	NSC	05/05/2008	Not Printed
<b><u>seniors</u></b> Human Services, Aging and Adult Services	31027	R510-105	5YR	02/27/2008	2008-6/26
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<b><u>server training</u></b> Human Services, Substance Abuse and Mental Health	31166	R523-23-9	AMD	07/14/2008	2008-10/114
	31351	R523-23-13	NSC	05/05/2008	Not Printed
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	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
	31643	R602-4	EMR	07/01/2008	2008-14/127
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	31734	R612-11	NSC	08/11/2008	Not Printed
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<b><u>sewage treatment</u></b> Environmental Quality, Water Quality	31103	R317-101	5YR	04/02/2008	2008-9/53
<b><u>sewerage</u></b> Public Service Commission, Administration	31044	R746-330	5YR	03/07/2008	2008-7/66
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	31860	R512-300	5YR	08/20/2008	Not Printed
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<b><u>speech-language pathology</u></b> Commerce, Occupational and Professional Licensing	31397	R156-41	AMD	07/14/2008	2008-11/65
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	31580	R277-515-4	AMD	08/07/2008	2008-13/28
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Human Resource Management, Administration	31190	R477-5	AMD	07/01/2008	2008-10/90
<b><u>state fleet information system</u></b> Administrative Services, Fleet Operations	31419	R27-5-2	NSC	08/18/2008	Not Printed
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	31351	R523-23-13	NSC	05/05/2008	Not Printed
<b><u>substance abuse prevention</u></b> Education, Administration	31519	R277-460	5YR	06/02/2008	2008-12/51
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	30931	R884-24P-62	AMD	03/28/2008	2008-4/30
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	31592	R708-16-3	NSC	08/25/2008	Not Printed
<b><u>traffic violations</u></b> Public Safety, Driver License	31106	R708-3-2	NSC	05/05/2008	Not Printed
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	31693	R918-4	NSC	08/25/2008	Not Printed
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	31566	R859-1-501	AMD	09/01/2008	2008-13/106
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	31243	R610-3	NSC	05/05/2008	Not Printed
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	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
	31643	R602-4	EMR	07/01/2008	2008-14/127
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	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
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	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
	31565	R612-11	NEW	08/11/2008	2008-13/85
	31734	R612-11	NSC	08/11/2008	Not Printed
	31564	R612-12	NEW	08/11/2008	2008-13/86
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 <b><u>working toward employment</u></b>					
Workforce Services, Employment Development	31034	R986-400-406	AMD	05/01/2008	2008-6/20
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Human Services, Administration, Administrative Services, Licensing	31017	R501-16	5YR	02/22/2008	2008-6/25
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 <b><u>zoological animals</u></b>					
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